

PRIVILEGES AND PROCEDURES COMMITTEE

(27th Meeting)

18th October 2006PART A

All members were present.

Connétable D.F. Gray of St. Clement - Chairman
 Senator S. Syvret
 Senator M.E. Vibert
 Connétable K.A. Le Brun of St. Mary
 Deputy G.C.L. Baudains
 Deputy C.H. Egré
 Deputy J. Gallichan

In attendance -

M.N. de la Haye, Greffier of the States
 Miss P. Horton, Clerk to the Privileges and Procedures Committee

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

- Minutes. A1. The Minutes of the meetings held on 17th August 2006 (Part A only), 1st September 2006 (Part A only) and 20th September 2006 (Part A and Part B), having previously been circulated, were taken as read and were confirmed.
- Business Brief: A2. The Committee considered a suggestion by Deputy P.V.F. Le Claire that a Subscription to the Confidential Section of the Jersey Business Brief.
- 465/1(80) Deputy Le Claire was of the opinion that the information contained in the Encl. Confidential Brief would be of interest to Members and could be kept in the Members' facilities as a shared resource.
- The Committee, having regard to the June 2006 edition, was advised that the subscription to the Confidential Brief would cost £130. It was noted that the Confidential Brief was subscribed to by the Parish Halls and the Committee queried whether it was available at the Jersey Library. Senator M.E. Vibert advised that he would establish whether the Jersey Library did keep copies of the document available for the public to view. The Committee agreed that at the present time it would not take out a subscription to the Confidential Section of the Jersey Business Brief.
- Draft A3. The Committee, with reference to its Minute No. A7 of 8th February 2006, and Administrative Decisions (Review) (Amendment No. 2) (Jersey) Law 2006 (Appointed Day) Act 200-. 1386/4(16) with Mrs. C.E. Canavan, Chairman of the Administrative Appeals Panel present, received and considered a report, dated 26th September 2006, prepared by the Deputy Greffier of the States, in connexion with the draft Administrative Decisions (Review) (Amendment No. 2) (Jersey) Law 2006 (Appointed Day) Act 200-. The Committee recalled that the Administrative Decisions (Review) (Amendment No. 2) (Jersey) Law 2006 was approved by the States, with amendments, on 14th February 2006. It was noted that the Administrative Appeals Panel had prepared

Encl.

Rules of Practice and Procedure which encompassed the new requirements of the amended Law and these Rules were considered by the Committee. It was proposed that these Rules would be made available to the public in the form of a leaflet entitled 'Complaints - How to complain to the States of Jersey Complaints Board'.

Mrs. Canavan advised the Committee that a complaint would only be considered by a Board once all possible action had been taken to endeavour to reach a satisfactory conclusion. The revised Administrative Appeals system aimed to speed up the process of a review, at present departments had to provide the Board with a report outlining the facts of the matter and some departments were slow to respond to requests for information which could lead to a delay. This procedure had been amended to allow a Minister or department to provide a brief response to the complaint, within 2 weeks, which would be sufficient for the Chairman to decide whether or not it should be considered by the Board. Mrs. Canavan further advised that there would be stricter timescales in place regarding the time taken to deal with complaints, maximum time periods for various parts of the process had been stipulated so that a complainant would have a clear indication of the likely time it would take to conclude the process. It also allowed the Chairman or Deputy Chairman, if it was considered that the complaint might be capable of resolution, to take whatever steps it was considered appropriate to contact the parties and seek a resolution of the complaint without the need for a Board to be convened. In this way it would be possible that some complaints could be resolved more quickly and simply.

The Committee discussed the need to improve awareness of the scheme amongst States members, Chief officers and departments and the public in general. In this regard the Committee was advised that, once approved, the Complaints leaflet would be available at various locations including the Customer Services Contact Centre at Cyril Le Marquand House, Parish Halls, the States of Jersey Library, Post Offices, the Citizen's Advice Bureau and the States' Bookshop. It was agreed that Ministers and Chief Officers would be made aware of the procedure and requested to advise the public of their right to appeal against a decision.

The Committee accordingly approved the draft Administrative Decisions (Review) (Amendment No. 2) (Jersey) Law 2006 (Appointed Day) Act 200- and requested that it be lodged 'au Greffe' at the earliest opportunity.

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

Standing Orders -
changes required.
450/2(6)

Encl.

A4. The Committee received and considered a report dated 20th September 2006, prepared by the Greffier of the States in connexion with amendments to Standing Orders.

