

AG/SC/044
Re-issued 26.02.14

PRIVILEGES AND PROCEDURES COMMITTEE

(23rd Meeting)

6th February 2014

PART A

All members were present, with the exception of Deputy J.M. Maçon, Chairman, and Deputy J.A. Martin, from whom apologies had been received.

Deputy M. Tadier, Vice Chairman
Senator S.C. Ferguson
Senator B.I. Le Marquand (not present for item No. A1)
Connétable L. Norman of St. Clement
Deputy J.H. Young (not present for item No. A4)

In attendance -

M.N. de la Haye, Greffier of the States
A.H. Harris, Deputy Greffier of the States
A-C. Goodyear, Clerk to the Privileges and Procedures Committee
H. Bisson, Committee Clerk

Note: The Minutes of this meeting comprise Part A and Part B.

- Minutes. A1. The Minutes of the meeting held on 16th January 2014 (Parts A and B), having been previously circulated, were taken as read and were confirmed.
- Composition and Election of the States Assembly – reform proposals: referendum. 465/1(195) A2. The Committee, with reference to its Minute No. A5 of 9th December 2013, gave further consideration to the reform of the States Assembly and, in particular, the preparation of a Referendum Act following the adoption by the States on 15th November 2013 of paragraph (e) of the Committee’s proposition entitled, ‘Composition of the States Assembly: Interim reform for 2014 and referendum for further reform’ (P.116/2013 refers) and paragraph (e) of the proposition of Deputy A.K.F. Green of St. Helier entitled, ‘Composition and election of the States Assembly: reform – proposal 4’ (P.117/2013 refers).

The Committee recalled that it had agreed to write to the United Kingdom Electoral Commission to request advice regarding its proposed draft referendum questions. The Committee’s attention was drawn to correspondence from the Chairman to the Commission in this connexion. In response, the Electoral Commission had advised that, whilst it was unable to assist in the consideration of the appropriate wording of the referendum question, it would provide guidance should the Committee wish to undertake public consultation in respect of the proposed wording. The Committee recalled that, in considering the draft questions, it had discussed whether it would wish to seek to specify the allocation of seats on the basis of single-seat constituencies as part of the pre-ambule to the question. The Committee considered electronic correspondence from Deputies M. Tadier and Deputy J.H. Young regarding the possible distribution of seats. Deputy Young had also discussed the matter with Mr. G. MacRae, the former secretary to the Machinery of Government Review Panel, chaired by Sir Cecil Clothier. Mr. MacRae had been invited to attend the present meeting to discuss the Review Panel’s consideration of this particular issue. The Committee’s attention was

drawn to extracts from the report of the Machinery of Government Review Panel.

The Vice Chairman welcomed Mr. MacRae to the meeting, who provided the Committee with an overview of the recommendations made by the Review Panel in relation to the composition and election of the States. Mr. MacRae advised that the Panel had held the parish system in high regard and had been of the view that the parishes should have a larger role in the workings of the Island. The Review Panel had not considered there to be a distinction between the roles of Deputies and Senators and had considered that one class of member would be welcomed. Under the Review Panel's proposals, any Constable who wished to continue as a Member of the States of Jersey would request to be elected to both roles. The Panel had recommended that an Electoral Commission be established and had put forward a preferred structure for the distribution of seats within parish constituencies. Mr. MacRae indicated that the Review Panel's own preference was for each parish to elect the allocated number of Members of the States of Jersey together even though this meant that some electors would have significantly more votes than electors in other parishes. It was considered that, in particular, the decisions of the States Assembly not to implement the Review Panel's recommendations that a structured pay scale should be introduced for States members and that the Chief Minister should be able to appoint and dismiss Ministers had been detrimental. The Vice Chairman thanked Mr. MacRae for taking the time to assist the Committee and Mr. MacRae accordingly withdrew from the meeting.

The Committee was of the view that, once the correct ratio of members per parish had been determined, it could be a matter for the parishes to decide how members should be elected to those seats, whether by district or by voters of the entire parish. It was agreed that a vote should be sought on the principle of the Clothier recommendations only and that the Committee should not seek to develop the recommendations beyond those included in the report of the Review Panel. It was accordingly agreed that the proposed number of States members would not be included in the referendum question.

The Committee agreed that the following referendum question should be put to the electorate on the day of the 2014 elections (15th October 2014):

The States Assembly is currently made up of three types of elected member: 8 Senators (elected by voters of the whole Island), 29 Deputies (elected by voters of relevant districts and parishes), 12 Connétables (elected by voters of an entire parish).

