

Privileges and Procedures Committee

(2nd Meeting)

18th March 2024

Part A (Non-Exempt)

All members were present.

Connétable K. Shenton-Stone of St. Martin, Chair
Deputy C. S. Alves of St. Helier Central (for a time)
Deputy L. K. F. Stephenson of St. Mary, St. Ouen and St. Peter (for a time)
Connétable M.K. Jackson of St. Brelade (for a time)
Deputy T.A. Coles of St. Helier South
Deputy S.M. Ahier of St. Helier North (for a time)

In attendance -

L-M. Hart, Greffier of the States
W. Millow, Deputy Greffier of the States
T. Oldham, Assistant Greffier of the States, Committees and Panels (via Teams) (for a time)
J. Lepp, Research and Project Officer
J. Hales, Research and Project Officer (via Teams)
K.M. LARBALÉSTIER, Principal Secretariat Officer, Specialist Secretariat

Note: The Minutes of this meeting comprise Part A only.

Minutes. A1. The Minutes of the meetings held on 4th December 2023, 15th, 16th, 19th, 26th and 29th January 2024, of the Committee as previously constituted and 7th March 2024, were taken as read and approved.

Forthcoming business. A2. The Committee considered propositions which had been lodged 'au Greffe' for the meeting of the States Assembly which was scheduled to commence on 19th March 2024, and concluded that it would not wish to comment on any of the propositions.

Standing Order Nos. 113 and 115: proposed amendments. A3. The Committee considered a report which had been prepared by the Deputy Greffier of the States in connexion with a proposal to amend Standing Orders 113 and 115.

The Committee recalled that Standing Order 113 set out the process for selecting a new Chief Minister and Minister in situations other than those which followed an ordinary election. Standing Order 115 set out the nomination process for the Chief Minister, to include the deadline by which such nominations must be received by the Greffier of the States.

Following the adoption of the proposition entitled 'Vote of no confidence: Chief Minister' (P.1/2024), it had become apparent that some challenges existed regarding the practical application of the aforementioned Standing Orders in the context of the timescales and deadlines involved. Consequently, the Committee was requested to consider amending Standing Orders so that appropriate deadlines were set for the various scenarios which necessitated the appointment of a new Chief Minister. In

this context, it was noted that, save for the death or incapacity of a Chief Minister, the incumbent remained in post until such time as a successor was appointed, giving rise to the question of political legitimacy. Concerns had been raised in this connexion following the 2022 election, when the timescale for the appointment of a new Chief Minister had exceeded that set out in Standing Order 113.

If the Committee decided to endorse the recommendation of the Deputy Greffier of the States, it was suggested that all States Members be consulted. The Committee was also requested to consider delegating responsibility for this matter to the Machinery of Government Sub-Committee, subject to wider support for the proposed amendments.

The Committee endorsed the recommendation to refer the matter to the Machinery of Government Sub-Committee.

On a related matter, the Committee noted correspondence dated 17th January 2024, addressed to the Bailiff from a member of the public, which referenced the perceived impact of the aforementioned Standings Orders in the context of the nomination of the Chief Minister following the adoption of P.1/24.

In camera
debates.

A4. The Committee considered a report in connexion with *in camera* debates and was asked to consider whether it would be appropriate to amend Standing Orders so that certain business, such as appointments, was not debated *in camera*.

It was noted that concerns had been expressed by some Members regarding the decision to hold an *in camera* debate for the appointment of the Children's Commissioner in 2023. The public perception of the same and the impact on building trust had been highlighted.

Attention was drawn to Standing Orders 81 and 82, which set out the circumstances in which an *in camera* debate could be held. It was noted that the appointment of the Greffier of the States was debated *in camera* and, in this context, the Greffier declared an interest.

Following a most comprehensive discussion, the Committee concluded that it would not wish to amend Standing Orders as suggested on the basis of the wider consequences of the removal of the ability to debate such matters *in camera*.

Code of
Conduct:
review.

A5. The Committee, with reference to Minute No. A7 of 15th January 2024, of the Committee as previously constituted, considered a report in connexion with the review of the Code of Conduct for Elected Members.

