

**COMMITTEES OF THE STATES: ACCESS TO MEETINGS**

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**Lodged au Greffe on 27th April 1999  
by Senator S. Syvret**

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**STATES OF JERSEY**

**STATES GREFFE**

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## **PROPOSITION**

**THE STATES are asked to decide whether they are of opinion -**

1. that members of the States shall have a right of attendance as observers at meetings of Committees of the States or their sub-committees except when information that qualifies as exempt under the Code of Practice on Public Access to Official Information is under discussion;
2. that members of the public shall have a right of attendance as observers at meetings of Committees of the States or their sub-committees except when information that qualifies as exempt under the Code of Practice on Public Access to Official Information is under discussion.

SENATOR S. SYVRET

## **Report**

The purpose of these propositions is self-evident. If accepted they would enable a much higher level of scrutiny and accountability to be brought to bear on the processes of public administration. I include by way of a fuller explanation of the issues a report on the subject of public access to Committee meetings which was prepared in 1996 by the Special Committee on Freedom of Information, as previously constituted. The information concerning the availability of committee rooms given in Appendix A of that report has been updated to give the information for 1998.

## REPORT

The proposition P.98/95, presented to the States by Deputy A.J. Layzell, was lodged "au Greffe" on 11th July 1995 and referred to the Special Committee on Freedom of Information.

The Special Committee was appointed by the States on 15th March 1994, on the adoption of a proposition of the Policy and Resources Committee. The Committee was charged "to investigate the issues involved in establishing, by law, a general right of access to official information for members of the public, having regard to the practice and experience of other countries and the particular circumstances of the Island, and to report back to the States with recommendations."

In the course of its deliberations the Committee decided to formulate a code of practice on freedom of information which the States would be asked to adopt as a precursor to possible future legislation. In the light of extensive consultation and recently published reports on the performance of similar measures in the United Kingdom this code of practice is currently undergoing revision.

Deputy A.J. Layzell, having considered the first draft of the proposed code, and having discussed it with the Special Committee President, is satisfied that the issues raised in parts (a), (b) and (c) of P.98/95 will be covered by the code. He has therefore decided to withdraw parts (a), (b) and (c) of his proposition. The comments of the Special Committee will, therefore, be confined to part (d) of P.98/95, namely, the practicality of allowing members of the general public to attend Committee meetings.

The responses that the Special Committee has received during its consultation exercise indicate a reluctance on the part of the majority of politicians and civil servants to accept public access to Committee meetings. However, the results of the Mori poll show that the great majority of the public wish to be able to observe Committee meetings should they so choose.

When considering the issue of public access, members should be aware that in many respects open Committee meetings are the least far-reaching of Freedom of Information policies. The United Kingdom, whilst being somewhat behind most modern democracies in the sphere of open government, had nevertheless had public access to meetings enshrined in law for decades. This applies not only to committees and sub-committees at every level of local government, but also to Parliamentary Select Committees. Indeed, it is extremely difficult, if not impossible, to reconcile permanently closed Committee meetings in Jersey with the fact that Parliamentary Select Committees sit in open session, often to the extent of being televised when dealing with controversial issues of national importance.

Reasons for objecting to public access to Committee meetings appear to fall into four broad categories -

### 1. **The inhibition of discussion and the encouragement of holding unofficial meetings**

The view has been expressed that if the public are admitted to meetings, their presence will inhibit discussion and therefore encourage unofficial 'meetings' to be held in secret. However, this view is not born out by experience elsewhere. A ten-year evaluation of the Local Government (Access to Information) Act 1985, carried out by the Policy Studies Institute contains the following observations -

*"Some suggested that when the Act was coming that (sic) what people would do was just withdraw to the pub or lodge and talk through decisions there (Leader of council authority G).*

4.8 However there is no real evidence that any more decision-making takes place in political group meetings or informal settings than had previously been the case. The opposite view, that the Act had led to more business being discussed openly, was much more widely held..."

Given the experience of the United Kingdom and the fact that public access to Committee meetings is the norm rather than the exception in most democratic jurisdictions, the 'inhibition' argument would appear to be extremely weak, especially so when one considers that fear of public scrutiny inhibiting debate is not deemed sufficient reasons for the States to sit in closed session.

### 2. **Media misrepresentation**

It has been suggested that half-formed policies or speculative ideas might be seized upon by the media and misrepresented. Again, the experience of other jurisdictions does not bear this out. It is clear from the opinions of both journalists and authority members in the United Kingdom that the greatest likelihood of misrepresentations occurs through a *lack* of openness. Journalists are much more likely to report accurately and responsibly when fully informed through every aspect of the decision-making process.

