

PRIVILEGES AND PROCEDURES COMMITTEE

(9th Meeting)

4th April 2003PART A

All members were present.

Senator C.G.P. Lakeman
 Connétable D.F. Gray
 Deputy F.J. Hill, B.E.M.
 Deputy C.J. Scott-Warren
 Deputy R.G. Le Hérissier
 Deputy J-A. Bridge
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 C. Pasturel, Assistant Legal Adviser (for a time)
 P. Byrne, Executive Officer
 M.P. Haden, Committee Clerk.

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

Minutes	A1. The Minutes of the meeting held on 7th March 2003, having been previously circulated, were taken as read and were confirmed
States Members remuneration: report and proposition of Senator E.P. Vibert on establishment of an independent Review Board (P.26/2003) - comments. 1240/3(70)	<p>A2. The Committee, with reference to its Act No. A10 of 21st March 2003, considered a formal draft comment, prepared by the Committee Clerk, on the report and proposition of Senator E.P. Vibert of States members' remuneration: establishment of an independent Review Board (P.26/2003).</p> <p>The Committee agreed to comment as follows -</p> <p><i>The Committee, in accordance with its terms of reference, as agreed by the States in adopting P.23/2002 on 26th March 2002, and following an extended period of consultation intends to bring forward revised proposals for on the remuneration and expenses provision for elected members of the States.</i></p> <p><i>The Committee has taken account of the views strongly expressed by many members that it was inappropriate at the present time to seek a substantial increase in States members' remuneration but remains firmly of the opinion that a review should be undertaken of the current arrangements, prior to the introduction of the ministerial system of government, with a view to bringing forward proposals for an appropriate scheme to be introduced when the new system of government is established.</i></p> <p><i>The Committee is minded to support the appointment of an independent Review Board which would give added legitimacy in the eyes of the public to any future</i></p>
Ex.Off. Pub.Ed. States (2)	

proposals. It agrees that there should be an open debate with full public consultation on this important matter. This view is reflected in paragraph 1.5 of the report accompanying its revised proposition. The Committee suggests that an independent panel to consider annual increases in the future should be considered as part of the further work proposed in paragraph (c) of its revised proposition.

The Committee, however, cannot support the proposal that this independent body should be empowered to make binding decisions on elected members' remuneration and expenses. The Committee feels that, as a political issue, elected members' remuneration and expenses must remain in the political domain of the Chamber.

The Committee is mindful of the practice in the United Kingdom House of Commons where the Senior Salaries Review Board (SSRB) exists to make recommendations on members' pay. The final decision has always rested with members themselves. In recent years there have been a number of occasions when the recommendations of the SSRB have been rejected by the Government or amended by MPs. For example in 1983 the SSRB recommended an increase of some 31 per cent, the Government proposed an increase of only four per cent and, after a lengthy debate, the House accepted a compromise of 5.5 per cent immediately with subsequent annual increases over a five year period. In 1996 the SSRB recommended an increase of 26 per cent. The Government proposed an increase of only three per cent but, after debate, MPs agreed to accept the SSRB's recommendation.

The Committee also recalls the last occasion, in May 1996, in which the States agreed to the appointment of an independent review body under the chairmanship of the former Senator John Averty. The recommendations of the Review Board were put to the States by the House Committee in R.C. 42/1997 and P.207/1998. They were subject to considerable amendment before being approved by the States in July 1998. The scheme that emerged is still in place at present although the actual amounts have been increased annually.

The Committee believes that any recommendations following the proposed review of elected members' remuneration and expenses must take account of the States budgetary process and therefore be subject to approval following proper debate in the Chamber.

The Committee requested the Greffier of the States to take the necessary action to present its comments to the States.

Official Report of
the States
Assembly and its
Committees
(‘Hansard’) -
draft report and
proposition.
1240/10/1(1)

A3. The Committee, with reference to its Act No. A11 of 21st March 2003, gave further consideration to its draft report and proposition (version 5) on the proposed Official Report of the States Assembly and its Committees (‘Hansard’).

The Committee, having considered the transcript of an extract from a certain member's speech in the States under three different forms, namely fully verbatim (including hesitations), editing to remove hesitations and redundancies, and finally light editing to remove clear mistakes (including errors such as malapropisms), agreed that it favoured the second option. It did not wish to remove too much of the flavour of the oral nature of the speech.

D.G.O.S.
Ex.Off.

The Committee decided that its draft Report and Proposition should be circulated to States members for comment before being finalised. The Committee agreed to consider any comments arising from this consultation at its meeting on 2nd May

2003 with a view to lodging the projet as soon as possible thereafter.

Question Time -
options for
change.
1240/4(158)

Ex.Off.
G.O.S.

A4. The Committee, with reference to its Act No. A13 of 21st March 2003, having recalled that it had circulated to States members a discussion paper on options for changing the current format of Question Time in the States, considered a paper, prepared by the Executive Officer, in respect of the comments received to date from States members. In addition, the Committee received and noted correspondence, dated 1st April 2003, from H.M. Attorney General setting out his comments on the possibility of restricting the time allowed for questions.

The Committee considered the view expressed orally by Deputy P.J. Rondel to the Vice-President, that it would be prejudicial to those 'backbench' members who were not currently members of Committees to limit their opportunity to raise legitimate matters of concern. In the absence of formal scrutiny structures, Question Time was regarded as a vital means by which Committees might be called to account. An example was given where it appeared that a certain Committee was stalling in implementing a decision it had taken. Questioning the President in the Assembly was considered to be an effective way of ensuring that matters were treated with due urgency. On the other hand, it was recognised that persistent questioning on the same topic might not be a productive use of States time and that a form of filtering or limitation might be necessary if States members abused the current indefinite time allocation. The Committee was mindful of occasions later in the year when it was likely that the agenda for Public Business was likely to be filled with more pressing and time-consuming items than at present. It was suggested that if a time limit was introduced members would be more focussed in their questioning and would be unlikely to permit time-wasting to occur.

