

PRIVILEGES AND PROCEDURES COMMITTEE

(17th Meeting)

24th October 2002PART A

All members were present, with the exception of Senator W. Kinnard, from whom apologies had been received. Deputy R.G. Le Hérissier was not present for items A1 to A5.

In attendance -

D.C.G. Filipponi, Executive Officer  
P. Byrne, Executive Officer Designate  
M.P. Haden, Committee Clerk.

Present for a time -

M.N. de la Haye, Deputy Greffier of the States  
R.W. Whitehead, Principal Legal Adviser, Law Officers' Department  
S. Drew, Assistant Legal Adviser

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

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| Minutes         | A1. The Minutes of the Meeting held on 30th September, 2nd, 4th and 18th October 2002, having been previously circulated, were taken as read and were confirmed.  |
| Matters arising | A2. The Committee noted the following matters arising from previous meetings - <ul style="list-style-type: none"> <li>(a) <b>Act No. A9 of 2nd October 2002 - States members' parking arrangements</b> - the statement of the former Public Services Committee President, Deputy J.L. Dorey, to the States on 16th March 2002 regarding the Snow Hill car park and long term plans for States members' parking;</li> <li>(b) <b>Act No. A12 of 2nd October 2002 - Role of H.M. Attorney General in Council of Ministers/ legal advice for Scrutiny Panels</b> - that a meeting had been arranged with H.M. Attorney General for 13th November 2002 to discuss the issues further;</li> <li>(c) <b>Act No. A3(d) of 14th October 2002 - Accommodation and facilities for members</b> - that the President of the Public Services Committee was to be invited to an informal meeting on 30th October 2002 to discuss the position with regard to Phase II of the States Building Refurbishment contract;</li> <li>(d) <b>Act No. A3(e) of 14th October 2002 - Remuneration</b> - following comments made by Senator S. Syvret in the media regarding the proposals for States members' remuneration, it was agreed that Senator Syvret should be invited to a subsequent meeting in order to hear his views and to discuss the Committee's report; and</li> <li>(e) <b>Act No. A3 of 14th October 2002 - Report to the States</b> - that a notice would be appearing shortly in the Jersey Gazette requesting comments from the general public on the Committee's Report. It was also requested that a letter be sent to all Chief Officers of States Departments requesting comments.</li> </ul> |

Authorised  
signatory  
1240/22/1/6/1  
(3)

A2. The Committee approved Mr. P. Byrne, Executive Officer Designate, as an authorised signatory for the purpose of Orders, Batches and Accounts.

The Greffier of the States was directed to send a copy of this Act to the States Treasurer accordingly.

C.I.Aud.  
T.O.S.

Freedom of  
Information.  
1240/22/1/6/1  
(11)

A3. The Committee received a progress report from the Vice-President in connexion with the review of Freedom of Information legislation from an international and national perspective and the lessons that could be learnt wherefrom in developing the current Code of Practice on Public Access to Official Information in Jersey.

Ex.Off.

The Committee was advised that all forms of legislation examined shared the following three basic principles -

- (a) that the right of access to government information was a general right of all people and did not depend on establishing a need to know;
- (b) that the right of access was subject to a limited number of exemptions which permitted refusal to disclose information if such disclosure would cause harm of a specified kind. These exemptions covered issues of national security, international relations, law enforcement, personal privacy, commercial confidentiality and policy advice; and
- (iii) that there was a right to appeal to an impartial arbiter who decided whether the exemption applied to particular information and who had the power to rule that information must be disclosed.

The Committee was mindful that the current Code of Practice on Public Access to Official Information in Jersey gave certain rights of access to official information. However, it was aware that the procedures were currently rarely used by members of the public. The Committee was of the view that experience generally showed a culture of guarding official information enduring in Jersey. It was supportive of the view that, as planned reforms moved towards the creation of a ministerial system, greater rights should be enshrined in Law rather than in a Code. The Committee endorsed the suggestion that the relevant legislation in New Zealand should be further investigated as a suitable model for Jersey.

