

PRIVILEGES AND PROCEDURES COMMITTEE

(42nd Meeting)

12th April 2005PART A

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

Deputy R.G. Le Hérisier  
 Senator P.V.F. Le Claire  
 Connétable D.F. Gray  
 Deputy P.N. Troy  
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States  
 I. Clarkson, Committee Clerk

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

Shadow Scrutiny:  
 rôles of  
 Chairman,  
 Review  
 Chairman and  
 Lead Member.  
 502/1(12)

A1. The Committee recalled that, during the course of the Shadow Scrutiny review of the draft Waste Management Strategy, a degree of confusion between various parties had arisen regarding the roles and responsibilities of the Chairman of the Shadow Scrutiny Panel and the Chairman of the review. Accordingly the Committee received a report, prepared by Mrs. C. Le Quesne, Scrutiny Officer, in connexion with the roles of the Shadow Scrutiny Panel Chairman, the selected Review Chairman and the appointed Lead Member.

Clerk  
 D.G.O.S.  
 Scrutiny

It was explained that the two Shadow Scrutiny Panels had adopted different working practices. Therefore the description of roles and responsibilities contained in the aforementioned report applied only to the Shadow Scrutiny Panel chaired by Deputy R.C. Duhamel.

**The Committee endorsed the report and further decided that it should seek clarification from the Shadow Scrutiny Panel chaired by Deputy G.P. Southern regarding its preferred method of operation.**

The Greffier of the States was requested to send a copy of this Act to the Shadow Scrutiny Panels.

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

Electoral  
 expenses:  
 reporting and  
 regulation.  
 424/2(13)

A2. The Committee, with reference to its Act No. A11 of 24th February 2005, recalled that it had sought the views of Members in connexion with possible options for reporting and regulation of electoral expenses.

The Committee was advised that responses had been received from Senator P.F.C. Ozouf and Deputy J.L. Dorey.

Clerk.

The Committee was advised that Senator P.F.C. Ozouf supported the concept of regulation of electoral expenses in the longer term, either through the introduction of a code of practice or, if necessary, legislation. He further observed that the emergence of a political party might affect the need for such regulation significantly, particularly if individual candidates were put at a financial and/or an

organizational disadvantage. Finally the Senator advised that he was in the process of formulating proposals concerning options for centralized funding and operation of electoral campaigns, including the possible establishment of a central Web site on which candidates could be allocated space for the purposes of publishing a manifesto.

It was reported that Deputy J.L. Dorey considered there to be a clear link between the electoral expenditure of certain candidates and their subsequent success at the ballot box. He was of the view that there should be a requirement for candidates to divulge to the Returning Officer their electoral expenditure and that any information so divulged should be published.

**The Committee noted the aforementioned comments and agreed that it would take a final decision on reform of electoral expenses at a subsequent meeting.**

Freedom of  
Information: law  
drafting  
instructions.  
955(36)

A3. The Committee, with reference to its Act No. A7 of 7th April 2005, recalled that it had directed the Instructing Officer to make minor revisions to the draft report and proposition entitled 'Freedom of Information: proposed legislation', so as to clarify that it had given due consideration to concerns raised by H.M. Attorney General in connexion with resourcing implications.

Clerk  
D.G.O.S.  
L.D.  
Pub.Ed.  
States (2)

The Committee welcomed Mr. P. Baker, Instructing Officer.

The Committee received a revised draft report and proposition, prepared by the Instructing Officer, entitled 'Freedom of Information: proposed legislation', together with correspondence, dated 11th April 2005, from H.M. Attorney General, which served to clarify points made at the previous meeting.

The Instructing Officer explained that the report which accompanied the proposition had been amended so as to highlight the fact that the Committee had sought advice from a number of relevant sources in connexion with possible resourcing implications, as well as having approached all Committees of the States for comments. Mechanisms for reducing any difficulties arising from frivolous or vexatious applications were also given greater prominence in the report and a review of the stage at which the proposed Information Commissioner would become directly involved in such matters had been conducted. Further to the foregoing, the Committee noted that a footnote had been added which explained how the new 'Livelihood' document management system would assist with the management of requests under the law.

The Committee was reassured to note that costs associated with access to public information in the United States amounted to less than US\$1 per head of population, while those in Australia equated to approximately Aus\$200 per request. Therefore, and having acknowledged that H.M. Attorney General continued to harbour concerns in connexion with the matter of resource implications, the Committee concluded that a debate in the States Assembly would be the appropriate way forward.

