

IC/SC/49

PRIVILEGES AND PROCEDURES COMMITTEE

(24th Meeting)

7th February 2013**PART A**

All members were present.

Connétable A.S. Crowcroft of St. Helier, Chairman
 Senator S.C. Ferguson
 Senator Sir P.M. Bailhache
 Connétable L. Norman of St. Clement
 Deputy J.A. Martin
 Deputy M. Tadier
 Deputy K.L. Moore (except for items B2 and B3)

In attendance -

M.N. de la Haye, Greffier of the States
 L. Hart, Assistant Greffier of the States (for items A4 and A5)
 I. Clarkson, 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 November 2012 (Part B only) and 10th January 2013 (Parts A and B), having been circulated previously, were taken as read and were confirmed.

Financial
 report 2012.
 422/10/1(53)

A2. The Committee, with reference to its Minute No. A3 of 25th April 2012, considered the year-end financial report for 2012.

An underspend of £267,000 against the Scrutiny budget was noted, together with underspends of £108,000 against the budget of the Electoral Commission and £16,600 against the budget for Hansard services. It was reported that the Scrutiny underspend was broadly consistent with the financial position in previous years and reflecting that 2012 was the first full year for the reconstituted Assembly. Although the Electoral Commission budget was in surplus, the Committee acknowledged that a proportion of the balance of funding would be needed to facilitate the holding of a referendum in accordance with the recommendations made in the Commission's final report. In the case of the budget for Hansard services, the Committee was advised that the underspend reflected the significant reduction in the number of days needed for the Assembly to complete its business in 2012 compared with the previous 3 year period.

The Committee noted the report.

States
 Building:
 displaying of
 art and notices.
 1060/5(250)

A3. The Committee considered a report, prepared by the Committee Clerk, concerning a request from Deputy R. Bryans regarding the displaying of art and notices within the States Building.

Turning first to works of art, the Committee noted Deputy Bryans' submission that

the décor of the various rooms utilised by States Members was somewhat staid in appearance. Deputy Bryans had suggested that several photographs he had published on internet blog sites might be suitable for hanging within the States Building with a view to adding some colour.

The Committee accepted that an additional display of works with an official or historical relevance might improve the aesthetics of the interior of the States Building, albeit that modifications to areas shared with the Royal Court should not be pursued in the absence of prior consultation with the Bailiff. It was **agreed** that a wall within a suitable communal area of the States Building should be made available for use by States Members on a rotational basis.

The Committee Clerk was authorised to take the necessary action.

Regarding the Code of Conduct for Elected Members, the Committee acknowledged Deputy Bryans' view that the Code was an important document that should be given greater prominence, perhaps by displaying the Code prominently in one or more Members' areas within the States Building. A full framed reprint or an abridged notice was suggested.

The Committee **declined** to support the production of a Code of Conduct notice on the basis that States Members were already fully aware of their obligations as per Schedule 3 of Standing Orders.

The Review of
the Roles of
the Crown
Officers
(R.143/2010).
499/3(22)

A4. The Committee, with reference to its Minute No. A4 of 20th June 2012, recalled its intention to give further consideration to the recommendations made in R.143/2010 ('Review of the Roles of the Crown Officers') once the findings of the Electoral Commission were known.

The Committee considered a report prepared by the Committee Clerk and which was entitled: 'Review of the Roles of the Crown Officers (R.143/2010).'

The Chairman invited the Committee to consider forming a sub-committee to revisit the recommendations made in R.143/2010 with particular reference to recommendation 2 and its consequent impact on recommendations 3 and 4. He proposed that the sub-committee be constituted as follows –

Connétable A.S. Crowcroft (chairman),
Deputy J.A. Martin, and
Deputy M. Tadier.

The sub-committee would be charged with producing a draft green paper for subsequent approval by the Committee and which would invite public comment on various options.

During its consideration of the proposal, the Committee acknowledged that the review body chaired by Lord Carswell (which had ultimately produced R.143/2010) had consulted extensively with the public during 2010, albeit that additional material had subsequently been put in the public domain to inform the in committee debate held in 2011. It was further acknowledged that the views expressed during the in committee debate had indicated that the States Assembly as previously constituted was not minded to accept the recommendations made.