The Committee noted that initial discussions had been held with the Law Draftsman in respect of fitting future Freedom of Information legislation into the legislative programme. It was suggested that Freedom of Information was a core issue in the Machinery of Government reforms and that it should be included within the time set aside for those reforms rather than have to bid for its own dedicated time in the legislative programme.

The Executive Officer Designate was directed to take the necessary action.

Induction  
Programme for  
new States  
members/ States  
Members  
Handbook.  
1240/9/1(26)  
1240/9/1(39)

A4. The Committee received an oral report from the Deputy Greffier of the States in relation to the planned induction programme for new States members following the elections for Deputies in November 2002.

The Committee was advised that a more structured programme was envisaged, compared to previous years, to include better information on practicalities and issues such as questions in the States. A draft programme together with information hand-outs would be available at a subsequent meeting.

Ex.Off.

In the longer term, it was planned to undertake a major revision of the States Members Handbook in the 2003.

Public Elections  
(Jersey) Law  
2002: issues  
arising from  
senatorial  
elections.  
424/2(5)

Ex.Off.

A5. The Committee considered the following issues arising from the recent Senatorial elections and the forthcoming Deputies elections -

- (a) **Responsibility for Public Elections (Jersey) Law 2002** - It was agreed that consideration should be given to the possibility of the Privileges and Procedures Committee taking over responsibility for the above Law. This might require alteration of the Committee's current terms of reference. The President undertook to consult with Senator W. Kinnard, President of the Legislation Committee, on this issue;
- (b) **Media coverage** - The Committee expressed some concerns relating to the treatment of candidates in the media. Issues raised included the invitation to a prospective candidate for Deputy to appear on the BBC Radio Talkback programme on Sunday, the manner of questioning regarding a successful candidate's election expenses, the right of reply to criticisms voiced on the radio and the policy of the Jersey Evening Post regarding its Letters Page. The Committee requested Mr. S. Drew, Assistant Legal Adviser, to prepare a position paper with regard to the statutory obligations of the media in the United Kingdom at election time; and
- (c) **Implementation of Public Elections (Jersey) Law 2002** - The Committee noted that a report had been received from Mr. P. Matthews, Deputy Judicial Greffier, in regard to the register of postal and pre-poll voting for the recent Senatorial elections. The Committee was of the view that it was not necessary to require applicants to explain any reasons for the 'commitments' which prevented them from voting in the normal way at a polling station on election day. In this connexion, the Committee noted that arrangements had been made for pre-polling registration for the forthcoming Deputies' elections to take place in the States Bookshop. It was felt that this would be more convenient for the public and would be an improved environment for the exercise.

The Committee also asked that a copy be obtained of the Guidelines issued to Jurats in respect of the implementation of the above Law on polling day. The Committee agreed that certain aspects of the Law, such as the location of candidates' supporters vis-à-vis the polling station, might need clarification.

States of Jersey  
Law 1966 -  
redrafting  
process.  
1240/1/6(4)

Ex.Off.

A6. The Committee received an oral report from the President on proposals for commencing the process of redrafting the States of Jersey Law 1966.

The Committee noted that Mr. M. Entwistle, presently seconded to the Machinery of Government Reform team from the Health and Social Services Department, had been put forward by the Policy and Resources Committee to undertake the work of preparing the drafting instructions for the new Law. The Committee was of the view that this task could be a full-time responsibility for the necessary period of time rather than a part-time responsibility combined with Mr. Entwistle returning to some duties in the Health and Social Services Department. The Executive Officer was requested to confirm the arrangements with the Manager of Government Reform.

The Committee considered how to commence the process of drafting the Law. It requested that a digest be prepared of all the recent decisions of the States impacting on the States of Jersey Law 1966 together with a report outlining the political issues which needed to be addressed. The Committee agreed that it would then devote a half-day to a brain-storming session from which would emerge a steer to enable Mr. Entwistle to prepare a draft brief for the Law Draftsman.