The Committee recalled that since the coming into force of the new Standing Orders in December 2005 a number of proposed amendments to Standing Orders had been discussed and, in addition, a number of other issues had come to light where amendments might be appropriate. The Committee discussed the matters identified to-date as follows -

Standing Order 9 – Questions - The Committee noted that this Standing Order was currently silent on the matter of who should answer a question in the absence of a Minister. It stated that an Assistant Minister could answer a question relating to a function or matter delegated to the Assistant Minister but did not cover the general absence of a Minister. The Committee discussed a situation which could arise whereby a questioner particularly wanted the Minister to answer their question even if the function or matter had been delegated to the Assistant Minister. Having

considered the aforesaid it was recommended that the wording of the Standing Order should be amended so that the questioner was required to agree to allow a Minister to delegate a question to their Assistant Minister this would then enable the questioner to question the Minister if they desired.

Standing Order 26 – Minimum Lodging Period - The Committee recalled that it had agreed to amend the provisions relating to the reduction of the minimum lodging period. The Standing Order currently stated that the States may reduce a minimum lodging period if they were of the opinion that the proposition related to a matter of such urgency and importance that it would be prejudicial to Jersey to delay its debate. The Committee agreed that this should be amended so that the test was less stringent. The revised wording agreed by the Committee was that the States should be able to reduce the minimum lodging period if they were of the opinion that the proposition related to a matter of urgency and importance provided that the relevant Minister or Ministers and the Chairman of the relevant scrutiny panel or panels indicated that they had no objection to the proposed reduction. The Committee agreed that this Standing Order should be amended accordingly.

Standing Order 27 – Referral of Proposition to Council of Ministers - The Committee was advised that the Chief Minister's Department had requested a minor amendment to this Standing Order. It currently provided that any proposition lodged by a private member in his or her own right must be referred by the Greffier to the Council of Ministers for a report when it was lodged. The Chief Minister's Department considered that this was an unduly onerous duty for the Council of Ministers as the entire Council was required by the Standing Order to consider private members' propositions that may only be of relevance to one or two Ministers. It had been suggested by the Chief Minister's Department that the Standing Order should be amended so that a proposition lodged by a private member was referred by the Greffier to the relevant Minister or Ministers so that they could consider whether or not to report on the proposition. This would give greater flexibility and allow Ministers to judge whether or not a particular proposition should be referred to the full Council of Ministers for a report. Having considered the matter, the Committee agreed to amend the Standing Order accordingly.

Standing Order 37 – Documents Presented to the States - The Committee recalled that it had agreed that the current requirement to send every report to every member of the States should be amended so that the distribution of reports would be an opt-in choice for members. It was not considered appropriate for this to apply to comments on propositions which should be sent to all members but it was agreed that with reports such as 'glossy' annual reports etc., members could be provided with details and invited to collect a copy if they were interested in a particular topic. Copies could be made available in the States Bookshop and, on a meeting day, in the precincts of the Chamber. The Committee agreed that this Standing Order should be amended accordingly.

Standing Order 39 – Order Paper - This Standing Order currently permitted the Greffier to issue a Supplementary Order Paper to cover matters that were not available for inclusion in the main Order Paper. In practice the issue of a Supplementary Order Paper had been superseded by the preparation of the Consolidated Order Paper and the Committee agreed that the Consolidated Order Paper should be given an official status and replace the Supplementary Order Paper (s). Once the change had been instituted some form of appropriate marking, for example bold text or italic text, would be used to distinguish matters that appeared on the original Order Paper from additional items. The Committee agreed that this Standing Order should be amended accordingly.

Standing Order 63 – Questions - The Committee was advised that the submission of an urgent question in the first session of 2006 drew attention to the fact that there were no provisions in Standing Orders relating to the answering of urgent questions. Standing Order 15 covered the manner in which an urgent oral question was submitted to the Greffier and approved by the Bailiff but did not cover the manner in which it was actually answered during the meeting. To correct the oversight it was agreed that an additional Standing Order referring to the manner in which urgent questions are answered should be included. The Standing Order should specify that urgent questions were answered outside the 90 minutes allowed for normal Oral Questions with Notice and the provisions on supplementary questions being allowed, which were contained in Standing Order 63, in relation to ordinary questions, should be repeated for urgent oral questions. The Committee agreed that this Standing Order should be amended accordingly.

On a related matter, the Committee discussed the 90 minutes allocated for Oral Questions with Notice which it was noted had recently only been lasting one hour resulting in some members still wanting to ask questions. It was recognised that it could be difficult to judge the timing for each question particularly as it was not easy to identify how much interest would be shown in the questions which followed. The Committee agreed that this was an issue which would need to be considered as part of the review of the first 12 months of Ministerial Government as proposed by Senator B.E. Shenton.