The Committee **agreed**, by majority, to establish the Carswell Review Sub-Committee as described above, with the caveat that the draft terms of reference for the Sub-Committee would be put to the Committee for endorsement at its next scheduled meeting.

Senator S.C. Ferguson requested that her dissent to the decision to constitute the Carswell Review Sub-Committee be recorded in the minutes.

It was noted that Reform Jersey had written to the Committee requesting that it consider the merits of asking a second referendum question alongside that which was proposed in the Draft Referendum (Reform of States Assembly) (Jersey) Act 201- (P.5/2013 refers). The second question would concern the Bailiff's dual role as President of the States and President of the Royal Court and whether that dual role should continue. It was contended by Reform Jersey that a referendum on 2 important issues would be likely to improve voter turnout, whilst also being cost-efficient. Having discussed the proposal, the Committee concluded that the second question would address a major constitutional issue with significant scope for impact. Whereas the constitution of the States Assembly had been an issue in the public domain for much of the previous year as a consequence of the work of the Electoral Commission, the recommendations made in R.143/2010 had not been aired since the in committee debate in the States Assembly on 30th March 2011. A comprehensive and considered impact assessment would need to be prepared to reappraise the public of the constitutional issues and the consequences of a decision either way. It was thought that this work could not practically be completed and circulated in sufficient time to prompt appropriate public consideration in the time available. On that basis, the Committee **agreed** that it could not support the asking of a second referendum question on 24th April 2013.

The Committee Clerk was authorised to take the necessary action.

Standing
Orders and
Internal
Procedures
Sub-
Committee:
final report.
465/4(11)

A5. The Committee, with reference to its Minute No. A6 of 19th December 2012, recalled that the Standing Orders and Internal Procedures Sub-Committee had expected to complete work on its draft report during January 2013.

The Committee, with the Assistant Greffier of the States in attendance, received the final report of the Standing Orders and Internal Procedures Sub-Committee. It noted that the Sub-Committee had focused primarily on the following topics –

- (a) questions,
- (b) propositions,
- (c) the management of States Business
- (d) the appointment process for members (ballots),
- (e) quorum, and
- (f) the decision of the States in respect of P.61/2011 – “Standing Orders: selection and appointment procedures”

A total of 12 recommendations had been made by the Sub-Committee, while 17 further 17 issues had been considered in detail. The outcome of those other discussions had been summarised in the report.

The Committee congratulated the Sub-Committee on the quality of its work and for having been the first of the 3 Sub-Committees to submit a final report. Having considered each of the Sub-Committee's recommendations in turn, the Committee expressed the views recorded below.

1. *The question period for the Chief Minister should be extended to 30 minutes*

The Committee expressed a provisional preference for amendments to Standing Orders 63, 64 and 66 that would –

- require the Chief Minister to answer up to 15 minutes of oral

questions without notice during every meeting;

- require 2 other Ministers, selected by rotation, to each answer up to 15 minutes of oral questions without notice during each meeting, and
- for the overall period of oral questions with notice to be shortened by 15 minutes.

Senator S.C. Ferguson and Deputy M. Tadier requested that their dissent to the provisional decision of the Committee (in relation to the counter-reduction in the two hours available for oral questions with notice) be recorded in the minutes.

2. It would be beneficial to extend the question period following statements from 10 to 15 minutes to bring it in line with questions without notice and allow an additional five minutes for questions to be asked.

The Committee was minded to endorse the recommendation.

3. An amendment should be made to Standing Order 21(2) to require a proposer to give an indication within the manpower and financial statement explaining how the figures had been calculated, as this would help ensure greater accuracy.

The Committee was minded to endorse the recommendation.

4. The lodging period required for any proposition which sought to annul an Order or Property Transaction should be reduced to two weeks.

The Committee was minded to endorse the recommendation.

5. An amendment should be brought to Standing Order 26(7) to allow a lesser test to be applied. Wording along the lines of ‘the States may, when appropriate, abridge the minimum lodging period required’ would provide the Assembly with greater flexibility, although there would also need to be some safeguard included, similar to Standing Order 84(4) or 85(4) in order to ensure the procedure was not abused.

The Committee was minded to endorse the recommendation, save that it considered the words ‘when appropriate’ were unnecessary.