The Committee noted that the previous Committee had agreed to undertake a review of the Code of Conduct for States Members in consultation with all Members and with the support of the Commissioner for Standards. The review would inform any changes to the Code.

It was recalled that the previous Committee had also met Deputy M. R. Scott of St. Brelade in connexion with her proposition entitled 'Ethical Standards' (P.75/2023) and had advised the Deputy of its intention to undertake a review of the Code. In response, Deputy Scott had indicated a willingness to withdraw her proposition.

Turning to the terms of reference for the review, the Committee was asked to consider the following key questions for inclusion in the consultation –

Should the Commissioner for Standards make recommendations in terms of the sanctions imposed following the identification of a breach?

Should declarations of interest in relation to non-pecuniary matters be more explicit and extend to all areas of public life to avoid a perceived conflict of interest in decision making? *(The Committee noted the contents of an electronic mail message dated 5th March 2024, from the Bailiff of Jersey in this connexion and was advised that the Greffier of the States would ascertain the status of guidance from the Bailiff regarding conflicts of interest). Attention was also drawn to the Ministerial Code of Conduct which made reference to non-pecuniary matters.*

Should the submission of complaints pertaining to alleged breaches of the Code be time limited?

Should expected behaviours be more clearly defined within the Code?

The Committee agreed to invite general submissions on the Code of Conduct as well as posing the above questions and noted that the consultation would encompass all Members and the network of Commissioners for Standards.

Social media
community
rules: proposed
review.

A6. The Committee considered a report in connexion with the existing social media community rules for the States Assembly, which had been developed in 2022/23 in response to certain messages which had been received by some Members via social media.

In this connexion, the Committee noted the contents of an electronic mail message dated 6th March 2024, from Deputy M. Tadier of St. Brelade requesting the establishment of a Sub-Committee to consider the security and safety of Members and expressing a willingness to act as Chair. Whilst the Committee was supportive of a review of security and safety, it concluded that this work could be undertaken by the Privileges and Procedures Committee.

Attention was drawn to the current rules, which were available on the States Assembly website and it was noted that any review of the same could form part of wider considerations in relation to the security and safety of Members.

The Committee noted the view of Deputy L.K.F. Stephenson of St. Mary, St. Ouen and St. Peter that the existing rules could be made more visible and she also suggested the development of a social media charter. Deputy Stephenson drew attention to the social media rules established by Bailiwick Express, which made it clear that comments which did not adhere to the rules would be removed. She also suggested that legal advice should be sought in terms of the specific responsibilities of the States Greffe (and perhaps the Government as a whole) in this area.

The Committee endorsed the recommendation to review the existing rules as part of a wider review into the security and safety of Members and noted that a paper would be presented at a future meeting.

States
building:
access and
security
arrangements.

A7. The Committee, with reference to Minute No. A1 of 19th January 2024, of the Committee as previously constituted, discussed access to and the use of the States building by Jurors attending the Royal Court and other external parties.

It was recalled that agreement had recently been reached with the Judicial Greffe/Viscount's Department in relation to a short-term solution for the access and use of the States building by Jurors. In the longer term, it was hoped that accommodation could be secured in Hill Street for use by the Courts. It had also been agreed that all staff accessing the building through the Members' entrance should display their identification fobs at all times.

Turning to the use of the building by external parties, the Committee recalled that concerns had been expressed on a number of occasions with regard to security arrangements when the building was being used for presentations/meetings organised by external groups.

The Committee discussed the above matter and concluded that it would wish to encourage the use of facilities other than the States Building for external meetings due to the safety and security issues which arose. However, if a States Member was prepared to ‘sponsor’ an event and act in accordance with agreed guidelines (which would require, among other things, the presence of that Member at the event) the use of specific rooms within a confined area could be permitted. It was recalled that the use of certain rooms by Scrutiny Panels was prioritised and that arrangements were in place with the Court for Jurors to wait in Le Capelain and Blampied rooms prior to their accompaniment to the Royal Court for empanelment.

