

AG/SC/004

PRIVILEGES AND PROCEDURES COMMITTEE

(1st Meeting)

14th December 2011**PART A**

All members were present.

Connétable A.S. Crowcroft of St. Helier, Chairman
 Senator S.C. Ferguson
 Senator Sir P.M. Bailhache (not present for item Nos. A18 and A20)
 Connétable L. Norman of St. Clement (not present for item No. A20)
 Deputy J.A. Martin
 Deputy M. Tadier
 Deputy K.L. Moore

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States (not present for item Nos. A1 to A5 inclusive)
 Mrs. A.C. Goodyear, Clerk to the Privileges and Procedures Committee

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

Welcome.

A1. The Chairman welcomed those present to the first meeting of the newly constituted Privileges and Procedures Committee.

The Chairman advised the Committee that it was proposed to hold meetings in public, unless the matter being discussed was considered to be confidential in accordance with the Code of Practice of Public Access to Official Information. Although it was noted that members could be constrained in what they felt able to say within a public forum, the Committee agreed that it was content with this arrangement at the present time.

Vice
Chairman.

A2. The Committee appointed Deputy M. Tadier as Vice Chairman.

Meeting dates.

A3. The Committee agreed its scheduled meeting dates for 2012 as follows:

11th January
 8th February
 14th March
 25th April
 23rd May
 20th June
 13th July
 8th August
 19th September
 17th October
 14th November
 19th December

It was noted that all meetings would be held in the Blampied Room, States Building, at 2 p.m., unless members were otherwise advised. It was agreed that, should additional meetings be required, these would be arranged as necessary.

Minutes.

A4. The Minutes of the meeting of the Committee as previously constituted, dated 14th November 2011, having been previously circulated, were taken as read and were confirmed.

Committee reviews.
465/4(10)

A5. The Chairman gave an oral report in respect of a series of reviews that could be undertaken by the Committee as part of its ongoing work programme.

These included reviews of the composition of the States; of the machinery of government; of the management of the business of the States and of States members' facilities. It was noted that a number of these areas were covered in the propositions that had recently been lodged by individual States members for future consideration by the States. It was considered that it would be preferable for such matters to be considered in a holistic manner where they fell under the remit of the Committee.

Election campaign period - restrictions.
P.174/2011
450/2/1(65)

A6. The Committee received a report in connexion with the proposition of Deputy R.G. Le Hérissier entitled: 'Election campaign period – restrictions,' which had been lodged *au Greffe* on 21st October 2011 (P.174/2011 refers). The Committee also received correspondence dated 21st November 2011 from Ms. J. Bridge regarding the election campaign period.

The Committee noted that the proposition of Deputy Le Hérissier asked the States to agree that the period between the nomination meetings for the ordinary elections for Senator, Connétable and Deputy and the election day should be no longer than four weeks; that the States Assembly should not meet in the period between the nomination meetings and the election day; and that Standing Orders should be amended to provide that no propositions could be lodged '*au Greffe*' during the period between nomination meetings and the election day. The proposition asked the States to request the Privileges and Procedures Committee to bring forward for approval the necessary legislation to give effect to the proposals.

The Committee noted that the Deputy Judicial Greffier had indicated that the proposed four-week period between the nomination day and the election day would be adequate to allow postal and pre-poll voting to take place. It was also noted that, in addition to the matters raised in Deputy Le Hérissier's proposition, general concerns had been raised about the States meeting during the election period and subsequent to the elections. It was therefore considered that the Committee could look into introducing a revised cycle for 2014 and could discuss with the Council of Ministers the possible introduction of new protocols on a ministerial decision 'purdah' period as exists in the United Kingdom during an election.

