

PRIVILEGES AND PROCEDURES COMMITTEE

(60th Meeting)

27th April 2010PART A

All members were present, with the exception of Senator B.I. Le Marquand, from whom apologies had been received.

Connétable J. Gallichan of St. Mary, Chairman
 Deputy J.B. Fox
 Deputy J.A. Martin (not present for item No. A5)
 Deputy C.H. Egré (not present for part of item No. A6; not present for item Nos. A7 to A10 and item Nos. B2 to B4 inclusive)
 Deputy M.R. Higgins

In attendance -

Mrs. D. Abbot-McGuire, Finance and Administration Manager (item Nos. A4 and A5 only)
 M.N. de la Haye, Greffier of the States (item Nos. A1 to A3 and part of item B1 only)
 Mrs. A.H. Harris, Deputy Greffier of the States
 Miss A-C. Heuston, 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 of 8th March 2010 (Part A only); 16th March 2010 (Parts A and B); 22nd March 2010 (Part A only); 30th March 2010 (Parts A and B); 8th April 2010 (Part A Only) and 13th April 2010 (Parts A and B), having been previously circulated, were taken as read and were confirmed.

Composition and election of the States: Single election day each year - States of Jersey (Period for Election) (Jersey) Regulations 201-. 1240/22/1(50)

A2. The Committee, with reference to its Minute No. A5 of 30th March 2010, received the States of Jersey (Period for Election) (Jersey) Regulations 201- and associated draft accompanying report.

The Committee recalled that the Regulations were designed to implement the decision taken by the States on 10th September 2009 to institute a single election day in every year when ordinary elections were held (P.109/2009 refers). As a result, there would be an election every 4 years on the same day for 6 Senators, 12 Connétables and 29 Deputies, the current transitional arrangements for Connétables' elections having expired by 2011. Having discussed the content of the draft report, along with the draft financial and manpower implications, the Committee agreed certain amendments, including that the dates of nomination meetings should be included in the suggested timetable for 2011. The Committee also discussed the requirement for a strong awareness campaign to inform electors of the new system and to ensure that they were aware that 3 separate elections would be held on one day. The Committee was keen to seek the support of the Connétables and to work with the parishes to educate voters, publicising the new system in parish magazines for example.

The Greffier of the States was **requested** to amend the draft accompanying report and to circulate it to members with a view to the Regulations being lodged '*au Greffe*' in early course.

Data handling.
1240/9/1(135)

A3. The Committee, with reference to its Minute No. A5 of 30th March 2010, received a report dated 26th March 2010 and prepared by the Greffier of the States in connexion with draft guidelines for States members on the use of personal information in reports.

The Committee recalled that it had considered concerns expressed by the Data Protection Commissioner regarding the inclusion of personal information in reports accompanying propositions, and that it had agreed at its meeting on 2nd March 2010 to issue guidelines on the matter (Minute No. B2 refers). The Committee received draft guidelines entitled: Reports accompanying propositions – guidelines, and noted the content therein. The draft guidelines had been referred to both the Data Protection Commissioner and the Bailiff, as President of the States, for comment, prior to being brought before the Committee. Both the Data Protection Commissioner and the Bailiff believed the guidelines to be appropriate.

The Committee noted that paragraph 5 of the draft guidelines specified that the names of persons who were not members of the Assembly should not be included in reports unless there were very compelling reasons to do so and that job titles should be used where possible. The Committee discussed whether it might be more appropriate to name individuals for the purpose of clarity, as job titles were passed from one post-holder to another; however, consideration also had to be given to the absence of a right to reply for those named in reports. The position in respect of naming individuals in reports reflected the position under Standing Order 104(2)(i) which prevented members from naming individuals who were not members of the States in the Assembly unless unavoidable and of direct relevance. The Committee recognised that it could propose an amendment to Standing Orders, should it wish to amend the current position. Having discussed the complexities of the matter, the Committee **agreed** to present the Guidelines on Personal Information to the States in the Report series and the Greffier of the States was **requested** to take the necessary action.

The Committee recorded the dissent of Deputy M.R. Higgins.

States Assembly
first quarter
report 2010.
422/10/1(80)

A4. The Committee welcomed the Finance and Administration Manager, Mrs. D. Abbot-McGuire, and received the States Assembly first quarter report 2010.

The Committee noted the predicted under-spend of £146,706 for 2010. Under the year end forecast, Scrutiny was not expected to spend £212,700 of its £880,000 budget. This was then offset by various items of additional expenditure. The Committee noted that there was a total variance between budgeted and predicted expenditure in respect of the Official Report ('Hansard') and members' facilities totalling £10,200, due to the increase in the number of States sittings. A variance of £37,844 was noted in respect of the development of the States Assembly website, and additional unbudgeted expenditure of £9,500 had been allocated to meet the cost of the forthcoming Senatorial by-election.

