

PRIVILEGES AND PROCEDURES COMMITTEE

(30th Meeting)

25th November 2004PART A

All members were present, with the exception of Deputy J-A. Bridge and Deputy J.A. Bernstein, from whom apologies had been received.

Deputy R.G. Le Hérisssier
 Senator P.V.F. Le Claire
 Connétable D.F. Gray
 Deputy P.N. Troy
 Deputy C.J. Scott-Warren

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 D.C.G. Filipponi, Assistant Greffier of the States (for a time)
 I. Clarkson, Committee Clerk

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

Minutes

A1. The Minutes of the meeting held on 28th October 2004 (Part A), having been circulated previously, were taken as read and were confirmed.

Deputy P.N. Troy was not present for this item.

Scrutiny of States
 Business Plan
 and Budget.
 502/5/5(1)

A2. The Committee, with reference to its Act No. A3 of 14th October 2004, recalled that it had considered the scrutiny of the Business Plan and Budget and that it had requested that further research be undertaken with regard to the use of a thematic process approach, and in particular that information on the scrutiny of the Budget in other jurisdictions be included within the report.

G.O.S.
 A.G.O.S.
 P.R.C.C.
 P.R.E.O.
 T.O.S.
 C.I.Aud.
 F.E.C.C.
 Scrutiny
 Clerk

The Committee welcomed Senator E.P. Vibert and Deputy G.P. Southern in their capacity as chairmen of the Shadow Scrutiny Panels to consider the discussion paper prepared by Mr. C. Ahier, Scrutiny Officer, in connexion with scrutiny of the States Business Plan and Budget.

The Committee noted the research gathered on Budget Scrutiny in the British Isles, including England, Wales, Scotland and the Greater London Authority, as follows

1. It noted that in England the 2003 pre-budget report was released on 10th December 2003, that the Committee held three evidence sessions in the week following the statement questioning outside experts, Treasury Officials and the Chancellor of the Exchequer, and that it also received written submissions from a number of outside experts and bodies. The resulting Scrutiny Report was published on 21st January 2004 in advance of the announcement of the budget in April 2004.
2. In Wales the Scrutiny of Budgets took place in three phases with a preliminary look at Committee priorities taking place in May, the draft Budget document being laid in October followed by a plenary session and

Scrutiny sessions in Committee to look at the draft Budget. A plenary session on the final budget took place at the end of November. This was supplemented by the Scrutiny of the Budget by departmental Scrutiny Committees.

3. In Scotland there was a three stage budget process culminating in the Parliament voting on the Budget Bill. The first stage involved the Parliament considering a provisional expenditure plan by 31st March. During the second stage the Parliament considered the Scottish Ministers detailed spending proposals for the next financial year, which were to be submitted by 20th September and the Budget Bill must be introduced before 20th January in each year.
4. At a national regional level the greater London Authority set a budget for itself and each of four functional bodies - Transport for London, the London Development Agency, the Metropolitan Police Authority and the London Fire and Emergency Planning Authority. The Budget Committee scrutinized the various functional bodies' budgets before the consolidated budget was prepared. Thereafter the draft consolidated budget was available to the Budget Committee in December, just a few days prior to the Public Hearing attended by the Mayor. The Budget heard from a set list of respondents, including the Chair and Senior Officers or Chief Financial Officers of each of the functional bodies. The Committee also took evidence from various groups, including business representatives, on their response to the budget. The Budget Committee prepared a written response in January and the consolidated budget proposals were considered by the London Assembly.

The Committee and the Chairman of the Scrutiny Panels noted that in each of the above cases there was more than one opportunity to review proposals, and therefore reaffirmed their view that to have sight of the States Business Plan and States Budget two weeks before lodging would not allow for meaningful scrutiny. The Committee agreed that the aim of the scrutiny process should be -

- (a) to inform States members about the processes involved;
- (b) to suggest improvements to the processes;
- (c) to evaluate whether the outcomes were a fair reflection of the processes;
- (d) to assess the impact of proposals on stated strategic aims (for example vehicle registration duty and the environment); and,
- (e) to assist States members in evaluating the States Business Plan/States Budget.

The meeting was of the view that this could not be achieved within the resources available in such a short space of time.

The Committee supported the view of the Scrutiny Chairman that at key moments during the development of the Resource Plan and Budget, a member(s) of the Scrutiny Panel charged to review these reports should attend as an observer in order to gain a proper feel for the processes and to be able to commence some preparatory work. The need for trust and confidentiality was understood.

The Committee noted a letter dated 19th November 2004 from the President of the Finance and Economics Committee supporting the general direction which the Committee was heading on this matter. The President of the Finance and Economics Committee was keen to find out and understand the timetable the

Committee was working towards to introduce a system which implemented Scrutiny into the Budget plan and Budget processes, and he enclosed a copy of the Finance and Economics Committees' timetable for this process to assist with planning.