Having considered the proposition, the Committee agreed that, while it was sympathetic to the issue raised by Deputy Le Hérissier, namely that additional restrictions should be introduced during the election period, it was nevertheless of the view that the matters raised should be considered as part of a holistic review of the 2011 elections and the Public Elections (Jersey) Law 2002. It was therefore agreed that it would be in the interests of the States to defer any decisions in respect of the period between nomination meetings and election day until these had been given full consideration as part of the review. It was agreed that expressions of interest should be sought from States members who wished to serve on the Sub Committee undertaking the review.

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With regard to the correspondence received from Ms. Bridge dated 21st November 2011, the Committee asked the Chairman to write to Ms. Bridge to advise her of its intention to carry out a review. It was agreed that the Committee should recommend that Ms. Bridge be invited to address those appointed to carry out the review, should she wish to do so, in respect of the points raised in her correspondence.

The Committee Clerk was requested to take the necessary action.

Role of the
media.
465/1(176)

A7. The Committee received a report in respect of a suggestion made by the President of the Chairmen's Committee, Deputy T.A. Vallois, during the States sitting of 6th December 2011 that the Committee should carry out a review of the role of the media.

The Committee received an extract of the Official Report ('Hansard') dated 6th December 2011 in relation to a question posed by Deputy T. Pitman as follows: "Will the President of the Chairmen's Committee clarify whether she intends to pursue the recommendation from the Education and Home Affairs Scrutiny Sub Panel to include scrutiny of the media under the remit of one of the Scrutiny panels?". The Committee noted part of Deputy Vallois' response, as follows: "I understand PPC are going to look at media in the round and I would be more than happy to work with all colleagues in order to find an effective way forward". It was noted that there had been no indication as to the scope or purpose of such a review, and that the Committee had not previously taken a decision to carry out any such review. Having discussed the matter, the Committee agreed that it did not intend to undertake a review of the media at the present time and the Chairman was requested to advise Deputy Vallois and Deputy Pitman accordingly.

The Committee Clerk was requested to take the necessary action.

Employer's
social security
contributions.
1240/3(82)

A8. The Committee received a report prepared by the Greffier of the States in connexion with the impact of recent revisions to the level of Social Security contributions of States members.

It was noted that a new additional contribution of two percent was to be introduced on earnings between the standard earnings limit of £45,336 per year and the new upper earnings limited of £150,000 per year. This new contribution would also affect self employed persons. It was noted that States members were, in law, defined as self employed, and that, for convenience, the States Treasury acted as agents on behalf of States members. The introduction of the additional contribution would, however, cause a practical difficulty in relation to contributions from 1st January 2012. It was noted that it would be inappropriate for the Treasury to contribute more than the 'employer' element relating to the remuneration paid by the States of Jersey, which would be £45,182 per annum from 1st January 2012. The States Treasury and Social Security Department had therefore indicated that, providing that members produced evidence of their Social Security assessment, there would be no need for any additional amount to be deducted from remuneration above the assessment level. For members who had no earnings other than the remuneration as a States member, no additional contribution would be necessary. For members with additional earnings it was suggested that the Committee agree that the States Treasury, if continuing to act as agent for the self employed member, should make the appropriate additional deduction from the member's pay for onward transmission to the Social Security Department.

The Committee confirmed its acceptance that no additional amount should be payable by the taxpayer on members' behalf, beyond that which related to remuneration paid as a States member. It was further agreed that all members

should be notified of the urgent need to obtain a 2012 assessment from the Social Security Department and to provide this to the States Treasury so that the appropriate deductions could be made from 1st January 2012.

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

Machinery of
Government:
review by
Privileges and
Procedures
Committee.
P.187/2011
1240/22/1(61)

A9. The Committee received the proposition 'Machinery of Government: review by the Privileges and Procedures Committee,' lodged '*au Greffe*' on 29th November 2011 by Deputy G.C.L. Baudains.

The Committee noted that the proposition asked the States to request the Privileges and Procedures Committee to undertake a review of the machinery of government in Jersey in order to identify a more inclusive system which would enable greater numbers of elected members to participate in executive decision-making and to bring forward for approval the proposals arising from this review for debate during 2012.