6. There should be some mechanism whereby Ministers were encouraged not to bring forward Orders which came into force within a 2 week timeframe, in order to enable other Members the opportunity of annulling the Order before it was enacted. This could be included within the Ministerial Code of Conduct.

The Committee was minded to endorse the recommendation.

7. It was suggested by one member that a pilot Business Management Committee could start almost immediately composing the Chairman of Privileges and Procedures Committee, the President of the Chairmen’s Committee and a Minister, who could discuss forthcoming business and determine the priority. Whilst not wishing to make a recommendation, the Sub-Committee agreed that this matter could be raised by the member with the main Committee in order to gauge Members views.

The Committee noted the view expressed.

8. A new paragraph should be added to Standing Order 63, worded along the lines of –‘The States may extend the period of time allowed during a meeting for questions of which notice has been given to be asked and answered’.

The Committee was minded to endorse the recommendation on the condition that a proposition to extend the period of time for questions would, once seconded, be put straight to a vote.

9. *Standing Order 168 should be amended to include reference to deeds of arrangement and planning obligations in paragraph (1) and alter paragraph (3) so that effectively all land transactions captured by paragraph (1) would be reported to the Assembly under the 15 day rule.*

The Committee, having been advised that the above recommendation had stemmed from observations made by Deputy J.A.N. Le Fondré and having received related correspondence, dated 4th February 2013 from the Director of Estates – Jersey Property Holdings, agreed that it would benefit from additional clarification of the rationale for the proposed change.

On a related matter, the Committee noted that the correspondence from the Director of Estates had cited an urgent requirement for an amendment to Standing Order No. 168(4) to be amended so as to ensure that the coming into force of the Residential Tenancy (Jersey) Law 2011 would not create a consequent requirement for the States to be notified of every social housing tenancy. In this regard it **agreed** to request that the Law Draftsman prepare the necessary amendment to Standing Order 168.

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

10. *Having noted that the option of drawing lots was presently not extended to the appointment of Ministers and Chairmen, the Sub-Committee agreed that there would be merit in this option also applying to those appointments.*

The Committee was minded to endorse the recommendation.

11. *Standing Order 125 should be removed in relation to the appointment process for members of Scrutiny Panels, other than paragraph (1) which would be amended to read “The chairman of the scrutiny panel shall indicate the number of members that he or she wishes the panel to have and shall nominate elected members who are neither Ministers or Assistant Ministers as candidates for appointment as those members”. It was recognised that the reference to Ministers and Assistant Minister could be amended following the outcome of the Machinery of Government Review.*

The Committee was minded to endorse the recommendation.

12. *Standing Orders should be amended to delete the words ‘secret’ and substitute with ‘open’ in respect of all appointments (Subsequently debated and adopted via the proposition of Deputy T.M. Pitman entitled ‘Open ballot for Ministers and Chairmen’ P.188/2011 on 29th May 2012)*

The Committee was minded to endorse the recommendation and further confirmed that it would favour the use of electronic voting for such appointments whenever the number of candidates for an appointment was 3 or less.

Having acknowledged that it had sought clarification or had expressed reservations regarding certain of the Sub-Committee’s recommendations, the Committee **agreed** that the Sub-Committee should be invited to attend the Committee’s next scheduled meeting to discuss the recommendations, following which the Committee would finalise its position.

The Assistant Greffier of the States was authorised to take the necessary action.

Machinery of
Government
Review Sub-
Committee:
update.

A6. The Committee, with reference to its Minute No. A6 of 10th January 2013 received an oral progress report from Deputy M. Tadier in his capacity as Chairman of the Machinery of Government Review Sub-Committee.

The Committee was advised that the Sub-Committee had completed a series of

465/1(182)

consultation interviews with Scrutiny Panels and the Public Accounts Committee regarding the Sub-Committee's draft interim report. Having given preliminary consideration to the feedback received, the Sub-Committee had acknowledged that certain amendments to its draft interim report would be required.

The Committee noted the position.

Public
Finances
(Jersey) Law
2005: proposed
amendments.
447(10)

A7. The Committee received correspondence from the Minister for Treasury and Resources concerning proposed amendments to the Public Finances (Jersey) Law 2005.