Standing Order 65 – Questions to Minister without Notice - The Committee recalled that the Bailiff had recently instituted a new method of dealing with Questions Without Notice to Ministers by allowing a member asking a question to ask a further ‘supplementary’ question. The Committee agreed that this procedure had been effective and requested that Standing Order 65 be amended to reflect the current practice.

Standing Order 106 – Declaration of Interest - The Committee recalled that it had agreed that the current rules covering the requirement to declare an interest during a debate should be extended to cover both oral and written questions. Standing Order 106 currently contained provisions relating to the asking or answering of an oral question when a member had a financial interest but there were no rules on declaring non-financial interests during oral questions and there were no rules at all concerning the need to declare an interest when submitting a written question. It was noted that in the latter case it would be necessary for the declaration to be made in writing to accompany the written question. The Committee, having recognised that if the rules on declaration of interest during debates were mirrored for questions there would be a prohibition on asking or answering a question if a member had a direct financial interest in the subject matter and a requirement to declare any other interest, agreed that Standing Order 106 should be amended accordingly.

Standing Orders 112 to 126 – Appointment of Ministers, Committees and Panels - The Committee recalled that it had considered the results of a questionnaire sent to members concerning the procedures followed in December 2005 and agreed a number of changes that would need to be incorporated in Standing Orders.

The changes it had agreed were as follows –

During the election of a Chief Minister the Committee agreed that following the current 10 minute speech and 40 minutes of questions to each candidate there should be a period of 20 minutes multiplied by the number of candidates when all candidates would be questioned together in an open session.

In relation to the appointment of Ministers the Committee agreed that an additional day should elapse between the election of the Chief Minister and the Ministers so that the Ministers would be elected at a meeting commencing 3 clear working days after the close of the meeting at which the Chief Minister was elected. In practice this would mean that the Chief Minister could be elected on a Monday and the Ministers on the following Friday. The Committee agreed that the Chief Minister should be required to give advance notice to members of his or her nominees as Ministers and this notification should be circulated 48 hours before the Ministers were elected. In addition it was agreed that each Minister should make a statement in the Chamber of his or her proposed policies for approximately 10 minutes even in the event of an uncontested election (in the case of a contested election the current Standing Orders required candidates to speak for up to 10 minutes followed by a question period).

The Committee agreed that the Chairmen of PPC, PAC and the scrutiny panels should not be elected on the same day as Ministers as happened in December 2005. It was agreed that at least 1 day should elapse between the election of Ministers and the election of these Chairmen.

The Committee noted that the appointment of Ministers, Committees and Panels would be considered as part of the review of the first 12 months of Ministerial Government as proposed by Senator B.E. Shenton and agreed to await the outcome of the review before proposing any amendments to Standing Orders 112-126.

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

Embargos on
documents
presented to the
States.
1240/7/1(84)
Encl.

A5. The Committee received and considered a report dated 12th October 2006, prepared by the Greffier of the States in connexion with embargos on documents presented to the States.

The Committee discussed a recent situation concerning a report of the Comptroller and Auditor General on the 2006 Battle of Flowers. The Comptroller and Auditor General had released the report to the media with an embargo time of 00:01 a.m. Tuesday 10th October 2006. Copies of the report had been distributed by the States Bookshop with the standard 09:30 a.m. embargo stamp placed on them as they were being officially presented to the States on Tuesday morning. The States Bookshop was not aware that the document had been released by the Comptroller and Auditor General with a different embargo time on it and the situation had resulted in confusion amongst members.

The Committee was advised that the Comptroller and Auditor General was an independent officeholder and the manner in which he was required to distribute his reports was set out in the Public Finances (Jersey) Law 2005. The guidelines on embargos issued to Departments by the Communications Unit were also noted. These reflected the normal 'courtesy' that States members should be notified of matters before reading about them in the media.

The Committee agreed that it was imperative that members should be informed before they read or heard about government matters in the media and considered that documents could be e-mailed to members the day before its release as it was noted that the majority of members had e-mail addresses. The Committee further discussed issues regarding questions to be asked in the States which were released to the public and media in the Order Paper on the Friday before the States sitting. At times the media approached members to discuss the answers which they would be giving to the

questions prior to the States sitting. The Committee agreed that this could be discourteous to members as it would result in the answer being in the public domain before it had been given in the States.

The Committee agreed that the abovementioned matters should be discussed at the Communications Seminar which was to be held on Friday 20th October 2006.

In-camera States
debates.
1367/3(23)
Encl.

A6. The Committee, with reference to its Minute No. A7 of 20th September 2006, received and considered a draft proposition entitled 'Waterfront Enterprise Board: appointment of Chairman – publication of transcript of *in camera* debate' (P.119/2006 lodged 'au Greffe' by Deputy P.V.F. Le Claire of St. Helier on 29th September 2006).