The Committee agreed that arrangements should be made to scrutinise the States Business Plan and Budget during 2005 as part of the Shadow Scrutiny training process, and decided that a meeting should be arranged with representatives of the Policy and Resources, Finance and Economics and Privileges and Procedures Committees together with the Chairmen of the Shadow Scrutiny Panels in order to consider how this was to be achieved. In the interim, the Committee requested the Deputy Greffier of the States and Mr. C. Ahier to meet with their officer counterparts in the Policy and Resources and Treasury Departments in order to consider the detail. The Committee also requested that appropriate training be investigated so that a budget scrutiny training package could be put together at the earliest available opportunity.

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

Shadow Scrutiny
Panels:
vacancies.
502/1(12)

A3. The Committee recalled that, over the course of 2004, the Shadow Scrutiny Panels had experienced some difficulty in retaining members. In particular it noted that the Shadow Scrutiny Panel chaired by Deputy G.P. Southern was operating with a reduced membership of three.

D.G.O.S.
Clerk

The Committee considered various options for increasing the number of States Members available to serve on the Shadow Scrutiny Panels. It noted that the ministerial system of government was due to be introduced in December 2005, whereupon the roles and responsibilities assigned to Committees of as many as seven States Members would be managed by a Minister and, at most, two Assistant Ministers. In view of this forthcoming change, the Committee considered that certain Committees could be invited to operate with a reduced membership of three, thus releasing a number of States Members for Shadow Scrutiny. **However, and having noted that only two Members were actually required for scrutiny duties in the short to medium term, it concluded that it would be sufficient simply to bring a proposition to the States to allow for members of the Committee to serve on the Shadow Scrutiny Panels.**

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

Freedom of
information –
progress and
research.
955(36)

A4. The Committee, with reference to its Act No. A9 of 4th November 2004, received a progress report from Mr. P. Baker, Instructing Officer, in connexion with the production of drafting instructions for a freedom of information law.

The Committee noted that a first draft had been produced. Arguments for and against the creation of a law were included within the draft, which also highlighted a number of specific policy issues for consideration, including –

- (a) whether a publications scheme should be created,
- (b) a possible rôle for the Data Protection Registrar,
- (c) political and legal options for enforcement,
- (d) the inter-relation of a freedom of information law with other laws,
- (e) a definition of public bodies that would be bound by the law,
- (f) a 'no fees' policy,

- (g) the release of previously exempt information in the public interest, and
- (h) release of non-exempt information in existence prior to the introduction of the Code.

Having been apprised of all relevant matters, the Committee acknowledged the work carried out by the Instructing Officer to date and endorsed the approach taken in the report. It further agreed that individual members should forward comments on the policy matters raised in the report to the Instructing Officer within 7 days.

States of Jersey
Law 200-
450(1)

A5. The Committee, with reference to its Act No. A7 of 4th November 2004, noted that the States of Jersey Law 200- had been adopted by the States on 16th November 2004, albeit with a number of amendments.

Clerk
G.O.S.
P.R.C.C.
P.R.E.O.

The Committee recalled that, during the course of the States of Jersey Law 200- debate, the President of the Policy and Resources Committee had unexpectedly given an assurance that his Committee would bring forward an amendment to Article 19, so that States Members would have the opportunity to elect Ministers individually, albeit still only on the recommendation of the Chief Minister.

The Committee noted the assurance given to the States but decided that this was a matter for the Policy and Resources Committee and not one where it intended to propose any change itself. In addition the Committee reserved its right to propose an alternative amendment in the event that the system proposed by the Policy and Resources Committee was thought to be inappropriate or unworkable.

The Greffier of the States was requested to send a copy of this Act to the Policy and Resources Committee for information.

Further discussion of the States of Jersey Law 200- took place under the Committee's confidential 'Part B' agenda.

A People's
Advocate:
Comments.
1240(175)

A6. The Committee received a report and proposition, lodged 'au Greffe' by Senator S. Syvret, entitled, 'A People's Advocate' (Projet No. P.202/2004 refers).

Clerk
A.G.

The Committee noted that the proposition had been referred to it for a comment. However, and having acknowledged that the effect of the proposition would be to increase the number of non-elected members of the States Assembly, the Committee questioned whether the content of the proposition fell outside of its terms of reference.

On the matter of impartiality, the Committee noted that the accompanying report referred to the duty of a 'People's Advocate' to proffer independent legal advice to the Assembly and 'back-benchers' in a manner that would be wholly independent of either any executive function or the Law Officers' Department. The Committee considered that legal advice provided by the Law Officers' Department was indeed wholly independent and it therefore expressed serious doubts as to the need for a second legal opinion. It further considered that the impartiality of the post holder could be called into question. As the 'People's Advocate' was to be answerable to the States directly, there would inevitably be a temptation for the post holder to tailor any advice given in an attempt to satisfy a majority of the States Assembly.