On a related matter, the Committee noted some concerns from Deputy L.K.F. Stephenson of St. Mary, St. Ouen and St. Peter in connexion with perceived safety risks posed by protestors gathering immediately outside the States Members’ entrance. The Greffier of the States suggested that, where advance notice of protests was received, participants could be requested to maintain a certain distance from the door, whilst retaining a direct line of sight. Members expressed a range of views in connexion with the perceived risk, with some noting the predominantly peaceful nature of protests and the presence of the States of Jersey Police at protests.

Privileges and
Procedures
Committee:
appointment of
Sub-
Committee
Chairs.

A8. The Committee, with reference to its Minute No. A6 of 7th March 2024, gave further consideration to the appointment of Chairs of the various Sub-Committees of the Privileges and Procedures Committee.

The Committee recalled that the Deputy Greffier of the States had suggested that a member of the Committee should act as the Chair of each Sub-Committee to assist with reporting lines, but the Committee had noted the view of Deputy C.S. Alves of St. Helier Central that the role of Sub-Committee Chair should not be limited to members of the Committee. The challenge of obtaining a quorum at meetings of larger Sub-Committees had also been discussed and the Committee had agreed that the number of Members on each Sub-Committee should mirror arrangements for the main Committee (7 Members).

The Greffier of the States explained the rationale for the appointment of members of the Committee as the Chairs of the Sub-Committees. It was noted that this ensured a direct connexion with the Committee, providing oversight and avoiding duplication of work.

Returning to the appointment of the Chairs of the respective the Sub-Committees, the Committee agreed that the following Members should Chair the Sub-Committees –

Machinery of Government – Deputy T. A. Coles of St. Helier South
Diversity Forum – Deputy L.K.F. Stephenson of St. Mary, St. Ouen and St. Peter
Political Awareness and Education – Deputy Deputy C. S. Alves of St. Helier Central
Pensions - Deputy S.M. Ahier of St. Helier North

The Committee noted that the States Greffe would extend invitations to all States members to join the above Sub-Committees.

Referendum

A9. The Committee, with reference to Minute No. A5 of 18th September 2023, of

Commission: the Committee as previously constituted, received an oral report from the Deputy Greffier of the States in connexion with the appointment of a Chair to the Referendum Commission, which had been established in accordance with the Referendum (Jersey) Law 2017.

appointment of
Chair.

The Committee noted that it had been agreed to establish a recruitment panel in accordance with Article 2(4) of the aforementioned Law to appoint a Chair. This would enable the successful applicant to participate in the appointment of members of the Commission. The former Committee had approved a recruitment strategy and the membership of the recruitment panel.

It had been hoped that the recruitment panel would be in a position to recommend the appointment of the Chair following interviews at the end of October/beginning of November 2023. Thereafter, Commissioners would be sought from a variety of walks of life and a 'person specification' for the role had been developed. However, the Committee was advised that interest in the role of Chair had been limited necessitating a re-run of the recruitment campaign.

The Committee was advised that 2 former members of the Commission had expressed an interest in continuing in their roles and that one individual, who had applied for the position of Chair, was considered suitable for appointment as a Commissioner. Consideration was also being given to merging the Referendum Commission with another body such as the Jersey Electoral Authority or the (yet to be established) Boundaries Commission in the future.

The Deputy Greffier undertook to report back to the Committee on progress in relation to the appointment of a Chair and future arrangements for the Commission.

On a related matter, Deputy S.M. Ahier of St. Helier North requested that Members be provided with details of the total amount of voters in each electoral district.

Proposed
amendments to
Standing
Orders:
appointment of
Ministers and
Panel Chairs –
order in which
candidates
speak/absence
outside of roll
call.

A10. The Committee considered a report which had been prepared by the Deputy Greffier of the States in response to suggestions from Members which sought amendments to Standing Orders to (a) address the order in which candidates spoke during Ministerial/Committee/Scrutiny Panel Chair appointments and (b) permit Members to be marked absent at times outside of the roll call.