The Committee noted the advice of the Principal Legal Adviser to the effect that the Committee should not hesitate to include in the initial draft of the Law items which it

was uncertain would be ultimately be acceptable. The draft Law would be the subject of comprehensive scrutiny by others who could express opinions as to the acceptability of any items. The Committee also noted advice to keep the Law as short and flexible as possible. Details which might be amended in the passage of time as new developments arose should be included in Regulations rather than the Law.

Matters for information

A7. The Committee noted the following matters for information -

Ex.Off.

- (a) the record of a meeting of the Public Accounts Committee (PAC) and Auditor General Working Party, held on 20th September 2002;
- (b) a copy of the Executive Summary of the 'Review of the Audit Arrangements within the States of Guernsey', produced by the National Audit Office. It also noted that a book on Comparative Audit in the Commonwealth, published by the Commonwealth Parliamentary Association (CPA) would be received shortly. The President and Deputy R.G. Le Hérisier undertook to study the above documents and to report to the Committee on their implications for the scrutiny and audit systems to be established in Jersey; and
- (c) the President undertook to write to Mr. G. Hutchison, Director of Architecture, Public Services Department in connexion with the state of the States Building during the current phase of the refurbishment works;
- (d) a resumé, prepared by the Committee Clerk, of issues of relevance to Jersey contained in the report, dated 24th July 2002, of the House of Commons Select Committee on the Modernisation of the House of Commons.

Machinery of Government: Composition and Election of the States Assembly - P.186/2002 - report of the Special Committee on the Composition and Election of the States Assembly -comment. 1249/22/1(2)

A8. The Committee received and considered the Report of the Special Committee on the Composition and Election of the States Assembly (P.186/2002).

The Committee noted that the States had been asked to charge the Privileges and Procedures Committee to take the appropriate actions to implement the recommendations of the Special Committee.

The general consensus of views in the Committee was that the Special Committee had missed an opportunity to make significant changes to the current composition and election of the States Assembly and had failed to respond to the momentum for change initiated by the Clothier Plan and taken up in the various decisions already made by the States in moving along the road towards reform of the machinery of government. The Special Committee, although acknowledging the '*crucial objective of the proposed reforms of the Machinery of Government (besides the efficiency of government decision-making) to promote greater voter participation in the electoral process and general public engagement*', appeared to have proposed nothing which might further that objective. Its main proposal, namely the reduction in the number of Senators, was largely unjustified except in terms of the public's general expectation of fewer States members.

The Committee formed the view that it favoured all States members being elected on a single election date with the same term of office.

The Executive Officer, in liaison with Senator C. Stein and Deputy J-A Bridge, was requested to prepare a draft comment for the Committee's consideration at a subsequent meeting.

Ex.Off.

Policy and Resources Committee: Structure of the

A9. The Committee, with reference to its Act No. A19 of 30th July 2002, noted that the Policy and Resources Committee had agreed to leave the rules and conventions relating to collective responsibility and the conduct of ministers to be decided by the Council of Ministers itself when this had been established. The Policy and Resources

Executive (P.171/2002) 1240/22/1(18)	Committee had accordingly withdrawn its report and proposition on the Structure of the Executive (P.171/2002) and lodged “au Greffe” a revised proposition (P.191/2002) without Appendix Two.
Ex.Off.	The Committee requested the Executive Officer to prepare a draft comment on P.191/2002 for its consideration at a subsequent meeting.
Acts of other Committees.	<p>A10. The Committee noted the following Acts of other Committees -</p> <ul style="list-style-type: none"> <li data-bbox="454 436 1447 504">(a) Act No. A14, dated 2nd October 2002, of the Finance and Economics Committee in connexion with obtaining value for money from grants; and</li> <li data-bbox="454 526 1447 627">(b) Act No. A3, dated 30th September 2002, of the Policy and Resources Committee in connexion with the Privileges and Procedures Committee cash limit for 2003.</li> </ul>
Date of next meeting	A11. The Committee agreed that its next meeting would take place on 6th November 2002, commencing at 1 p.m., at a venue to be confirmed.