

**THE STATES assembled on Monday,
26th July 1999 at 9.30 a.m. under
the Presidency of the Bailiff,
Sir Philip Bailhache.**

All members were present with the exception of -

Senator Richard Joseph Shenton - out of the Island
Iris Medora Le Feuvre, Connétable of St. Lawrence - out of the Island
Margaret Anne Le Geyt, Deputy of St. Saviour - out of the Island
Imogen Stephanie Nicholls, Deputy of Grouville - out of the Island
Michael Edward Vibert, Deputy of St. Brelade - out of the Island

Prayers

Public Access to Official information: Code of practice - P38/99; comments P.38/99 Com.; P.38/99 Com.(2)

THE STATES resumed consideration of a proposition of the Special Committee on Freedom of Information concerning Public Access to Official Information: Code of Practice, which had been discontinued at the meeting on 20th July 1999, and adopted sub-paragraphs (c) to (f).

THE STATES, adopting a proposition, as amended, of the Special Committee on Freedom of Information referred to their Act dated 15th March 1994 appointing a Special Committee to investigate the issues involved in establishing by law, a general right of access to official information for members of the public, having regard to the practice and experience of other countries and the particular circumstances of the Island, and to report back to the States with recommendations, and -

- (a) approved the principle that the public should have access, wherever reasonably possible, to information held by the States, Committees and Departments of the States in accordance with a Code of Practice approved by the States;
- (b) approved, with amendments, the draft Code of Practice on Access to Information held by the States, Committees and Departments of the States as set out in Appendix A of the Special Committee's report dated 11th March 1999;
- (c) agreed that the Code should be brought into operation not later than six months after the date of its approval by the States, and with respect to information created after that date;
- (d) charged the House Committee to prepare for the introduction of the Code, to monitor its implementation, to keep it under review and to report to the States 12 months after it had been brought into operation, and annually thereafter;

- (e) agreed that the provisions of the Code, amended as appropriate in the light of practical experience, should be incorporated into legislation which would establish a general right of access to official information for members of the public, and charged the House Committee to take the necessary steps to enable the legislation to be assessed for priority for inclusion in the States legislation programme;
- (f) agreed to dissolve the Special Committee on Freedom of Information.

The Code of Practice, as amended, is set out and consolidated in the Appendix to these Minutes.

Jersey Society for the Prevention of Cruelty to Animals: grant of loan - P.85/99

THE STATES, adopting a proposition of the Finance and Economics Committee, authorised the payment to the Jersey Society for the Protection of Cruelty to Animals of -

- (a) a grant of £300,000 from the general reserve;
- (b) a loan of £100,000, to bear interest at four per cent a year and to be repayable in equal annual instalments of principal and interest over a period of 20 years,

as a contribution towards the redevelopment programme of the Animal Shelter.

Members present voted as follows -

“Pour” (35)

Senators

Rothwell, Le Maistre, Stein, Syvret, Walker, Kinnard.

Connétables

St. Mary, St. Brelade, St. Peter, Grouville, St. Helier, St. Ouen, St. John, Trinity, St. Saviour.

Deputies

Wavell(S), H. Baudains(C), Le Sueur(H), Coutanche(L), S. Baudains(H), Trinity, Pullin(S), Johns(H), Routier(H), Layzell(B), Breckon(S), St. John, Le Main(H), Blampied(H), Rabet(H), Crowcroft(H), de la Haye(B), St. Peter, St. Ouen, G. Baudains(C).

“Contre” (5)

Senators

Bailhache.

Deputies

Duhamel(S), Huet(H), St. Martin, Le Claire(H).

Draft Fees (Miscellaneous Amendments and Validations) (Jersey) Law 199 - P.88/99

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Fees (Miscellaneous Amendments and Validations) (Jersey) Law 199 .

Draft Post Office (Amendment No. 2) (Jersey) Law 199 - P.89/99

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Post Office (Amendment No. 2) (Jersey) Law 199 .

Draft Telecommunications (Amendment No. 3) (Jersey) Law 199 - P.90/99

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, adopted a Law entitled the Telecommunications (Amendment No. 3) (Jersey) Law 199 .

Draft Health Insurance (Medical Benefit) (Amendment No. 50) (Jersey) Regulations 199 - P.97/99

THE STATES, in pursuance of Articles 18 and 46 of the Health Insurance (Jersey) Law 1967, as amended, made Regulations entitled the Health Insurance (Medical Benefit) (Amendment No. 50) (Jersey) Regulations 1999.

Mrs. Sharon J. Ozouf: ‘g’ category housing consent - P.98/99; report - P.98/99 Rpt.

THE STATES rejected a proposition of Deputy Terence John Le Main of St. Helier requesting the Housing Committee to reconsider its decision of 24th February 1999 that it was not minded to grant consent under Regulation 1(1)(g) of the Housing (General Provisions) (Jersey) Regulations 1970, as amended, to Mrs. Sharon Jane Ozouf, née Walsh, to allow her to lease or purchase residential property in the Island.