Having considered the content of the proposition, the Committee agreed that it was not minded to support the proposition because paragraph (a) was considered to pre-judge the outcome of the proposed review. The accompanying report also made a series of assumptions with regard to the present operation of the machinery of government and how the Deputy considered that it could be improved. Consideration was given as to whether the Committee should lodge an amendment to paragraph (a) of the proposition so as to state simply that a review of the machinery of government in Jersey should be carried out, however, it was agreed that, as the Committee intended to carry out such a review in early course, there was no need for the matter to be debated by the States. It was agreed that a comment to this effect should be drafted for approval by the Committee and subsequent presentation to the States.

The Committee Clerk was requested to take the necessary action.

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

A10. The Committee received the proposition: Open ballot for Ministers and Chairman, lodged '*au Greffe*' on 5th December 2011 by Deputy T.M. Pitman of St. Helier (P.188/2011 refers).

The Committee noted that paragraphs (a) and (b) of the proposition asked the States to agree that the election of Ministers; Scrutiny panel chairmen; and the Chairmen of the Privileges and Procedures and Public Accounts Committees should be undertaken by way of an open ballot and to charge the Privileges and Procedures Committee to bring forward for approval the necessary legislative amendments to give effect to the proposals.

The Committee agreed that the matters raised in the proposition should be considered as part of a holistic review and was of the view that debating Deputy Pitman's proposition at this stage would be premature. It was thought to be in the interests of the States to defer any decision in respect of the matter until full consideration had been given to the ballot process as part of a broader review and it was agreed that a comment should be drafted to this effect for approval by the Committee and subsequent presentation to the States. Deputy M. Tadier stated that he would consider lodging an amendment to the proposition so as to extend the open ballot to encompass the appointment of members of Scrutiny panels. The view was expressed that, in the light of the Committee's intention to present a comment on the proposition, it might not be appropriate for a member of the Committee to lodge such an amendment.

The Committee Clerk was requested to take the necessary action.

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Standing
Orders:
answers to
questions.
P.177/2011
450/2/1(64)

A11. The Committee received the proposition 'Standing Orders: answers to questions,' lodged *au Greffe* on 21st October 2011 by Deputy G.P. Southern of St. Helier (P.177/2011 refers).

The Committee noted that the proposition asked the States to agree that amendments should be made to Standing Orders so as to make new provisions in relation to the answering of oral questions. These would provide for lists of data to be circulated to members in printed form during answers to oral questions; and that the answers given should address the content of the question being asked and should be confined to the subject matter of the question. Should the Presiding Officer be of the opinion that an answer given failed to address the content of the question, the States were asked to agree that he should draw the member's attention to the requirements in Standing Orders and ask the member to attempt to address the content of the question more directly. The States were also asked to request the Privilege and Procedures Committee to bring forward for approval the necessary amendments to give effect to the proposals.

The Committee expressed concern that the formal changes to Standing Orders being requested by Deputy Southern could make question time less effective. Rather than help to clarify answers to oral questions, it was considered that the provision of lists of data with answers to oral questions would serve to blur the distinction between written and oral questions. It was noted that oral questions should be brief, and that Standing Orders required answers to be concise. PPC considered that the proposed changes would be likely to encourage members who had missed the deadline for written questions to submit an oral question instead, although it might not be suitable for an oral answer. It was suggested that consideration could be given to aligning the closing dates for the submission of oral and written questions. It was noted that the Presiding Officer was currently able to intervene if a Minister was not considered to be answering a question directly, and that, if adopted, the revised procedures could result in the Presiding Officer being drawn into political areas. The Committee agreed that there should not be any need to amend Standing Orders to create a formal provision in relation to the matter as this would be likely to result in numerous points of order being raised as to whether or not a satisfactory answer had been given to a particular question, as was the position in the New Zealand parliament. The Committee agreed to draft a comment to this effect for approval and subsequent presentation to the States.