The Committee noted that the proposed amendments to the Law would cover the following matters –

- (a) formal establishment of the States Insurance Fund;
- (b) variations to heads of expenditure;
- (c) the role and remit of the Treasurer of the States;
- (d) the role of Accounting Officer;
- (e) formal establishment of the Fiscal Policy Panel; and
- (f) enabling Parts 3 and 4 of the Law to be amended by Regulation.

It further noted and **endorsed** the proposal to increase the lodging period for the Budget from 6 weeks to 8 weeks, so as to give States Members additional time to assimilate the related report of the Fiscal Policy Panel.

The Committee agreed that the Chairman should write to the Minister for Treasury and Resources confirming the Committee's position.

Code of
Conduct for
Elected
Members:
Commissioner
for Standards
(P.4/2013).
1240/4(166)

A8. The Committee, with reference to its Minute No. A8 of 10th January 2013, recalled that its report and proposition entitled: Code of Conduct for Elected Members: Commissioner for Standards (P.4/2013 refers) had been lodged '*au Greffe*' on 14th January 2013.

The Committee noted that, at the instruction of the Chairman, the Committee Clerk had notified his counterpart in Guernsey of the existence of the report and proposition with a view to establishing whether the States of Guernsey might conceivably be interested in the establishment of a Joint Commissioner for Standards.

Members'
Facilities: ICT
provision.
465/1(169)

A9. The Committee, with reference to its Minute No. A4 of 19th December 2012, recalled that it had endorsed a revised specification outlining States Members' ICT requirements in 2013 and had forwarded the same to the Chief Minister.

The Committee considered correspondence, dated 29th January 2013, from the Chief Minister concerning Members' ICT provision.

It was noted that the Chief Minister's Department wished to collaborate with the Committee to further the e-government agenda as set out in the Strategic Plan 2012. The introduction of modern electronic devices as a tool to encourage more efficient working and better communication would form part of that agenda, albeit within the existing budgets as specified in the Medium Term Financial Plan 2013 - 2015. In that regard, the Committee noted that the Information Services section of the Chief Minister's Department was now making a series of ICT options

available. Members could –

- (a) retain their existing corporate laptop or exchange obsolete models for a new and notably lighter device;
- (b) purchase an Apple iPad or iPhone using their expense allowance and have Information Services enable secure access to the corporate e-mail and calendar system via that device, or
- (c) request that Information Services provide them with a corporate Apple iPad in exchange for their existing corporate laptop device.

The foregoing was in addition to the existing arrangements for remote access and the corporate arrangements under which Blackberry mobile phones were made available to Members. It was anticipated that further Microsoft-based options could be made available to Members in the coming months. In the intervening period, the Chief Minister had instructed the Director of Information Services to make contact with the Committee with a view to commencing work on a more comprehensive road map for Members' ICT requirements in the coming years.

The Committee noted the position.

States of
Guernsey:
States Review
Committee:
visit.
465/1(186)

A10. The Committee received a briefing note prepared by the Committee Clerk and which was entitled: 'States of Guernsey: Forthcoming Visit of States Review Committee.'

The Committee noted that the Guernsey States Review Committee (SRC) had been formally constituted by the States of Guernsey during the latter part of 2012 as follows -

Deputy P. Harwood (Chairman)
Deputy M. Fallaize (Vice-Chairman)
Deputy G. St Pier
Deputy M. Dorey
Deputy R. Conder
Mr T.A. Le Sueur O.B.E. (independent member)
Mrs C. Smith (independent member)

Its principal terms of reference were to examine the extent to which the structure and functions of the legislature and the government in Guernsey were capable of fulfilling expectations of good governance with reference in particular to the processes of developing, determining, co-ordinating, effecting and monitoring States' policies.

The Guernsey SRC expected to arrive on 13th March 2013 and wished to proceed with a 2 day programme of interviews, the purpose of which would be to gather views on the evolution of the system of government in the Island. Relevant correspondence had already been exchanged with the Chief Minister and with the Scrutiny Office with a view to securing meetings with the Council of Ministers, the Chairmen's Committee and members of the former Clothier Review Panel, which had reported to the then Policy and Resources Committee in December 2000. Requests to meet with the Committee and with the Machinery of Government Sub-Committee had also been submitted.

The Committee: **agreed** to meet with the Guernsey SRC; endorsed the proposed meeting with the Machinery of Government Sub-Committee, and instructed the Committee Clerk to make the necessary arrangements in support of the visit.