A new system has been proposed. The States Assembly would be made up of a single type of elected member. The new type of elected member would be elected by voters of parishes. The number of elected members representing a parish would be approximately in proportion to the population of that parish. Connétables would continue to be elected to run each parish. They would not automatically have a seat in the States Assembly but could stand for election to the States Assembly.

Should the States Assembly be made up of one type of member elected in parish based constituencies?

YES/NO

It was agreed that law drafting should be undertaken in accordance with the

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Referendum (Jersey) Law 2002. Deputy M. Tadier expressed the view that the question was incomplete and should not, therefore, be put to the public. His dissent from the Committee's decision was accordingly noted. The Committee Clerk was requested to take the necessary action.

Machinery of
Government
Review:
Steering
Group.
465/1(182)

A3. The Committee, with reference to its Minute No. A6 of 16th January 2014, received a report which set out the progress of the Machinery of Government Steering Group to date.

The Committee noted that the Machinery of Government Steering Group was currently in the process of taking forward the recommendations of the Machinery of Government Sub-Committee. The Committee's attention was drawn to the timetable and the approach being adopted in respect of each of the Sub-Committee's recommendations. The Committee was advised that law drafting instructions had been prepared in respect of proposed amendments to the States of Jersey Law 2005 and proposed amendments to Standing Orders. The draft States of Jersey (Amendment No. 8) Law 201- was currently being considered by the Steering Group and was due to be referred to the Committee for consideration at its next meeting. Meanwhile, Deputy J.H. Young had requested that the Committee consider the governance review recently undertaken by Cornwall Council and referred the Committee to a confidential report that had been provided by the Council in respect of the review.

The view was expressed that the proposals currently being developed by the Steering Group following consultation on the recommendations of the Machinery of Government Sub-Committee did not include sufficient counterbalancing safeguards and did not improve inclusion for members. It was agreed that Cornwall Council's current governance arrangements should be given serious consideration by the Steering Group. The dissent of Connétable L. Norman of St. Clement was noted. The Committee Clerk was requested to take the necessary action.

Complaints
Board:
complaint by
Mr. D.
Manning
against a
decision of the
Minister for
Planning and
Environment.
1386/2/1/2
(316)

A4. The Committee, with reference to its Minute No. A1 of 14th November 2014, received correspondence from Ms. C. Vibert, Deputy Chairman of the Administrative Appeals Panel regarding the findings of the States of Jersey Complaints Board in respect of an appeal against a decision of the Minister for Planning and Environment concerning an enforcement issue. Deputy J.H. Young declared an interest in relation to this item and was not present for its consideration.

The Committee recalled that the Board's findings had been presented in the form of a Report (R.144/2013 refers) and that the Minister for Planning and Environment had responded on 18th December 2013 (R.157/2013 refers). The Board considered that its findings had been insufficiently considered and had requested that the Privileges and Procedures Committee consider what action it might wish to take should Ministers continue to ignore its findings, being as this would have the potential to undermine the Panel's role.

The Committee noted that it was required, in accordance with Article 9(9) of the Administrative Decisions (Review) (Jersey) Law 1982, to present the correspondence to the States. It was agreed that a foreword should be prepared by the Vice Chairman and that the correspondence should be presented to the States in early course. It was further agreed that detailed consideration should be given to the issues raised in the correspondence at the Committee's next meeting. The Committee Clerk was requested to take the necessary action.

A5. The Committee received correspondence dated 15th January 2014 from Mr. B. Cooper in connexion with the role of the Bailiff.

Members noted that Mr. Cooper was seeking the support of the Committee for the implementation of the recommendations of the Clothier and Carswell reports on the matter of Crown appointments. Having noted the contents of Mr. Cooper's letter, the Committee recalled that the Connétable of St. Helier had lodged "*au Greffe*" a report and proposition on 10th December 2013 entitled "Elected speaker of the States" (P.160/2013 and Minute No. A1 of the Committee's meeting of 12th December 2013 refer). The proposition asked the States to implement recommendation two of the Review of the Roles of the Crown Officers (the 'Carswell Review'), namely that the Bailiff should cease to act as President of the States and the States should elect their own President, either from within or from without the ranks of their members. The proposition was scheduled for debate on 18th March 2014 and the Committee concluded that it was for each individual member to vote on the proposition as they saw fit.

The Vice Chairman was requested to write to Mr. Cooper in the above terms.