**The Committee approved the draft report and proposition and directed that it be lodged 'au Greffe' at the next available opportunity, with the intention of securing a provisional date for debate early in June 2005. Further to the foregoing, the Committee directed the Instructing Officer to arrange a suitable briefing for all States Members in advance of the provisional date for debate.**

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

Code of Practice  
on Public Access  
to Official  
Information:

A4. The Committee, with reference to its Act No. A3 of 23rd April 2004, recalled that a report concerning the operation of the Code of Practice on Public Access to Official Information was presented to the States annually.

Annual Report  
2004.  
955(32)

Accordingly the Committee received a draft report, dated 29th March 2005, prepared by the Committee Clerk, entitled 'Code of Practice on Public Access to Official Information: Annual Report for 2004'.

Clerk  
D.G.O.S.  
L.D.  
Pub.Ed.  
States (2)  
HealthSSC(2)

The Committee noted that a total of 80 applications under the Code had been recorded by individual departments of the States, the majority of which had been made to departments administered by the Health and Social Services Committee.

The Committee was apprised of correspondence received from the Information Governance Officer, Health and Social Services, which indicated that certain departments administered by the Health and Social Services Committee were not in a position to submit returns for 2004. The Committee, with reference to its Act No. A3 of 12th April 2005 expressed concern and noted that an apparent failure to comply with the voluntary code, if proven, would provide clear evidence that a law on freedom of information was necessary. **The Committee Clerk was instructed to make further enquiries in this regard.**

**The Committee approved the Code of Practice on Public Access to Official Information: Annual Report for 2004 and agreed that it should be presented to the States at the next available opportunity.**

The Greffier of the States was requested to send a copy of this Act to the Health and Social Services Committee.

Shadow Scrutiny:  
Duhamel Panel:  
draft programme  
of work.  
502/1(13)  
502/5/12(1)  
502/1(7)

A5. The Committee, with reference to its Act No. A5 of 7th April 2005, recalled that it was minded to support a review by the Shadow Scrutiny Panel chaired by Deputy Duhamel of proposals for a goods and services tax. A decision on the matter had nevertheless been deferred in order that the Committee could give further consideration to the question of how legal advice that might be required during the course of the review would be obtained.

Clerk  
D.G.O.S.  
Scrutiny

The Committee, with reference to its Act No. B1 of 12th April 2005, acknowledged that the issues in connexion with the provision of legal advice for Scrutiny Panels were unlikely to be resolved in the short term. **Accordingly it agreed to endorse the proposed review of proposals for a goods and services tax. It further noted that the guidelines concerning the guidelines for the provision of legal advice for Scrutiny Panels, as published in Projet No. P.79/2003, would be reviewed following the completion by the Panel chaired by Deputy G.P. Southern of a specific report on the matter.**

Terms of  
reference:  
extension.  
502/1(7)

A6. The Committee, with reference to its Acts Nos. A4 of 24th February 2005, recalled that it had been invited by the Finance and Economics Committee to assume responsibility for the administrative oversight of the Shadow Public Accounts Committee. Further to the foregoing, and with reference to its Act No. A13 of 15th July 2004, the Committee recalled that it had been invited by the Legislation Committee to assume administrative responsibility for the Public Elections (Jersey) Law 2002.

Clerk  
D.G.O.S.  
Pub.Ed.  
States (2)

The Committee received a draft report and proposition, prepared by the Deputy Greffier of the States and the Committee Clerk, in connexion with a proposed extension of the Committee's terms of reference. It was explained that the draft proposition would allow the States to formally endorse the revised arrangements. With regard to the matter of the Shadow Public Accounts Committee, it was explained that the proposition would effectively replicate the existing administrative arrangements for the Shadow Scrutiny Panels. On the matter of the Public Elections (Jersey) Law 2002, it was clarified that there was a need to resolve the matter of responsibility for election issues prior to the dissolution of the Legislation Committee at the end of 2005.

**The Committee approved the report and proposition and requested that it be**

**lodged 'au Greffe' at the next available opportunity.**

The Committee Clerk was directed to take the necessary action.

Standing Orders  
of the States of  
Jersey: revision.  
1240/4(171)

A7. The Committee, with reference to its Act No. A2 of 24th February 2005, recalled that a first draft of the revised Standing Orders of the States of Jersey was being finalized.

Clerk  
G.O.S.  
L.D.

The Committee received an oral report from the Greffier of the States on the status of the revised Standing Orders. It was clarified that a first draft would be ready for the Committee to consider at its next meeting.

**The Committee noted the progress report.**

Standing Orders  
of the States of  
Jersey:  
declaration and  
registration of  
Members'  
interests.  
1240/4(171)  
1240/4/2(2)

A8. The Committee, with reference to its Act No. A9 of 24th February 2005, recalled that it had referred a report concerning the declaration and registration of Members' interests to the Code of Conduct Working Party for consideration.