The Committee noted that the draft proposition was requesting the States to agree that the transcript of the section of the debate relating to the appointment of a new Chairman of the Waterfront Enterprise Board (P.89/2006) that was conducted in camera on 19th July 2006 should be made public by the Greffier of the States 14 days after the adoption of the draft proposition. The draft proposition also stated that any member who did not want the text of their speech to be included in the published transcript could notify the Greffier during the 14 day period. The Committee agreed that it did not support the release of the transcript of the in camera debate. When the States had agreed to the debate being held in camera, no suggestion had been made that the transcript would be released to the public at a later date and therefore the Committee did not consider that it was appropriate to make the transcript public at this stage.

The draft proposition further requested the States to agree that debates relating to appointments made by the States should no longer be conducted in camera and that the Privileges and Procedures Committee, in consultation with Ministers, should be requested to bring forward amendments to the relevant legislation to give effect to the proposal. The Committee had regard to a full list of the appointments made by the States. It was noted that the Appointments Commission oversaw many of the selection processes which lead to a recommendation being made and the Committee felt that there was little justification for the States to be involved in many of the appointments on the list. The Committee agreed that the list should be referred to the Council of Ministers and the relevant Minister should be requested to consider the appointments for which they were responsible and recommend whether or not States involvement was appropriate. The Committee was of the opinion that an alternative appointment mechanism could be used with a fifteen day notification period to the States in advance of any appointment being finalised. The Committee considered that the whole issue of appointments made by the States needed to be reviewed and once this had taken place an evaluation should then be made as to whether any appointments that remained the responsibility of the States should be made in camera or not.

The Committee requested that a comment in the above terms be prepared for its consideration.

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

Composition and
election of the
States - opinion
survey on
electoral reform.
465/1(75)

A7. The Committee, with reference to its Minute No. B1 of 20th September 2006, considered the results of the survey of public opinion on electoral reform undertaken on its behalf by Ipsos MORI.

The Committee recalled that, on considering the results of the survey which had been conducted on 1,000 residents, it had been noted that the table outlining the parish

breakdown of interviewees showed that St. Brelade, one of the largest parishes, only had 1 per cent of respondents whereas St. Mary, the smallest parish in terms of population had 4 per cent. The Committee had expressed concern that the statement that the survey was a 'representative sample' of Jersey's population was contradicted by the parish breakdown and MORI had been asked to provide an explanation for this. It was noted that MORI had accepted that an error had occurred and further interviews had been conducted in St. Saviour and St. Brelade to ensure that a representative sample of Jersey's population was obtained. As a result a larger sample had been obtained at no extra cost to the Committee as the survey was now based on interviews with 1,295 residents.

The Committee discussed the findings of the survey and noted that many residents felt that there were too many States' members, a majority of islanders favoured a general election but also residents felt strongly that the Constables should remain as States' members. The Committee discussed the findings in detail and agreed that it would like to outline various options detailing the proposed changes which the public had indicated they preferred and stipulating the consequences that would result if the changes were implemented. The Committee requested that a report be drawn up detailing the various options for its further consideration.

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

Matters for
information.

A8. The Committee noted the following matters for information -

- (a) correspondence, dated 22nd September 2006, sent to Mr. C. Bright, Editor, Jersey Evening Post regarding in-camera States debates;
- (b) correspondence, dated 26th September 2006, received from Mr. C. Bright, Editor, Jersey Evening Post regarding in-camera States debates;
- (c) correspondence, dated 5th October 2006, sent to all members of the States regarding the MORI poll on electoral reform;
- (d) a memorandum, dated 10th October 2006, sent to all members of the States regarding Class 2 Social Security Contributions;
- (e) the Chairman advised that Deputy G.P. Southern had requested that the Committee give consideration to making the Electoral Register available for use by political parties to encourage additional voters to register;
- (f) the Committee discussed the States sitting roll call and noted that, unless an elected member was absent from Jersey on States' business or unable to attend through illness, he or she would be shown as 'en défaut' unless the States were asked to agree that the reason for the absence was such that the absent member could be excused;
- (g) the Committee was advised that Deputy S. Power had asked for consideration to be given to installing showers for members who cycled to States meetings. The Greffier of the States advised that he would get a quotation for installing a shower in the toilets; and
- (h) the Chairman advised the Committee that the Bailiff's Consultative Panel had agreed that when both the Bailiff and the Deputy Bailiff were not in the States, the Greffier of the States would preside in the chair; and

- (i) Senator Vibert requested that more seats be made available for States lunches as some members had to stand to eat their lunch. The Greffier of the States advised that he would ask the ushers to provide more seating.