Members present voted as follows -

“Pour” (8)

Senators

Le Maistre, Stein.

Deputies

Wavell(S), H. Baudains(C), Trinity, Routier(H), Le Main(H), G. Baudains(C).

“Contre” (33)

Senators

Horsfall, Rothwell, Bailhache, Syvret, Norman, Walker, Kinnard.

Connétables

St. Mary, St. Brelade, St. Peter, St. Helier, St. Martin, St. Ouen, St. John, Trinity, St. Saviour, St. Clement.

Deputies

Coutanche(L), St. Mary, S. Baudains(H), Pullin(S), Johns(H), Duhamel(S), Layzell(B), Breckon(S), Huet (H), St. John, Rabet(H), Crowcroft(H), de la Haye(B), St. Peter, Dubras(L), St. Ouen.

The Deputy of St. Martin, having declared an interest in the matter, withdrew from the Chamber prior to the consideration of this matter.

Change of Presidency

The Bailiff retired from the Chamber during consideration of the proposition of Deputy Terence John Le Main of St. Helier concerning Mrs. Sharon J. Ozouf: 'g' category housing consent and the Greffier of the States, Geoffrey Henry Charles Coppock Esquire, took over the Presidency for the remainder of the meeting.

St. Helier Waterfront leisure complex: terms of lease - P.92/99

THE STATES commenced consideration of a proposition of the Policy and Resources Committee regarding the St. Helier Waterfront leisure complex: terms of lease and rejected a proposition of Senator Jean Amy Le Maistre that the proposition be referred back to the Committee.

Members present voted on the proposed reference back as follows -

“Pour” (11)

Senators

Le Maistre, Stein, Syvret, Kinnard.

Connétables

St. Mary, St. Martin.

Deputies

S. Baudains(H), Duhamel(S), Crowcroft(H), St. Ouen, Le Claire(H).

“Contre” (27)

Senators

Horsfall, Rothwell, Bailhache, Norman, Walker.

Connétables

St. Helier, St. John, Trinity, St. Saviour, St. Clement.

Deputies

H. Baudains(C), Coutanche(L), St. Mary, Trinity, Pullin(S), Johns(H), Routier(H), Layzell(B), Breckon (S), Huet(H), St. Martin, St. John, Le Main(H), Rabet(H), de la Haye(B), St. Peter, Dubras(L).

THE STATES then agreed to defer further consideration of the proposition of the Policy and Resources Committee until the next day, Tuesday 27th July 1999.

Order of business - Tuesday 27th July 1999

THE STATES rejected a proposition of Senator Leonard Norman that the order of business at the States meeting on Tuesday 27th July 1999 be revised so that item G on the Order Paper (Questions) be taken after the conclusion of item K (Public Business).

Members present voted as follows -

“Pour” (14)

Senators

Bailhache, Norman, Walker.

Connétables

St. John, St. Saviour, St. Clement.

Deputies

Coutanche(L), St. Mary, Pullin(S), Johns(H), Breckon(S), Le Main(H), Rabet(H), St. Peter.

“Contre” (24)

Senators

Horsfall, Rothwell, Le Maistre, Stein, Syvret, Kinnard.

Connétables

St. Mary, St. Helier, St. Martin, Trinity.

Deputies

H. Baudains(C), S. Baudains(H), Trinity, Duhamel(S), Routier(H), Layzell(B) Huet(H), St. Martin, St. John, Crowcroft(H), de la Haye(B), Dubras(L), St. Ouen, Le Claire(H).

Adjournment

THE STATES then adjourned, having agreed that the outstanding items of Public Business should stand over until the next day, Tuesday 27th July 1999.

THE STATES rose at 6.55 p.m.

G.H.C. COPPOCK

Greffier of the States.

**A CODE OF PRACTICE ON ACCESS TO INFORMATION
HELD BY THE STATES, COMMITTEES OF THE
STATES AND DEPARTMENTS OF THE STATES
(Adopted by Act of the States dated 20th July 1999)**

Part I: Description

1. Purpose

1.1 The purpose of this Code is to establish a minimum standard of openness and accountability by the States of Jersey, its Committees and departments, through -

- (a) increasing public access to information;
- (b) supplying the reasons for administrative decisions to those affected, except where there is statutory authority to the contrary,
- (c) giving individuals the right of access to personal information held about them and to require the correction of inaccurate or misleading information;

while, at the same time -

- (i) safeguarding an individual's right to privacy; and
- (ii) safeguarding the confidentiality of information classified as exempt under the Code.

1.2 Interpretation and scope

1.2.1 For the purposes of this Code -

- (a) "authority" means the States of Jersey, Committees of the States, their sub-committees, and their departments;
- (b) "information" means any information or official record held by an authority;
- (c) "personal information" means information about an identifiable individual.

1.2.2 In the application of this Code -

- (a) "publish" means to make available at the States department concerned;
- (b) there shall be a presumption of openness;
- (c) information shall remain confidential if it is classified as exempt in Part III of this Code;

1.2.3 Nothing contained in this Code shall affect statutory provisions, or the provisions of customary law with respect to confidence.