The Committee received an oral report from the Committee Clerk on progress made by the Code of Conduct Working Party in reviewing the aforementioned report. It was explained that the Working Party anticipated making a series of recommendations to the Committee, particularly on the matter of reform of the existing Register of Members' Interests, in time for its next meeting.

Clerk.  
G.O.S.  
L.D.  
Scrutiny.

**The Committee noted the progress report.**

On a related matter, the Committee received correspondence, dated 11th March 2005, from Deputy R.C. Duhamel, Shadow Scrutiny Chairman, concerning the alleged conflict of interest issue arising from the Shadow Scrutiny Report on the Agri-environment Scheme.

**The Committee noted that the matter was being considered by the Code of Conduct Working Party as part of its ongoing work, and that its conclusions would be presented to the Committee prior to the end of April 2005.**

The Greffier of the States was requested to send a copy of this Act to the Shadow Scrutiny Panels.

Standing Orders:  
Register of  
Members'  
Interests:  
publication.  
1240/4/2(1)

A9. The Committee, with reference to its Act No. A2 of 3rd February 2005, recalled that a request from Mr. B. Querée of the Jersey Evening Post for permission to publish the existing Register of Members' Interests was being considered by the Code of Conduct Working Party.

Clerk  
G.O.S.  
L.D.

The Committee received an oral report from the Committee Clerk in connexion with the aforementioned matter. It was explained that the Working Party, having sought advice from the Data Protection Registrar, had concluded that Standing Orders did not allow for the publication of the Register on the Internet. Neither did they allow for it to be photocopied and distributed to the media on request. However, a journalist would be permitted to examine the Register in the States Bookshop and make notes regarding its contents. Any decision to publish those notes would, ultimately, be a decision for the media to take having regard to factors such as the level of public interest and the provisions contained within data protection legislation.

**The Committee endorsed the conclusions reached by the Code of Conduct Working Party and requested that a draft letter be produced for approval by the Committee advising all States Members of the Committee's position on the matter.**

The Committee Clerk was instructed to take the necessary action.

States IT systems.  
1060/5/1(18)

A10. The Committee received an oral report from Senator P.V.F. Le Claire in connexion with difficulties, experienced by Members, with the States IT systems.

Clerk

It was explained that a central matter of concern for Members had been the recent repeated failure of the e-mail system. Enquiries had identified the fact that the volume of e-mail sent across the States network had increased exponentially in recent years and that revisions to the IT infrastructure were required in order to cope with the increase. Those revisions had now been put in place and in a manner which had allowed the Computer Services Department to take advantage of certain cost saving measures. Further to the foregoing, Senator P.V.F. Le Claire acknowledged the technical assistance provided by Senator P.F.C. Ozouf and Deputy S.C. Ferguson to Members over recent weeks.

Deputy P.N. Troy advised the Committee that he and other Members had been requested to return his notebook computer to the Computer Services Department for modifications in order to ensure that it remained capable of accessing the revised IT network. He explained that he was dissatisfied with the modifications made in that they affected the usability of the system.

**Senator P.V.F. Le Claire undertook to relay the concerns expressed by Deputy P.N. Troy to the Computer Services Department. He further informed the Committee that he would invite the IT Director, Computer Services Department to present a report to the Committee at a future meeting in connexion with the provision of IT services for States Members.**

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

Public Elections (Jersey) Law 2002: amendments regarding proposals for change.  
424/2(13)  
424/2(27)

A11. The Committee, with reference to its Act No. A5 of 17th March 2005, recalled that it had agreed to progress certain amendments to the Public Elections (Jersey) Law 2002 that were considered, in law drafting terms, to be routine and minor. It had also decided to pursue amendments to Articles 37 – 46 of the Public Elections (Jersey) Law 2002 by way of a submission for law drafting time in 2006.

The Committee noted that recent press coverage of the conviction of six Councillors for electoral fraud in Birmingham, United Kingdom, had raised concerns that postal voting systems generally were vulnerable to abuse.

Clerk  
L.D.

**The Committee instructed the Committee Clerk to make enquiries of the Judicial Greffe with a view to establishing whether the existing postal voting system in Jersey was vulnerable to fraudulent activity of the kind identified in the United Kingdom.**

On a related matter, the Committee noted that its decision to progress in 2005 only those matters which were routine and minor would effectively result in a reduction in polling station opening hours in the absence of a corresponding improvement in the accessibility of the postal voting facility. **The Committee expressed concern in this regard and accordingly requested the Committee Clerk to seek clarification from the Law Draftsman as to whether it might be possible to bring forward in 2005 an amendment to Article 38 of the Public Elections (Jersey) Law 2002 so as to remove the requirement for a member of the electorate to provide a specified reason for requesting a postal vote.**

Matters for information.

A12. The Committee noted a list of outstanding Committee actions and matters arising from previous meetings.