

AG/SC/044

PRIVILEGES AND PROCEDURES COMMITTEE

(4th Meeting)

8th February 2012**PART A**

All members were present, with the exception of Senator Sir P.M. Bailhache; Senator S.C. Ferguson and Deputy M. Tadier, from whom apologies had been received.

Connétable A.S. Crowcroft of St. Helier, Chairman
 Connétable L. Norman of St. Clement
 Deputy J.A. Martin
 Deputy K.L. Moore

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 Mrs. A.C. Goodyear, 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 of 14th December 2011 (Part A); 4th January 2012 (Part A only); and 11th January 2011 (Part A only), having been previously circulated, were taken as read and were confirmed.

Code of
 Conduct for
 Elected
 members –
 possible
 review.
 1240/4(166)

A2. The Committee, with reference to its Minute No. A17(ii) of 14th December 2011, received a report prepared by the Greffier of the States in connexion with a possible review of the Code of Conduct for Elected Members.

The Committee noted the background to the present Code of Conduct, which had been brought into force in December 2005 following an ‘in principle’ decision of the States in 2003 to introduce a Code of Conduct (P.32/2003 refers). The Committee noted the content of the present Code, as set out in Schedule 3 to the Standing Orders of the States of Jersey; the requirement for members to abide by the Code; and the investigation process for complaints received under the Code, as set out in Standing Orders 156 to 158. There were a number of perceived difficulties with the present investigation process, including the length of time taken to conclude investigations; the investigation process itself and the limited sanctions available should a member be found to have breached the Code. The Committee noted the procedures of the Parliamentary Commissioner for Standards and the Committee on Standards and Privileges at the House of Commons; of the Public Standards Commissioner and the Standards, Procedures and Public Appointments Committee at the Scottish Parliament; of the Northern Ireland Assembly and of the States of Guernsey. It was noted that a review of the Code of Conduct for Elected Members of the States of Jersey could consider a range of areas including:

- the possible introduction of a Commissioner for Standards;
- the submission of complaints;

- dealing with inappropriate behaviour or private conduct;
- the role of the Committee;
- sanctions;
- dealing with complaints in private forum; and
- human rights.

It was noted that Senator Sir P.M. Bailhache, who was unable to attend the present meeting, had advised that he would be interested in taking part in a review of the Code, should the Committee decide to undertake any such review. The Committee also noted that Deputy M. Tadier, who was unable to attend the present meeting, had expressed the view that a review of the Code of Conduct should be undertaken as part of the Sub Committee's review of Standing Orders and Internal Procedures. The Committee agreed that the matter should be progressed expediently and that this would be best achieved by undertaking a specific review of the current procedures within Committee.

Having discussed the matter, it was agreed that the Committee would conduct an investigation into the possible introduction of a Commissioner for Standards and related procedures and requested the Greffier of the States to prepare an options paper in this regard. It was agreed that consideration would need to be given to the funding of any such role and the possibility of it being a voluntary post. It was agreed that the report under consideration at the present meeting should be revised for presentation to the States as a Green Paper. It was further agreed that the Sub Committee appointed to review Standing Orders and Internal Procedures should be notified of the Committee's decision.

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

Use of censure motions.
465/1(174)

A3. The Committee, with reference to its Minute No. B1 of 14th December 2011, received a report prepared by the Deputy Greffier of the States in connexion with votes of censure.

The Committee noted that there was no definition of 'censure' in the Standing Orders of the States of Jersey, however, reference was made under Standing Order 26(3)(c) to a lodging period of two weeks in respect of a proposition of censure; and under Standing Order 103(e) to the ability of the subject of a censure vote to make a second speech prior to the summing up of the proposer. Standing Order 22 defined propositions of 'no confidence' as being in relation to a member or members acting in an official capacity, such as the Council of Ministers; any Minister or Assistant Minister; or any committee or panel established by Standing Orders. It was considered that propositions of censure should relate to matters of conduct, rather than to express a view on the political stance or performance of another member. The Committee noted relevant procedures in certain other jurisdictions and Standing Orders 156 to 158 in relation to complaints about the conduct of an elected member.

The Committee agreed that the position in relation to votes of censure should be clarified and discussed whether the matter should be referred to the Sub Committee appointed to review Standing Orders and Internal Procedures. It was agreed that, due to the relevance of votes of censure to Code of Conduct issues, the matter should be reviewed in conjunction with the Committee's consideration of the possible introduction of a Commissioner for Standards.

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

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Public
Elections Sub
Committee.
465/8(1)

A4. The Committee, with reference to its Minute No. A4 of 11th January 2012, received a report in connexion with the establishment of the Public Elections Sub Committee.

