

IC/SC/159

PRIVILEGES AND PROCEDURES COMMITTEE

(10th Meeting)

23rd May 2012**PART A**

All members were present, with the exception of Deputy M. Tadier and Deputy K.L. Moore, from whom apologies had been received.

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

In attendance -

Deputy J.A.N. Le Fondré, Machinery of Government Sub-Committee (for item A7)  
 Deputy J.H. Young, Machinery of Government Sub-Committee (for item A7)  
 M.N. de la Haye, Greffier of the States  
 Mrs. A.H. Harris, Deputy Greffier of the States  
 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 19th March (Part B only), 11th April (Parts A and B) and 25th April 2012 (Parts A and B), having been circulated previously, were taken as read and were confirmed.

States of  
 Jersey  
 Complaints  
 Panel: report  
 for 2011.  
 1386/6/1(2)

A2. The Committee, with reference to Minute No. A2 dated 12th May 2011 of the Committee as previously constituted, received the draft States of Jersey Complaints Panel Report 2011.

The Committee welcomed a delegation of the Complaints Panel comprising: C.E. Canavan, Chairman; N.P.E. Le Gresley, Deputy Chairman; Advocate R.J. Renouf, Deputy Chairman; J.G. Davies; M. Le Gresley; T.S. Perchard; and, D.J. Watkins.

Having noted that the Chairman and Mrs. Le Gresley, Mr. Perchard and Mr. Watkins were due to retire from the Complaints Panel in 2012, having each completed between 12 and 15 years of honorary service, the Committee expressed its gratitude for their dedication to the role. A gift was presented to each retiring member as a token of the Committee's appreciation. In responding, the Chairman thanked the Greffier of the States and his team for having provided invaluable support to the Complaints Panel throughout her period of service.

The Committee sought feedback from the Board regarding the effectiveness of the existing procedure. It was advised that whereas the majority of States departments provided timely feedback on the Board's primary findings in individual cases, the Complaints Board would benefit also from receiving informal feedback on any ancillary findings and recommendations that it might feel obliged to make from

time to time.

During its review of the draft report, the Committee noted that, as in previous years, most of the complaints received in 2011 had related to decisions made by the Minister for Planning and Environment. In this regard, the Committee was mindful that the increase in the number of planning related complaints could be attributed to a number of factors including the perceived prohibitive costs of a Royal Court or third party appeal.

The Committee was pleased to learn that the Assistant Greffier of the States would be recommending certain measures to enhance public awareness of the Complaints Board once new members had been appointed.

The Committee, having noted the content of the draft report and the Chairman's forward, **approved** the same and agreed that it should be presented to the States in the report series on or before 29th May 2012.

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

Pensions for  
States  
Members.  
1240/3(85)

A3. The Committee, with reference to its Minute No. A2 of 25th April 2012, recalled that it had discussed with the States Members' Remuneration Review Body (the SMRRB) the possible introduction of a pension scheme and the related recommendation of the SMRRB made in 2009 (R.62/2009 refers).

The Committee considered a report entitled: 'Pensions for States Members,' to which R.62/2009 had been appended.

The prevailing view of the Committee was that the role of a States Member had, for better or for worse, become a full-time one. With this in mind, it was arguably becoming increasingly difficult to maintain that the absence of a pension scheme would not deter some Island residents from standing for election. It was nevertheless acknowledged that there would probably never be an economic climate sufficiently favourable as to make the justification for introducing such a pension straightforward, even though many other Commonwealth parliaments had already introduced such schemes for their members.

The Committee formed the provisional view –

- (a) that it would only consider proposing the introduction of a scheme if it could be delivered within the existing budget for States Members' salaries and expenses, and
- (b) that the SMRRB's option 3 as outlined in R.62/2009 (that '*the States make matched contributions to individual States Members' private pension schemes*') appeared worthy of further consideration.

Regarding (a) above, the Committee noted that the outcome of the work being progressed by the Electoral Commission could conceivably impact the existing budget for States Members' remuneration and expenses.

Regarding (b) above, the Committee was advised that the SMRRB had previously undertaken additional scoping work in respect of its option 3 and that this could be made available at the Committee's next scheduled meeting.

The Committee **agreed** to give further consideration to the matter at its next scheduled meeting and requested the Greffier of the States to make available at that meeting any previous research about the pension provision for members in other Commonwealth jurisdictions.

10th Meeting  
23.05.12

Freedom of  
Information  
(Jersey) Law  
201-:  
implementation  
670/1(42)

A4. The Committee, with reference to its Minute No. A4 of 25th April 2012, recalled that the Chairman had written to the Chief Minister requesting an update on the status of the implementation plan for the Freedom of Information (Jersey) Law 201-.