The Committee considered the suggestion that an alteration might be made in the current timing of Questions in the Order Paper. It was suggested that an indefinite period of questioning at the start of the day might prejudice the ability of the Assembly to proceed with its major tasks of considering legislation and conducting major policy debates. This, however, raised the question of the importance of scrutiny as a function of the States.

The Committee noted the practice for Questions in the Scottish Parliament. A limited period was allowed for questions at a certain time each week. Oral questions were taken at the discretion of the Presiding Officer who attempted to balance party political considerations. Oral questions which were not taken during the time allocated fell away. Written questions, however, would receive an answer and so members had the option to pursue their concerns in this way. The Committee did not feel that, if such a system were to be introduced in the States, it would be appropriate to give the Bailiff the task of selecting questions. A ballot was considered to be a fairer method of selecting questions.

The Committee reached the conclusion that it would not be appropriate at this stage to seek to limit members' ability to raise questions in the States. It was of the view that, the matter having been aired openly and fully, States members could be trusted to exercise judgement and regulate themselves in this matter without any formal time limitation. The Committee requested the Greffier of the States and the Executive Officer to liaise in the preparation of a paper setting out the Committee's position on the issue.

The Committee requested that an acknowledgement be sent to all those members who had submitted comments and that a letter should be sent to Deputy Rondel addressing specifically the points he had raised in his submission.

Working Party on
Freedom of
Information/
Official Secrets/
Data Protection.
955(28)
1240/1/2(18)

A5. The Committee, with reference to its Act No. A4 of 14th February 2003, noted that the Legislation Committee had formally proposed a joint Working Party to consider to consider Freedom of Information/ Data Protection / Official Secrets Legislation.

The Committee agreed to propose the Vice-President, Connétable D.F. Gray and Deputy R.G. Le Hérissier as its representatives on the Working Party, in addition to Senator C.G.P. Lakeman, who would represent the Legislation Committee.

Ex.Off.

The Committee agreed that Deputy A. Breckon should be invited to the first meeting of the Working Party to discuss his Report and Proposition on Access to Information, Financial and Other Records of the States of Jersey (P.34/2003).

Right of Access
to Information -
outline comments
on P.34/2003 of
Deputy A.
Breckon.
1240/1/2(18)
955(29)

A6. The Committee received Mr. D. Woodside, Legal Adviser, Law Officers' Department, in connexion with outline comments he had prepared in respect of the Report and Proposition of Deputy A. Breckon on Access to Information, Financial and Other Records of the States of Jersey (P.34/2003).

The Committee expressed some surprise that Deputy Breckon had taken the step of introducing the above projet on access to information without accepting an invitation to discuss the matter with the body charged by the States to bring forward proposals in this respect. The Committee was advised that the President had requested the Greffier of the States to prepare a paper on the question of anticipation in order to clarify the issues connected with such action. The Greffier of the States advised that he discussed with the Bailiff the possibility of disallowing Deputy Breckon's projet on the grounds that the matter was within the terms of reference of the Privileges and Procedures Committee which had just issued its own consultation paper R.C. 15 on Freedom of Information. The Bailiff, however, had been of the view that it would be prejudicial to the general interests of members to disallow a projet simply on the grounds that a Committee had been tasked with bringing forward proposals on a related issue. He had pointed out that it remained in the hands of the Assembly whether or not it wished to debate the issue, notwithstanding the fact that the Assembly was generally reluctant to refuse private members the opportunity to bring forward matters for debate.

Ex.Off.

The Committee was advised that Deputy Breckon's proposal that all records and documents relating to the expenditure of public monies be made available by each Committee and Department of the States for public inspection, during a period of 20 working days appeared to be based on practice in United Kingdom local government where this window of access was part of the public audit process. Freedom of Information, however, was a much broader context. Furthermore, data protection issues might be involved where financial information included personal data.

The Committee noted that Deputy Breckon's proposal confined right of access to those whose name appeared on the electoral roll. The Committee agreed that such a limitation was "reasonable", businesses were also likely to be interested in access to information.

The Committee was advised that, while the principle of the right of access to materials and meetings was important, great care would be needed in ensuring that there were adequate 'carve outs'. Transparency and openness, while being laudable aims, needed to fit into a framework of other competing aims. The Legal Adviser suggested that public expectations needed to be managed in relation to what could and could not be achieved. Care was needed to avoid over-simplifying a subject that was not without difficulty and where competing and legitimate aims needed to be balanced.

The Committee was further advised that, in the opinion of the Legal Adviser, it was unlikely that there would be no significant manpower or financial implications as Deputy Breckon claimed in his projet. Experience in the United Kingdom seemed to show that significant additional resources were required to implement Freedom of Information reforms.

The Committee thanked the Legal Adviser for his contribution and agreed to receive copies of a presentation made by Mr. Woodside entitled 'Managing Information in the Public Sector'. The Committee requested that his outline comments be redrafted, in liaison with the Executive Officer, into a formal comment on Deputy Breckon's projet, for its consideration as soon as possible. In addition, the Committee requested that the views of the Data Protection Registrar on the Deputy's proposals be sought.

Date of next
meeting

A7. The Committee confirmed the date of its next meeting which was to take place on Thursday 17th April 2003 in the Halkett Room, Morier House, commencing at 9.30 a.m.