

KS/SC/194

PRIVILEGES AND PROCEDURES COMMITTEE

(41st Meeting)

5th July 2016**PART A (Non-exempt)**

All members were present.

Connétable L. Norman of St. Clement, Chairman
 Senator P.F.C. Ozouf
 Connétable D.W. Mezbourian of St. Lawrence (for items A1 and A2 only)
 Connétable C.H. Taylor of St. John
 Deputy J.A. Martin of St. Helier (for items A1, A2, B1 and B2 only)
 Deputy S.Y. Mézec of St. Helier
 Deputy S.M. Brée of St. Clement

In attendance -

Dr. M. Egan, Greffier of the States
 L.M. Hart, Deputy Greffier of the States
 A.C. Goodyear, Assistant Greffier of the States (for items A1, A2, B1 and B2 only)
 K.L. Slack, 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 25th May 2016 (Part A only), 7th June 2016 (Parts A and B) and 16th June 2016 (Part A only), having previously been circulated, were taken as read and were confirmed.

States
 procedures:
 review.
 465/4(14)

A2. The Committee, with reference to its Minute No. A4 of 19th April 2016, received a report, dated July 2016, from the Assistant Greffier, in connexion with the work of the Standing Orders and Internal Procedures Sub-Committee.

The membership of the Sub-Committee comprised Senator P.F.C. Ozouf and Deputy J.A. Martin of St. Helier and the Committee recalled that they, together with the Assistant Greffier, had canvassed the views of States members on the 3 main areas which were the remit of the Sub-Committee to examine; namely the requirements for answering questions; the procedures governing the nomination and election of ministerial candidates; and the possible introduction of a 'Business Committee', which would be responsible for the scheduling of business in the Assembly.

The Sub-Committee had reported its initial findings to the Committee in June 2015 and had subsequently held a workshop with States members, consulted with the Chairmen's Committee and considered written responses from States members.

The report contained 13 recommendations, on which the views of Committee members were sought:

Recommendation 1:

Standing Orders 63 and 65, which related to the answering of oral questions with and without notice, should be amended to provide that an answer must be directly relevant to the question.

The Committee agreed to take forward this amendment.

Recommendation 2:

Written questions should be able to be submitted on a weekly basis during sessions of the States.

The Committee noted that States members would retain the ability to ask a maximum of 2 oral questions and 5 written questions per meeting; however, the intention was to encourage them to submit these in a more timely manner so that they could be distributed to Departments at an earlier juncture, which could lead to written responses appearing on the States Assembly website in advance of the meeting. It was hoped that this proposal would improve the workflow around questions and it was supported by the Committee.

Recommendation 3:

Oral questions that relate to the same topic area should be able to be grouped together on the Order Paper.

The Committee recalled that this suggestion had been raised at a recent meeting of the States when the Chief Minister had faced a variety of questions that centred on the same subject matter, but were subtly different. It was suggested that if all questions on one topic were grouped, this risked negating the rota of oral questions established under Standing Order 14. The Committee also felt that it could reduce the amount of time that members would have to consider the answers provided and to formulate additional questions. Accordingly, having discussed this matter at some length and having expressed the view that it would generate additional work, the Committee decided that it was not minded to take forward this proposed amendment.

Recommendation 4:

Members should be able to specify during questions with notice if they wish their question to be answered by the Assistant Minister, rather than the Minister, in cases where the subject matter relates to a function which has been formally delegated to the Assistant Minister.

The Committee agreed to take forward this recommendation, subject to it being amended to indicate that members should specify, at the time of submitting their question, that they wished it to be answered by the Assistant Minister.

Recommendation 5:

All candidates for the position of Minister and Chairman should make a speech and answer questions, whether or not the position is contested.

The Committee accepted that there was no ability for States members to contest an appointment in the event that the only candidate for a position made an extremely poor speech, but agreed that it would support the recommendation on the basis that it gave members the opportunity to learn of the candidate's views and aspirations, against which their performance could be measured in the future.

Recommendation 6:

The current procedure, whereby Ministers and Chairmen are elected by recorded ballot, should remain.

The Committee noted that the Chairmen's Committee had disagreed with this recommendation, as the majority of their number were of the view that ballots should be held in secret in order to prevent members feeling pressurised to vote for a particular individual, for the sake of appearances, rather than voting for the person they believed to be the best candidate. On the basis that the Committee was itself not unanimous in its views on this issue, it agreed that the proposal should be put to the States.

Recommendation 7:

Ministers should not be permitted to vote during the election of Scrutiny Panel Chairmen (or a Committee consisting of all members who are not Ministers should be established to vote for Scrutiny Panel Chairmen).