The Committee received correspondence, dated 8th May 2012, from the Chief Minister concerning implementation of the Freedom of Information (Jersey) Law 201-. It observed that the Chief Minister had requested the Minister for Treasury and Resources to release an initial sum of money to enable the appointment of a project manager for the implementation project. Once the project manager had been appointed, initial scoping work would be undertaken. The Chief Minister would then seek to meet with the Committee later in 2012 to discuss the outcomes of that scoping work.

The Committee noted the position.

Code of  
Conduct for  
Elected  
Members:  
consultation.  
1240/4(166)

A5. The Committee, with reference to its Minute No. A4 of 14th March 2012, recalled that on 19th March 2012 the Committee had presented its report entitled: 'Code of Conduct for Elected Members: Review – Consultation Document.'

The Committee considered a report entitled: 'Code of Conduct for Elected Members: Review.'

It was noted that only one consultation response had been received since 19th March and that this had been submitted to the Committee on a confidential basis.

The Committee **agreed** to defer consideration of the consultation response to its next scheduled meeting. It further requested the Greffier of the States to append to the Committee's next agenda a the report entitled "Code of Conduct for Elected Members: review – consultation document" (P.34/2012) that had been presented to the States by the Committee on 19th March 2012.

Electronic  
devices in the  
States  
Chamber.  
465/1(169)

A6. The Committee, with reference to its Minute No. A3 of 25th April 2012, recalled having discussed the cost of printing publications for States Members and, as a related matter, the use of portable electronic devices in the States Chamber.

The Committee considered a report entitled: 'Electronic Devices in the States Chamber.'

The Committee was advised that printing and postage costs for States Members incurred by the States Greffe were in the region of £10,000 per annum. Additional work would be needed to establish whether the provision of electronic tablet devices in lieu of a supply of hard copy publications would be both viable and capable of generating savings.

It was recalled that on 17th May 2011 the Committee as previously constituted had lodged '*au Greffe*' a report and proposition entitled: 'Hand-held Devices in the States Chamber: Trial' (P.77/2011 refers). Although the then Deputy D.J. de Sousa of St. Helier had lodged an amendment to P.77/2011, neither were debated by the States because the Committee as previously constituted withdrew the proposition. It had concluded that the workload of the States before the 2011 elections was prodigious and that other propositions should take priority.

On reviewing P.77/2011, the Committee formed the view that the proposition had merit. Whereas the use of relatively cumbersome laptop computers in the States Chamber was not supported given space constraints and the potential for noise pollution, the Committee considered that the benefits of permitting smaller

electronic tablet devices capable of silent operation, and with on-screen keyboards only, might ultimately increase States Members' productivity and prove no more disruptive than the existing permitted practice of writing and exchanging paper notes. It was nevertheless acknowledged that arriving at a viable definition of an acceptable handheld electronic device would require careful thought, not least because of rapid advances in technology.

The Committee agreed that it should in due course conclude its review of facilities for States Members by considering a draft report and proposition proposing, amongst other things: the reinstatement of lunches for States Members on States days; provision of sandwich lunches during meetings of the Committee, of Scrutiny Panels and of the Public Accounts Committee; and, the permitting of tablet-style electronic devices in the Chamber.

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

Machinery of  
Government  
Sub-  
Committee:  
progress  
report.  
1240/22/1(61)

A7. The Committee, with reference to its Minute No. A11 of 14th March 2012, recalled that it had discussed the terms of reference to which the Machinery of Government Review Sub-Committee was working and the development of an online questionnaire for States Members.

The Committee received an oral briefing from Deputies J.A.N. Le Fondré and J.H. Young regarding the progress made by the Machinery of Government Review Sub-Committee.

Deputy Young advised the Committee that development of the online questionnaire had proved somewhat laborious and complicated. It had therefore been abandoned in favour of a programme of interviews with individual States Members. These were being progressed by Deputies Tadier, Le Fondré and Young, with assistance being provided from time by other members of the Sub-Committee as necessary. Once a clear majority of States Members had been interviewed, the Sub-Committee intended to begin the process of interviewing senior officers. It was envisaged that the full interview programme would hopefully be completed by the end of June, following which a process of collation and analysis of the views expressed would begin. The Committee was assured that the Sub-Committee was making every effort to maintain a consistent and objective approach to each interview.

The Committee sought clarification as to why the Sub-Committee had elected not to have its interviews transcribed. It was advised that a Committee Clerk or other officer of the States Greffe was creating a written record of each interview (the duration of which was not less than 30 minutes) so as to ensure that the evidence being collected carried weight. Every States Member or officer being interviewed had been or would be advised that they could speak in confidence. They would not be quoted in any report produced by the Sub-Committee unless their prior permission had been obtained by the Sub-Committee. To date, none of the 17 persons already interviewed had objected to the Sub-Committee's approach.

Concerns were again expressed regarding the relative breadth of the Sub-Committee's terms of reference. The Committee was invited also to consider the number of interviews planned and the resource implications for the States Greffe given the methodology being adopted. Regarding the former, it was assured that the Sub-Committee remained confident that it could fulfil the terms of reference within its existing timetable. On the latter point, the Committee **agreed** that the Greffier of the States should seek to recruit a suitably qualified person on a temporary basis to assist with the process of producing summaries of each interview.