The Committee recalled that it had agreed on 14th December 2011 to establish a Sub Committee to review the Public Elections (Jersey) Law 2002 and that all elected members had been invited to express an interest in serving on the Sub Committee. At its meeting on 11th January 2012 the Committee had received a report setting out those members who had expressed an interest in serving on the Sub Committee. The Committee had agreed by a majority that those members who had expressed an interest should be invited to join the Sub Committee and had agreed that it would be minded to appoint Deputy M. Tadier as Chairman of the Sub Committee. Following the receipt of further expressions of interest from States members, and the decision of Deputy Tadier to Chair the review of the machinery of government, the proposed revised composition of the Public Elections Sub Committee had been circulated to members by electronic mail on 24th January 2012.

The Committee ratified the composition of the Public Elections Sub Committee as follows:

Deputy J.A. Martin, Chairman
Deputy G.P. Southern
Deputy T.M. Pitman
Deputy J. Maçon
Deputy E.J. Noel
Deputy R.G. Le Hérissier

Deputy Martin advised that the Sub Committee had held its initial meeting on 30th January 2012 and the Committee noted its terms of reference. Deputy Martin advised that a series of meetings were now being arranged with the Comité des Connétables, the Jurats of the Royal Court and Professor Adrian Lee of Plymouth University. The Committee agreed that, where possible, and subject to the agreement of the relevant parties, meetings such as that with Professor Lee should be held in public forum.

Machinery of
government:
review.
1240/22/1(61)

A5. The Committee, with reference to its Minute No. A9 of 11th January 2012, received a report in connexion with the establishment of a Sub Committee to review the machinery of government.

The Committee ratified the membership of the Sub Committee as follows:

Deputy M. Tadier, Chairman
Connétable L. Norman
Deputy T.A. Vallois
Deputy G.C.L. Baudains
Deputy J.H. Young
Senator A.J.H. Maclean
Deputy J.A.N. Le Fondré

The Committee noted that the Chairman, Deputy M. Tadier, was unable to attend the present meeting and that it was intended to arrange an initial meeting of the Sub Committee in early course.

Standing

A6. The Committee, with reference to its Minute No. A3(iii) of 11th January

Orders and
internal
procedures of
the States:
review.
465/4(11)

2012, received a report in connexion with the establishment of a Sub Committee to review Standing Orders and the internal procedures of the States.

The Committee ratified the membership of the Sub Committee as follows:

Senator S.C. Ferguson, Chairman
Connétable A.S. Crowcroft
Senator Sir P.M. Bailhache
Deputy E.J. Noel
Deputy J.A.N. Le Fondré
Deputy M.R. Higgins
Deputy S. Pitman
Deputy T.M. Pitman
Deputy G. Southern

The Committee noted that Senator S.C. Ferguson was unwell, and members wished her a speedy recovery. It was noted that the Sub Committee proposed to meet towards the end of February 2012 and the Chairman agreed to offer to Chair the initial meeting of the Sub Committee, should this be of assistance to the Senator. It was agreed that Senator Ferguson should be advised accordingly.

The Committee Clerk was requested to take the necessary action.

Filming during
Committee
meetings.
465/1(152)

A7. The Committee received a report in connexion with the filming of Committee meetings by the media and members of the public.

The Committee noted that a member of the public had requested permission to film the present meeting and recalled that Channel Television had been permitted to film parts of the Committee's meeting of 11th January 2012. The question of filming during meetings had been considered by the Media Working Party in 2010 and its discussions had resulted in the decision of the Committee as previously constituted to lodge *au Greffe* the proposition, 'Media relations: Code of Conduct' (P.100/2010 refers). The aforementioned proposition had asked the States to adopt a Code of Conduct that would have governed the making of visual and audio recordings in the States Building. The proposition had subsequently been withdrawn in order to allow further discussions to take place in relation to the matter. It was noted that, at the present time, the accredited media were permitted to film for the first five minutes of scrutiny hearings. With reference to Item No. A20 of the Committee's meeting of 14th December 2011, it was further noted that a paper was currently being prepared for the Committee's consideration in relation to the feasibility of webstreaming meetings.

The request to film the present meeting was refused and it was agreed that the matter should be considered further at a subsequent meeting, with a view to introducing guidelines in early course.

Electoral
Commission.
1240/22/1(59)

A8. The Committee, with reference to its Minute No. A2 of 11th January 2012, received an oral report from Deputy J.A. Martin in connexion with a minority report that was being prepared in respect of the Committee's proposition, 'Electoral Commission: composition and terms of reference' (P.5/2012 refers).

It was noted that the minority report was being prepared by Deputies Martin and M. Tadier and Deputy Martin requested that, upon its completion, the Committee take the necessary steps to arrange for its publication as a report to the States. It was agreed that the report would be presented to the States in the name of the

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Committee, and that it should be clearly marked as a minority report of Deputies Martin and Tadier. On a related matter, it was noted that the Chairman would act as rapporteur in respect of the Committee's proposition P.5/2012.

The Greffier of the States was requested to present the minority report to the States in due course.