The Committee recalled that, at its meeting on 9th June 2015, the view had been expressed that it was inappropriate for Ministers to vote on those individuals who would subsequently scrutinise their policies. It was noted that the Sub-Committee had proposed the alternative version of the recommendation based on the 'West Lothian question' in Parliament, whereby only English MPs were able to vote on bills which were wholly English. However, the Greffier indicated that this system had been subject to criticism and was complex, as it was not straightforward to make a clear-cut decision on whether certain measures were wholly English, as some had a financial impact on the UK as a whole.

Mindful that members of the Council of Ministers, and certain Assistant Ministers, were bound by collective responsibility, the Committee explored whether the ban should extend to all Ministers and it also discussed the issues that centred around the election of those Scrutiny Panel Chairmen, the remit of whose Panels extended beyond one Minister.

The Chairman, Connétable D.W. Mezbourian of St. Lawrence and Senator P.F.C. Ozouf disagreed with the recommendation, as they felt that it would disenfranchise a whole section of the Assembly. Accordingly, the Committee decided that it was appropriate to put the recommendation to the States to obtain members' views thereon.

Recommendation 8:

Proposers should be able to name colleagues to act as rapporteur in their absence.

The Committee recalled that this issue had initially been raised by Deputy S.Y. Mézec of St. Helier in connexion with the ability of political parties to be named on propositions brought by party members and that it had reflected on the suggestion in a broader sense to see whether it might apply to all propositions. The Committee, having discussed the matter further, felt that in cases where a proposer was unavoidably absent (and was to be marked 'malade' or 'excusé'), it would be appropriate for another member to propose the proposition on their behalf, subject to notice having been given to the Greffier. However, in cases where a member was marked 'en défaut', this would not be permitted. The Assistant Greffier was requested to amend the recommendation to reflect this.

Recommendation 9:

The Chief Minister should be able to name an Assistant Minister to act as rapporteur in respect of propositions brought by the Chief Minister or the Council of Ministers which relate to an area which has been delegated to an Assistant Minister.

The Committee recalled that, in accordance with the provisions of Standing Order 68A, a proposition brought by the Chief Minister could be proposed by any other Minister and a proposition lodged by a Minister could be proposed by any of that Minister's Assistant Ministers. This recommendation arose to address cases where the proposition was brought by the Chief Minister (for example, an Order in Council relating to immigration matters) and the person who had delegated responsibility for that area was the Assistant Minister of a Department. Currently, in accordance with Standing Order 68A, the Chief Minister could only ask the Minister for Home Affairs, in this particular case, to act as rapporteur and not delegate it further to the Assistant Minister. The Council agreed to take this recommendation forward.

Recommendation 10:

Standing Orders should not prescribe the use of the term 'Chairman'.

The Committee noted that some members had expressed concern about the use of the word 'Chairman' to denote the head of a Scrutiny Panel and felt that the position should be described using gender neutral terminology. The Sub-Committee considered that Standing Orders should enable members to use an alternative term if they wished to do so and the Committee agreed.

Recommendation 11:

Scrutiny Panels should be *required* to make a statement and answer questions following the presentation of a report.

It was noted that this recommendation had been proposed in order to enable Scrutiny Panels to promote the work that they had undertaken, thereby raising the profile of the Scrutiny function, whilst simultaneously affording Ministers the opportunity to ask questions in relation to the report. However, the Chairmen's Committee disagreed with the recommendation and felt that it was unnecessary and potentially not a good use of the Assembly's time. This notwithstanding, Committee members thought that it was appropriate for Chairmen of Panels to be as accountable as Ministers and agreed that if members had a minimum of 3 days' notice that a report was to be presented, the Chairman should make a statement in relation thereto. If, however, the report was presented in short order, the Chairman's statement would be made at the following meeting.

Recommendation 12:

All primary legislation should be scrutinised as a matter of course.

The Committee was supportive of this recommendation. It acknowledged that there may be some impact on the workload of the Scrutiny Panels, but felt that Departments should be working from the outset with the relevant Panel when drawing up new legislation. It had concerns about the speed with which some primary legislation was passed through the States in one meeting and agreed that there should be an early debate on the principles before a matter was reviewed by Scrutiny, with the substantive debate on the Articles to take place thereafter. The Chairmen's Committee was in agreement with the recommendation.

Recommendation 13:

States members should be able to nominate a speaker for selection by the Bailiff when the Bailiff and Deputy Bailiff are unable to preside.

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The Committee noted that the provisions relating to who should preside over meetings when neither the Bailiff, nor Deputy Bailiff, were available, were contained within the States of Jersey Law 2005, rather than Standing Orders and were, therefore, outside the remit of the Sub-Committee. Moreover, it agreed that it wished for the debate on the proposition of Deputy M. Tadier of St. Brelade, entitled, 'Bailiff of Jersey: cessation of dual role and the appointment of an elected Speaker of the States' (P.54/2016), to take place before it gave further consideration to this issue.

The Assistant Greffier was instructed to make the requisite alterations to the recommendations, before liaising with the Law Draftsman to prepare the relevant amendments to Standing Orders.