The Committee Clerk was requested to take the necessary action.

Review of
various
procedures
under Standing
Orders.
450/2/1(67)

A12. The Committee considered a report in connexion with a review of various procedures under Standing Orders.

The Committee recalled the decision of the States on 19th May 2011 to adopt the proposition: 'Standing Orders: selection and appointment procedures' (P.61/2011 refers). The Committee also recalled that, subsequent to the adoption of the aforementioned proposition, the Committee as previously constituted had agreed that these matters could form part of the review of the machinery of government that had been proposed by the Council of Ministers in the proposition 'Machinery of Government Review' (P.76/2011 and Minute No. B2 of the Committee's meeting of 10th May 2011 refer). The proposition, which had been lodged *au Greffe* on 16th May 2011 by the Council of Ministers was, however, withdrawn on 12th September 2011, without debate.

Having considered the matter, the Committee agreed that the proposed review of

the machinery of government and the work to be undertaken by the Electoral Commission should be discussed with the Chief Minister. It was accordingly agreed that Senator I.J. Gorst should be invited to attend the Committee's meeting on 11th January 2012. The Committee Clerk was requested to take the necessary action.

Standing
Orders:
publication of
register of
members'
interests.
450/2/1(58)

A13. The Committee, with reference to its Minute No. A3 of 10th May 2011, received a report in connexion with the adoption by the States on 9th June 2011 of the proposition 'Standing Orders: publication of register of members' interests,' which had been lodged *au Greffe* on 4th May 2011 by the Deputy of St. Martin (P.69/2011 refers).

The Committee recalled that the States had agreed to amend Standing Orders so as to include a requirement for the Greffier of the States to publish the Register of Members' Interests on the States Assembly website and to permit the Greffier to make further arrangements for its publication as deemed appropriate. The Committee had been requested to bring forward for approval the necessary amendment to Standing Orders to give effect to the proposal. At the time of the debate it had been considered inappropriate to introduce the requirement in advance of the October 2011 elections, however, the matter now needed to be taken forward.

The Committee, having considered the matter, accordingly agreed that an amendment to the Standing Orders of the States of Jersey should be drafted to include a requirement for the online publication of the Register of Members' Interests. The Greffier of the States was requested to instruct the Law Draftsman in this regard.

Public
Elections:
extension of
pre-poll voting
arrangements.
424/2(74)

A14. The Committee, with reference to its Minute No. A12 of 22nd March 2011, noted the adoption by the States on 6th April 2011 of the proposition 'Public Elections: extension of pre-poll voting arrangements,' (P. 42/2011 refers), which proposition requested the Privileges and Procedures Committee to take the necessary steps to bring forward for approval an amendment to the Public Elections (Jersey) Law 2002 to give effect to a decision to introduce new arrangements in respect of pre-poll voting.

The Committee recalled that the States had agreed that new arrangements should be introduced in order to permit the Judicial Greffier to take the appropriate steps to extend the measures for taking pre-poll votes from electors who are ill, disabled or illiterate so as to allow the Judicial Greffier to take similar measures in relation to any spouse or carer of such persons provided that the spouse or carer was at the same premises as the elector who was ill, disabled or illiterate and that the voting arrangements could be undertaken at the same time.

The Committee agreed that this amendment should be brought forward as part of a package of changes which might be agreed under the Committee's intended review of the Public Elections (Jersey) Law 2002. It was further agreed that a meeting should be arranged with the Jurats of the Royal Court to discuss the October 2011 elections and any matters arising in this regard.

The Committee Clerk was requested to take the necessary action.

Parliamentary
support
facilities.
1240/9/1(151)

A15. The Committee received an oral report from the Chairman in respect of proposals to consult with States members in respect of the provision of parliamentary support facilities.