The Committee noted the provisions of Standing Order 117, which required the Presiding Officer to seek nominations from the Chief Minister designate for Ministerial positions. This provision also applied to the Chairs of the Privileges and Procedures, Planning and Public Accounts Committees, the 5 Scrutiny Panels and the President of the Scrutiny Liaison Committee. However, the selection process for the Chief Minister stipulated that the Presiding Officer should draw lots to determine the order in which nominees would speak and answer questions. It was noted that Deputy M. Tadier of St. Brelade had suggested that the Committee might wish to amend Standing Orders so that the drawing of lots applied in respect of all appointments. The Deputy was of the view that there was profitability in speaking first so it should be left to chance in order to avoid any unfair advantage. No administrative difficulties were envisaged. The Committee concluded that the status quo should remain in terms of Ministerial appointments, but that all other appointments should be subject to the same arrangements as those which applied in respect of the Chief Minister (which involved the drawing of lots to determine the order in which nominees spoke and answered questions).

On a related matter, Deputy L.K.F. Stephenson of St. Mary, St. Ouen and St. Peter asked why some votes were secret and others were open. It was noted that this had

arisen as a result of changes undertaken on an *ad hoc* basis to certain Standing Orders which had not filtered through to others. Deputy Stephenson requested that this issue be considered by the Committee at a future meeting.

Turning to Standing Orders 51, 52 and 54, which governed the roll call at the start of each meeting or continuation day, it was noted that there was currently no provision for absences which occurred after the roll call. In practice this meant that it was not evident from the States Minutes when a Member had absented themselves from the meeting after the roll call, albeit that it was possible to obtain this information by other means. It was recalled that Members frequently announced forthcoming absences during the course of meetings and that this was recorded in Hansard. The Committee noted that the issue had been raised on a number of occasions in the past and most recently by Deputy A.F. Curtis of St. Clement. It had also been considered by the Diversity Forum. Consequently, the Committee was being requested to consider whether it would wish to amend Standing Orders to allow Members to be marked absent at any time during the course of a meeting. In practical terms, this would impact on the manner in which votes were recorded on the States Assembly website and some work would be required in this connexion. In addition, consideration would have to be given to the administrative implications. If the Committee supported the principle of the proposed changes, it was suggested that consultation with Members and the Bailiff be undertaken in the first instance. Having been unable to reach a majority decision in respect of this matter, the Committee was advised that the Deputy Greffier of the States would prepare a report for consideration at a future meeting which would illustrate how the proposed changes would work in practice.

On a related matter, and in response to a desire by some for periodic announcements by the Chair in relation to the number of Members who had indicated a wish to speak in debates, the Greffier of the States undertook to raise this matter with the Bailiff.

Privileges and
Procedures
Committee:
2024 work
programme.

A11. The Committee, with reference to Minute No. A9 of 18th December 2023, of the Committee as previously constituted, considered its 2024 work programme.

It was recalled that the adoption of the Children and Young People's (Jersey) Law 2022 in February 2022, introduced the concept of 'corporate parenting' and the Committee was required to prepare a plan which set out how it would discharge its corporate parenting responsibilities. It was noted that further information had been sought by a Scrutiny Panel with regard to the statutory responsibilities of a corporate parent and guidance had recently been published (R.7/2024 refers). A report would be presented to the Committee in April 2024.

A report entitled 'How might the Standing Orders of the States of Jersey respond to the formation of political parties' had been published in 2021. It was suggested that the Committee might wish to consider establishing a Sub-Committee in order to consider the report in more detail and determine which areas to prioritise for implementation. A report on this subject would be presented to the Committee in April 2024.

It was noted that work was ongoing in terms of the establishment of constituency offices and an update would be provided in due course.

The Diversity Forum work programme would include the continuation of work on the behaviour codes in other jurisdictions.

Further consideration would need to be given to remote participation in meetings of the States Assembly, with amendments to Standing Order 55A being presented to the Committee in April 2024.

The application of Standing Order 37A would continue to be monitored by the States Greffe with a view to amending the same to disallow the late presentation of comments.

The Committee would receive an update in connexion with the automatic voter registration project at the meeting in May 2024.

The Committee noted the position.

Date of next meeting.

A12. The Committee noted that the next meeting would be held on 15th April 2024, at 11.00 am.

12
2nd Meeting
18.03.2024