### **3. There will always be some confidential items that should only be discussed in private**

There will, of course, always be a range of items that will clearly need to remain confidential. The Special Committee on Freedom of Information is nearing the completion of a proposed code of practice on freedom of access to information held by public authorities. The code contains a range of items that are classified as exempt. Were the States to accept public access to Committee meetings, the meetings would be divided into two, with the first half being open and the second half reserved for the discussion of exempt items as described in the code. This system of divided meetings has been in practice in the United Kingdom for many years where it appears to function perfectly well. It is clear that the issue of public access to meetings becomes a great deal simpler once a Freedom of Information code is in place.

### **4. Practical considerations**

There are a number of practical difficulties associated with public access to Committee meetings. The most obvious of these are size of meeting rooms, number of public seats, and security. Appendix A (Committee meeting details) contains the relevant facts. Whilst there are obvious limitations with some venues, others clearly could accommodate some members of the public. In addition to the usual rooms there are larger venues that could be used for Committee meetings were a large public attendance expected, for example, the States Chamber, the Old Library, and some Parish Halls.

It is clear that the great majority of Committee meetings would be unlikely to attract an audience. The Policy Studies Institute evaluation of the Local Government (Access to Information) Act 1985 contains the following finding -

“5.10 Changes in attendance levels over time are difficult to detect. Authorities do not keep records of attendance, so any picture has to be composed from the memories of those who were working on the authority when the Act was implemented, eight years ago. However, over 40 per cent of the respondents to the postal survey volunteered, in response to a question on the effectiveness of the Act, that public interest and attendance were low and had increased little if at all since the Act was introduced”.

However, to argue from this that there is no point in introducing such a policy as the public are not interested is to misunderstand the representative function of such open government policies. The average member of the public may be too busy to attend Committee meetings but nevertheless be keen that the media and other interested bodies be able to observe meetings on their behalf.

### **Conclusion**

It is worth pointing out that Committees of the States are at present free to open their doors to the public should they so decide. However, a danger inherent in such an ad hoc approach is that Committees may be tempted to allow access to their meetings only when it suits their purposes, thus public opinion may be manipulated through the careful consideration of ‘public relations’ techniques, whilst the difficult, contentious or embarrassing issues are discussed behind closed doors. If we are to have public access to Committee meetings, even on a limited basis, it is important for reasons of consistency of practice that the States have a policy on the subject.

Whilst there are clearly some logistical difficulties associated with public access to Committee meetings there are, upon examination, less than might be imagined. Likewise, the fear that Committee meetings would become a charade with the real business being done elsewhere is not borne out by the experience of other jurisdictions.

The States must decide if the short-term inconvenience of changing some meeting habits is outweighed by the obvious advantages of greater accountability and enhanced community understanding of the process of public administration. For it is clear that the appropriate changes could be made given the political will.

**In the light of the above observations the Special Committee on Freedom of Information makes the following recommendations -**

- 1. that before debating the issue of public access to Committee meetings, the States should debate the code of practice on access to information held by public authorities;**
- 2. that the States should accept the principle of public access to Committee meetings. One of the possibilities the States may wish to consider is nominating certain Committees to experiment with public access for a**

**12 month trial period;**

- 3. that the exemptions to such public access should be those as defined in the Code of Practice on Access to Information Held by Public Authorities.**









## Parish hall availability

All Connétables were contacted in 1996 with a view to establishing the availability of parish halls to enable members of the public to attend, and responses were received from the parishes of St. Ouen, Grouville, St. Lawrence, Trinity, St. Clement, St. Saviour and St. John. A summary of comments follow - those marked with asterisks are less suitable -

- St. Ouen \*      The main hall was used most days of the week and the offices would not be large enough. In the evenings, there was no set day in the week which was available on a weekly basis.
- Grouville      No objections to Committees using the parish hall.
- St. Lawrence \*      Not practicable to use the parish hall as there were a number of regular bookings during the year.
- Trinity      The parish hall would be available for States Committee Meetings on regular permanent days from 09.00 - 18.00, and subject to regular advanced bookings could possibly accommodate on certain evenings between 18.00 - 22.00 hrs. Disabled access and toilets available.
- St. Clement      The parish hall is available for the use of States Committee meetings from 09.00 - 18.00 and 18.00 -21.00 hrs. This could be on an occasional or regular basis. Regular bookings should be made a minimum of one year in advance. The hall is not available on Wednesday afternoons, first Monday evening of each month, except August from 19.00 - 23.00; first and second Tuesday afternoon of each month; every Tuesday and Wednesday evening.
- St. Saviour      It might be possible to use the parish hall. There are certain days which could accommodate regular bookings, but Mondays, Thursdays and Fridays would not be suitable as there were welfare related cases on those days. A consideration would be expected to defray caretakers/resources costs.
- St. John      Could be made available on one or two days a week from 09.00 to 18.00. Evenings would be more difficult owing to other bookings, but one evening a week should be possible. Fixed days would be preferred so that the reservation could be made in the yearly diary.

**Bibliography**

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