

PRIVILEGES AND PROCEDURES COMMITTEE

(81st Meeting)

23rd July 2008PART A

All members were present, with the exception of Deputy G.C.L. Baudains, from whom apologies were received.

Connétable D.F. Gray of St. Clement - Chairman
 Senator M.E. Vibert
 Connétable K.A. Le Brun of St. Mary
 Deputy S.C. Ferguson
 Deputy J. Gallichan
 Deputy I.J. Gorst

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 P. Monamy, Acting 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 11th June 2008 (Part A only), 25th June 2008 (Part A and Part B) and 9th July 2008 (Part A and Part B), having been previously circulated, were taken as read and were confirmed.

Bailiff of Jersey:
 cessation of dual
 role.
 499/2(30)

A2. The Committee considered a proposition lodged “au Greffe” on 9th July 2008 by Deputy S. Pitman of St. Helier, entitled “Bailiff of Jersey: cessation of dual role” (P.112/2008 refers).

The proposition read as follows -

“The States are asked to decide whether they are of opinion –

- (a) to agree in principle that the dual rôle of the Bailiff as both President of the States and President of the Royal Court should cease and that the Bailiff and Deputy Bailiff should be replaced as Presiding Officers of the States by an elected Speaker and Deputy Speaker;
- (b) to charge the Privileges and Procedures Committee to bring forward for approval the necessary legislation and to report on the financial implications of giving effect to the decision so that the Speaker can be elected no later than after the elections in 2011.”

The Committee, having considered that it might be desirable to examine the matter of the Bailiff’s dual role, agreed that this should not be done at the present time, especially in view of the relatively short time remaining of the present States, and decided that it would be better undertaken as part of an overall review of the States as a whole. In the event that the current States were to adopt the proposition, it should be for the new States to examine the matter in detail on the basis of a clear indication of the precise areas to be covered. The Committee agreed that such a review was clearly beyond its present remit.

As regards its comment on the present proposition, the Committee agreed that it was too soon to be able to agree in principle to its intent. However, it was accepted that there was a need for transparency regarding the Bailiff's role in approving the wording of draft propositions and members' questions, and decided that its comment should include reference to the potentially far-reaching nature of the proposal and the desirability for the new States to give detailed consideration as to precisely how such a review might be approached.

The Committee asked the Greffier of the States to prepare a draft comment for its consideration.

Draft Freedom of Information (Jersey) Law 200-. 670(1) D.G.O.S.

A3. The Committee, with reference to its Minute No. A1 of 25th June 2008, received and considered comments of the Assistant Law Draftsman on amendments to the Draft Freedom of Information (Jersey) Law 200-. In this regard, the Deputy Greffier of the States informed the Committee that a meeting would be convened with Mr. C. Borrowman, Assistant Law Draftsman, and H.M. Attorney General - probably during the last week of August 2008 - in order to discuss areas of uncertainty.

Meanwhile, the Committee considered a number of initial queries on the draft Law, as follows -

- (a) **Article 1(2):** Whereas the Attorney General had indicated a preference for the inclusion of a complete list of public bodies under "public authorities", the Committee agreed that the same definition as that used in the Public Records (Jersey) Law 2002 should be used;
- (b) **Article 1(5):** The Committee considered that a "request for information" need not specify that it was being made under the Law as the request would in any event be dealt with by the relevant administrative department concerned on that basis. It was agreed that further explanation should be included;
- (c) **Article 2(1):** The Committee agreed that it did not wish to pursue the inclusion of a reference to a person who made a request for information held by a public authority having a general right to be supplied with that information; The Committee noted that the Deputy Greffier and the Law Draftsman would be having discussions with the Attorney General on the draft Law, and asked for their view on the pitfalls associated with confining the law to Jersey residents only.

There was a discussion as to whether an applicant needed to cite the law in order to trigger the necessary procedure.

- (d) **Article 15:** The Committee decided not to seek to impose an "express obligation" on the public authority to tell the applicant where the information sought could be found;
- (e) **Article 27:** The Committee asked whether exceptions could be included in Regulations. The Committee agreed to include a provision from the U.K. legislation along the lines of Article 36(2)(b) regarding 'full and frank' discussions;
- (f) **Article 33:** The Committee agreed that a reference to the "Jersey Financial Services Commission (JFSC)" should not be included;
- (g) **Article 37:** The Committee noted that the creation of an "Information Commission" and/or "Commissioner" might no longer be required and asked that for an approach to be made to the Data Protection Registrar

to determine whether that officer might be able to undertake some of the “encouragement” responsibilities envisaged;

- (h) **Article 38:** The Committee agreed that, in the event that matters could be referred directly to the Royal Court, it would not be necessary to appoint a tribunal to consider whether a request for information had been dealt with in accordance with the Law or with Regulations made under the Law.