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Senator Sir P.M. Bailhache requested that his dissent to the Committee's decision to authorise recruitment of a temporary member of staff be recorded in the minutes. He submitted that the Sub-Committee did not need to conclude its work by September 2012 and that the need to incur additional expenditure on temporary staff was therefore less than compelling. Moreover, he expressed concern that rushing to meet an arbitrary deadline might ultimately prove counterproductive.

Open ballot for  
Ministers and  
Chairmen  
(P.188/2011)  
450/2/1(66)

A8. The Committee, with reference to its Minute No. A3 of 4th January 2012, recalled that it had presented to the States a comment to the proposition entitled: 'Open Ballot for Ministers and Chairmen' (P.188/2011 refers). It further recalled that the proposition had been listed for debate on 29th May 2012.

The Committee was notified that on 3rd May 2012 the Standing Orders and Internal Procedures Sub-Committee had considered the issue of voting by secret ballot, the rationale for holding votes in secret and the question of whether this should be extended to include votes of no confidence. In doing so, it had been mindful that accountability and openness were two of the general principles that holders of public office were expected to abide by. The Sub-Committee was expected to recommend to the Committee that Standing Orders be amended to substitute the word 'open' for the word 'secret' in respect of all appointments. It was anticipated that the Sub-Committee's final report would be presented to the Committee by the end of June 2012.

The Committee noted the position and **agreed** that its existing comment to P.188/2011 should stand.

Public  
Elections Sub-  
Committee:  
progress  
report.  
465/8(1)

A9. The Committee, with reference to its Minute No. A4 of 8th February 2012, recalled that it had established the Public Elections Sub-Committee to review the Public Elections (Jersey) Law 2002.

The Committee considered a report, dated 17th May 2012 and which was entitled: 'Public Elections Sub-Committee: Mid-term Report.'

The Committee observed that the Sub-Committee had met on 5 occasions and that its review of the Law was well advanced. Arrangements to consult the public via an online questionnaire and a public meeting at St. Helier Town Hall were also well in hand.

The Committee noted that the Sub-Committee hoped to present its final report to the Committee before the summer recess.

Standing  
Orders and  
Internal  
Procedures  
Sub-  
Committee:  
proposed  
Business  
Management  
Committee.  
465/4(11)

A10. The Committee, with reference to its Minute No. A6 of 25th April 2012, recalled that it had deferred consideration of a report from the Standing Orders and Internal Procedures Sub-Committee concerning a proposed business management committee.

The Committee agreed to defer consideration of the proposed business management committee until such time as a clear majority of its members were present.

Acts of the  
States:

A11. The Committee considered a report entitled: 'Publication of the Acts of the States.'

publication of  
Acts from  
1800.  
465/1(181)

It was noted that Senator Sir P.M. Bailhache had requested that the Committee consider whether funding should be made available in order to facilitate the publication of the Acts of the States from 1800. His request had been made following an approach by Advocate and historian J. Kelleher.

The Committee was advised that there had not been an occasion during the previous decade when access to archived Acts of the States from 1800 onwards had been required for specific research purposes. Neither was there a ready source of funding for such a project within the Committee's budget for 2012. It was nevertheless accepted that the historical value of the proposed exercise would be significant.

Senator Bailhache observed that a relative absence of uncommitted funds within the Committee's budget for 2012 had not prevented the Committee from funding a temporary member of staff to assist the Machinery of Government (MOGR) Sub-Committee (Minute No. A7 of this meeting refers), albeit that the sum needed to make available historical Acts of the States might significantly exceed that required by the Sub-Committee.

The Committee **agreed** that it would be minded to support a proposal to facilitate publication of Acts of the States from 1800 onwards and that, in the first instance, its officers should consult both the Jersey Archive and the Société Jersiaise regarding the feasibility of the proposal and whether either party was in receipt of funding that might be utilised to support the project.

The Committee also provisionally agreed that it should, in due course, consider inviting the States to endorse the proposal as part of its forthcoming proposition concerning States Members' facilities (Minute No. A6 of this meeting refers).

Correspondence  
from Mr. B.  
Cooper.  
1135/19/1(7)

A12. The Committee, with reference to Minute No. A6 dated 16th March 2010 of the Committee as previously constituted, noted correspondence from Mr. B. Cooper concerning the Review of the Role of the Crown Officers chaired by Lord Carswell (R.143/2010 refers) and the Seigniorial Rights (Abolition) (Jersey) Law 1966.

The Committee concluded that the author of the correspondence appeared to have misunderstood a decision of the States Assembly and the basis on which that decision had been made.

The Greffier of the States was requested to draft a response to Mr. Cooper for the Chairman's consideration.