- 1.2.4 This Code applies to information created after the date on which the Code is brought into operation, and in the case of personal information, to information created before that date.

Part II: Operation

2. Obligations of an authority

2.1 Subject to the exemptions listed in paragraph 3, an authority shall -

- (a) keep a general record of all information that it holds;
- (b) take all reasonable steps to assist applicants in making applications for information;
- (c) acknowledge the receipt of an application for information and endeavour to supply the information requested (unless exempt) within 21 days;
- (d) take all reasonable steps to provide requested information which they hold;
- (e) notify an applicant if the information requested is not known to the authority or, if the information requested is held by another authority, refer the applicant to that other authority;
- (f) make available information free of charge except in the case of a request that is complex or would require extensive searches of records, when a charge reflecting the reasonable costs of providing the information may be made;
- (g) if it refuses to disclose requested information, inform the applicant of its reasons for doing so;
- (h) correct any personal information held about an individual that is shown to be incomplete, inaccurate or misleading, except that expressions of opinion given conscientiously and without malice will be unaffected;
- (i) inform applicants of their rights under this Code;
- (j) not deny the existence of information which is not classified as exempt which it knows to exist;
- (k) undertake the drafting of documents so as to allow maximum disclosure.

2.2 Responsibilities of an applicant

The applicant shall -

- (a) apply in writing to the relevant authority having identified himself to the authority's satisfaction;
- (b) identify with reasonable clarity the information that he requires;
- (c) be responsible and reasonable when exercising his rights under this Code.

2.3 Appeals

- 2.3.1 If an applicant is aggrieved by an authority's decision to refuse to disclose requested information or to correct personal information in a record, he will have the right of appeal set out in Part IV of this Code.

Part III: Access and exemptions

3.1 Access

Subject to paragraph 1.2.3 and the exemptions described in paragraph 3.2 -

- (a) an authority shall grant access to all information in its possession and Committees of the States, and their sub-committees shall grant access to -
 - (i) their agendas;
 - (iii) minutes.
- (b) an authority shall grant -
 - (i) applicants over the age of 18 access to personal information held about them; and
 - (ii) parents or guardians access to personal information held about any of their children under the age of 18.

3.2 Exemptions

Information shall be exempt from disclosure, if -

- (a) such disclosure would, or might be liable to -
 - (i) constitute an unwarranted invasion of the privacy of an individual;
 - (ii) prejudice the administration of justice, including fair trial, and the enforcement or proper administration of the law;
 - (iii) prejudice legal proceedings or the proceedings of any tribunal, public enquiry, Board of Administrative Appeal or other formal investigation;
 - (iv) prejudice the duty of care owed by the Education Committee to a person who is in full-time education;
 - (v) infringe legal professional privilege or lead to the disclosure of legal advice to an authority, or infringe medical confidentiality;
 - (vi) prejudice the prevention, investigation or detection of crime, the apprehension or prosecution of offenders, or the security of any property;
 - (vii) harm the conduct of national or international affairs or the Island's relations with other jurisdictions;
 - (viii) cause damage to the economic interests of the Island;
 - (viiA) prejudice the defence of the Island or any of the other British Islands or the capability, effectiveness or security of the armed forces of the Crown or any forces co-operating with those forces;
 - (ix) prejudice the financial interests of an authority by giving an unreasonable advantage to a third

party in relation to a contract or commercial transaction which the third party is seeking to enter into with the authority;

- (x) prejudice the competitive position of a third party, if and so long as its disclosure would, by revealing commercial information supplied by a third party, be likely to cause significant damage to the lawful commercial or professional activities of the third party;
 - (xi) prejudice the competitive position of an authority;
 - (xii) prejudice employer/employee relationships or the effective conduct of personnel management;
 - (xiii) constitute a premature release of a draft policy which is in the course of development;
 - (xiv) cause harm to the physical or mental health, or emotional condition, of the applicant whose information is held for the purposes of health or social care, including child care;
 - (xv) prejudice the provision of health care or carrying out of social work, including child care, by disclosing the identity of a person (other than a health or social services professional) who has not consented to such disclosure;
 - (xvi) prejudice the proper supervision or regulation of financial services;
 - (xvii) prejudice the consideration of any matter relative to immigration, nationality, consular or entry clearance cases;
- (b) the information concerned was given to the authority concerned in confidence on the understanding that it would be treated by it as confidential, unless the provider of the information agrees to its disclosure; or
- (c) the application is frivolous or vexatious or is made in bad faith.

Part IV: Appeal procedure

- 4.1 An applicant who is aggrieved by a decision by an officer of a States department under this Code may in the first instance appeal in writing to the President of the Committee concerned.
- 4.2 An applicant who is aggrieved by the decision of an authority under this Code, or by the President of a Committee under paragraph 4.1, may apply for his complaint to be reviewed under the Administrative Decisions (Review) (Jersey) Law 1982, as amended.