Island-wide
mailing for
election
candidates
424/3(1)

A4. The Committee received correspondence, dated 11th July 2008, from Mr. I. Carr, Operations Director of Jersey Post, regarding an Island-wide distribution of election material for candidates standing in the forthcoming 2008 elections.

In his letter, Mr. Carr expressed surprise that the Committee had decided to undertake “a distribution at public expense” simply based on the advice of the Jersey Competition Regulation Authority (JCRA), who had stated that Jersey Post could offer discounts for the distribution of election material. Mr. Carr stated his opinion that whatever approach was taken, Jersey Post would incur a significant cost, which would ultimately be borne by the public of Jersey via Jersey Post’s shareholders. It was noted that Jersey Post had not received any government subsidy for the provision of any services, and the postal services part of the business has been forecast to lose £1 million in 2008. Finally Mr. Carr noted that the £30,000 budgeted by the Committee for this purpose would be totally inadequate, and that Jersey Post would not offer any special discounts in this regard, as it would simply be unable to meet the costs required.

The Committee agreed that this matter should be examined in detail by its successor in due course.

Use of laptops in
the States
Chamber.
1240(182)

A5. The Committee considered a request from Senator F.E. Cohen regarding the use of laptops within the States Chamber. It was noted that this matter had also been raised informally by several other members in recent weeks. Senator Cohen had made this request on the basis of the recent establishment of a wireless internet network in the States Building, which would enable members to access the network whilst in the Chamber.

The Committee was advised that currently Standing Orders neither prevented nor permitted the use of electronic equipment of this nature, but that Standing Order 99 (1) would prevent the use of any electronic device likely to disturb proceedings of the States. It was noted that many members had used Blackberries in the Chamber and that these had not had any major effect on the sound system, for example. It was further noted that before a final decision was taken, it might be desirable for the matter to be discussed with the Bailiff, as President of the States, before taking a final decision.

Meanwhile, the Committee asked for estimates to be obtained for the work that would be necessary to carry out the physical changes involved. It was noted that the locks which had been removed from members’ desks were to be replaced shortly. The Committee also asked for the cost of providing Blackberries to all States Members to be investigated.

Matters for
information.

A6. The Committee noted the following matters for information -

- (a) the Data Protection Registrar was to be asked whether the registration of electoral candidates could be provided at a reduced cost;
- (b) a leaflet was to be produced setting out the position now agreed by the States in respect of election expenses. In addition, consideration would be given to producing a simple guide explaining election procedures

generally;

- (c) a campaign to encourage voter participation had recently commenced, with a series of advertisements due to appear shortly, including advertisements on buses - both inside and on the outside. In addition, it was hoped that the caravan which had featured in the previous campaign would once again be stationed outside British Home Stores in King Street/Don Street; a leaflet would be sent to all households listed on the electoral rolls; and a supplement would appear in the Jersey Evening Post which would enable each candidate to convey their election message in up to 320 words;
- (d) with regard to the apparent recent difficulty whereby the provision of information in respect of "Bull Semen" to one part of Scrutiny had not been conveyed to the remaining parts, the Committee agreed that the Chairmen's Committee should be asked to examine the situation so as to ensure that wherever appropriate "principal stakeholders" would be kept informed;
- (e) the Committee confirmed that its next meeting would be held on Wednesday, 6th August 2008, commencing at 9.30 a.m. in the Le Capelain Room, States Building, Royal Square. Senator M.E. Vibert offered his apologies for absence from that meeting.

Machinery of
Government
review:
States of Jersey
(Amendment
No. 5) Law 200.
465/1(91)

A7. The Committee, with reference to its Minute No. A4 of 11th June 2008, gave consideration to the final draft of the States of Jersey (Amendment No.5) Law 200-together with an accompanying draft report.

The Committee agreed to proceed to lodging the projet 'au Greffe' as soon as possible - subject to verification of the compliance of the proposals with the Human Rights (Jersey) Law 2000 - with a view to seeking consideration of the matter by the States during October 2008.

Machinery of
Government
review: proposed
amendments to
the Standing
Orders of the
States of Jersey.
465/1(91)

A8. The Committee, with reference to its Minute No. A5 of 11th June 2008, considered the proposed Amendment No. 9 of the Standing Orders of the States of Jersey, together with an accompanying draft report.

Having agreed a number of minor amendments to the explanatory report, the Committee agreed to proceed to lodging the projet 'au Greffe' as soon as possible, with a view to seeking consideration of the matter by the States during October 2008.