The Committee noted that, from time to time, reports circulated amongst States Members of cases where Committees, Shadow Scrutiny Panels, Departments or individual members of the States had apparently experienced difficulties in obtaining urgent advice from the Law Officers' Department. However, any delays were understood to have resulted from the careful and objective prioritization of what was acknowledged to be a consistently prodigious workload. The Committee

therefore concluded that the funding required to provide for a 'People's Advocate' might be utilized more efficiently to increase the resources available to the Law Officers' Department. It further concluded that there were sound administrative reasons for channelling future requests for legal advice through a centralized 'Members' services' facility within the States Greffe.

The Committee noted that the Law Officers' Department was producing a comment to the aforementioned proposition. In light of the foregoing, the Committee decided to defer further consideration of a comment to its next meeting.

States Members'
parking.
1240/9/1(115)

A7. The Committee, with reference to its Act No. A4 of 28th October 2004, recalled that it had reached agreement with the Environment and Public Services Committee on the matter of future parking provision for States Members.

The Committee received a report and proposition of the Environment and Public Services Committee entitled, 'States Members' Parking' (Projet No. P.199/2004), together with an associated amendment brought by Senator J.A. Le Maistre.

Having noted that the proposition brought by the Environment and Public Services Committee was in accordance with the views as expressed at the Committee's meeting on 28th October 2004, the Committee decided to comment in the following terms –

'The Privileges and Procedures Committee supports the proposition.'

With regard to the amendment brought by Senator J.A. Le Maistre, the Committee expressed sympathy with the principle of equity between States Members and employees of the States in terms of free parking provision. Notwithstanding the foregoing, concern was expressed that the removal of free parking provision for certain public sector staff groups might require negotiations in connexion with pay and conditions of service, thereby delaying resolution of the parking issue for States Members.

The Committee agreed that individual members should be free to comment on the Amendment in the States.

Senatorial
Elections 2005.
424/2(22)

A8. The Committee received a draft report and proposition, prepared by Deputy P.N. Troy, in connexion with Senatorial elections in 2005.

It was explained that the purpose of the proposition was to allow those Senators elected in 2002 for a six year term of office to stand down and seek a fresh mandate for Ministerial government.

On examining its terms of reference, the Committee concluded that the subject matter of the proposition fell outside of its remit. Accordingly the Committee declined to consider the matter.

Hansard:
transcription of
Oral Questions.
1240/10/1(4)

A9. The Committee received an oral report from the Deputy Greffier of the States in connexion with the transcription of oral questions in the States Assembly.

The Committee was advised that, following an initial problem in ensuring that tapes for transcription reached their destination (which had been resolved by employing an alternative postal carriage service) the service used for the transcription of oral questions was providing a timely and high quality record.

D.G.O.S.
Clerk

With regard to the future expansion of Hansard style transcription services, the Committee recalled that Projet No. P.81/2003, as adopted by the States on 20th January 2004, called for the creation of an electronic record, whereas the record of

oral questions was being reproduced in the Minutes of the States Assembly. **The Committee considered that, in the longer term, all records of the States Assembly should be kept electronically so as to limit the resourcing implications arising from production of extended Minutes and to comply with the terms of the aforementioned Projet.**

Shadow Public
Accounts
Committee:
appointment of
members.
570/1(2)

A10. The Committee recalled that on 24th November 2004 the Shadow Chairman of the Shadow Public Accounts Committee had lodged a proposition in connexion with the appointment of an additional member to the Shadow Public Accounts Committee (Projet No. P.197/2004 refers).

Clerk
G.O.S.
T.O.S.
C.I.Aud.
F.E.C.C.
Scrutiny

The Committee considered whether its responsibility for the Scrutiny function was such that it would be appropriate for it to assume responsibility for making recommendations on membership of the Shadow Public Accounts Committee to the States.

The Committee was advised that the Finance and Economics Committee retained responsibility for appointing the non-elected members of the Shadow Public Accounts Committee. **Accordingly the Committee decided that it should seek the views of both the Finance and Economics Committee and the Shadow Public Accounts Committee on the matter.**

The Greffier of the States was requested to send a copy of this Act to the Finance and Economics Committee.

Matters for
information.

A11. The Committee noted the following items for information –

- (a) the Committee's list of outstanding actions and matters arising,
- (b) correspondence, dated 16th November 2004, from the President to all States Members in connexion with access to facilities within the States Building,
- (c) correspondence, dated 16th November 2004, from the Dean of Jersey in connexion with a review of the position of unelected members of the States,
- (d) Act No. A8 of the Policy and Resources Committee, dated 21st October 2004, concerning proposals for a freedom of information law, and
- (e) Act No. A6 of the Policy and Resources Committee, dated 21st October 2004, concerning the composition and election of the States Assembly.

With regard to the correspondence listed at item (c) above, the Committee noted that the issue raised by the Dean of Jersey was a matter for the now defunct Special Committee on the Composition and Election of the States. It therefore requested the Committee Clerk to write to the Dean in appropriate terms.