The Committee agreed that it would wish to undertake a review of the facilities

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provided to States members and recalled that members had been consulted in this regard in 2009. It was agreed that the findings of the questionnaire undertaken by the Committee as previously constituted in relation to facilities for States members should be provided to the Committee at its next meeting. It was also agreed that consideration should be given to the provision of lunches for States members on States meeting days and during Committee and Scrutiny Panel meetings.

The Committee Clerk was requested to take the necessary action.

States
members'
yearbook.
465/1(179)

A16. The Committee received an oral report from the Chairman in respect of proposals to introduce a States members' yearbook.

The Committee noted that the States Assembly Annual Report contained an overview of the work of the States Assembly and the view was expressed that it may be beneficial to extend the content of the annual report to include items such as obituaries, rather than to publish an additional document.

The Chairman agreed to hold a meeting with the Greffier of the States in this regard.

Ongoing work
programme.

A17. The Committee received its ongoing work programme and agreed the following:

- (i) to consider interventions from the Chair and the possible introduction of rules to govern the asking of questions which relate to a topic that is the subject of an ongoing Scrutiny review as part of its review of States' procedures;
- (ii) to request that a report be prepared in respect of a possible review of the procedures for dealing with complaints received under the code of conduct for elected members;
- (iii) to revise the current information leaflet in respect of the Code of Practice on Public Access to Official Information.

Matters for
information.

A18. The following matter for information was noted:

- (1) the Committee would need to lodge *au Greffe* a proposition to re-appoint the members of the States Members' Remuneration Review Body in early course. Consideration had been given to the possible staggering of appointments to the review body, and it was agreed that an amendment to the terms of reference of the SMRRB should be drafted for the Committee's consideration. The Greffier of the States was requested to take the necessary action.

Electoral
Commission.
1240/22/1(59)

A19. The Committee, with reference to its Minute No. A1 of 4th May 2011, recalled that the States had adopted the proposition 'Electoral Commission: establishment,' as amended, on 15th March 2011 (P.15.2011 refers) and, in so doing, had charged the Privileges and Procedures Committee with bringing forward for debate proposals for the composition of the Commission.

The Committee, having noted that Senator Sir P.M. Bailhache had expressed an interest in sitting on the proposed Electoral Commission, noted that the original proposition specified that the Commission should be composed of 'independent' members and considered whether an amendment should be drafted that would enable a States member to sit on the Commission. The Committee also discussed whether an advertisement should be placed requesting expressions of interest in

membership of the Commission, however, it was agreed that this matter should be deferred pending a decision in respect of the composition of the Commission. Consideration was also given to the recommendations of the Clothier Report, which had been published in January 2001, and whether the proposals contained therein should be subject to a referendum.

Having considered the matter, the Committee agreed by a majority to draft a proposition to amend the terms of reference of the proposed Commission so as to enable a States member to sit on the Commission. The dissent of Deputies J.A. Martin and M. Tadier to this proposal was noted and the view expressed that any such amendment should be brought by the Chief Minister. The Greffier of the States was requested to draft the amendment, for the Committee's consideration at an additional meeting to be scheduled for the first week of January 2012.

Chairmen's
Committee
matters.

A20. The Committee received an oral report from the representative of the Chairmen's Committee, Deputy K.L. Moore of St. Peter.

Deputy Moore apprised the Committee of the following matters, which she had been requested to refer to the Committee by the Chairmen's Committee:

(a) The 'Troy' rule

The Chairmen's Committee had requested that the Committee undertake a review of the 'Troy' rule, whereby the number of Ministers and Assistant Ministers should always be lower than the remaining number of States members. It was agreed that any such a review would form part of a broader review of the machinery of government.

(b) Webstreaming

The Chairmen's Committee had requested that the Committee consider installing webcams in the scrutiny meeting rooms and the States Chamber in order to facilitate the online broadcast of meetings. The Committee agreed that this would be considered as part of its review of members' facilities in the new year.