The position was **noted**.

States members'
facilities.
1240/9/1(137)

A5. The Committee, with reference to its Minute No. A3 of 13th April 2010, gave further consideration to the provision of facilities for States Members and received a report in this regard.

The Committee recalled that it had surveyed members to measure their use of the current facilities, and to request suggestions for improvement. Following discussion of the findings, further work had been carried out, and the Committee discussed the following areas with Finance and Administration Manager, Mrs. D. Abbot-McGuire:

Computer facilities

The Committee **agreed** that a combination of laptops and personal computers

should be installed in the Members' Room adjacent to the States Chamber on the Hill Street side at a cost of £4,450. The Committee noted that the Communications Room could be rearranged and 4 additional workstations installed at a cost of £4,600, however, the Committee agreed that it was content with the current arrangements and only the amendments to the Members' Room should be carried out in the first instance.

It was noted that a new version of Outlook was being rolled out to all users, which would provide 3 times more inbox storage. As States members had roaming profiles, it was not possible for files to be saved to a central server. Java had been installed on the stand alone computers in the Communications Room, but could not be installed onto the networked computers. Skype could be installed on the stand alone computers in the Communications Room, however, there were no webcams available on these computers, and the Skype applications would slow the speed of the computers.

Hansard

It was agreed that consideration should be given to the option of uploading unedited copies of the Official Report ('Hansard') to the intranet prior to the final version being released. Alternatively copies could be circularised to members with a disclaimer advising that this was not the final version and would be replaced in early course. The Committee discussed whether it would be possible to prevent the text from being copied and pasted into other documents, and agreed that further research should be carried out in this regard.

Lockers

A survey had been distributed to members to establish their locker requirements, and it was agreed that some of the smaller lockers should be replaced with larger lockers. Consideration should also be given to the provision of a filing cabinet for those members who expressed an interest in using such a facility.

Magazines/newspapers

A trial 6-month subscription had been made to the Economist.

Toilet

It would not be possible to install a toilet in the shower room as there was no waste pipe in the vicinity.

Having been thanked by the Chairman for her attendance, the Finance and Administration Manager withdrew from the meeting.

Draft Freedom of
Information
(Jersey) Law
201-
670/1(21)

ASS. LD
DGOS

A6. The Committee, with reference to its Minute No. A2 of 13th April 2010, received draft 16 of the Draft Freedom of Information (Jersey) Law 201-, dated 19th April 2010, as well as an accompanying report, dated 26th April 2010 and prepared by the Deputy Greffier of the States. Deputy M.R. Higgins did not participate in the consideration of this item, having expressed a wish to revisit the relevant documentation. Deputy C.H. Egré was only present for part of the consideration of this item.

Having considered the report, in conjunction with the draft Law, the Committee agreed the following:

a) Interpretation (Article 1)

Having discussed the schedule of public authorities to which the Law would apply, the Committee expressed concern that there could be some confusion regarding the use of the terms 'public authority' and 'scheduled public authority' within the draft. It was agreed that use of the term should be standardised accordingly. A schedule of all authorities covered by the Law should be created, which could be amended by Regulation to enable it to be updated with ease. It was agreed that the following authorities would be

included within the schedule from the outset:

- (i) the States Assembly including the States Greffe;
 - (ii) Ministers;
 - (iii) Committees or other bodies established by resolution of the States, or by, or in accordance with, the Standing Orders of the States Assembly;
 - (iv) an administration of the Judicial Greffe;
 - (v) the Viscount's Department.
- b) Refusal to supply information held (Article 8(b) and (c))
It was noted that this Article had been altered slightly to require payment prior to the information being supplied, or to refuse information, if the cost exceeded the financial cap.
- c) Neither confirm nor deny (Article 10)
The Committee noted that the requirement for a neither confirm nor deny clause included policing inquiries, tribunals, investigations by the Comptroller and Auditor General and investigations by the Jersey Financial Services Commission. Where the information sought was restricted or qualified and the authority considered it in the public interest to neither confirm nor deny that it had the information, it would be taken to have denied the provision of the information on the grounds that it was restricted information, although it would not need to specify the particular type of restricted information.
- d) Time frame for dealing with requests (Article 13(2)(b))
This provision had been added to allow by Regulation for a longer period of time to comply with a request, for example, educational establishments which would be closed for extended periods of time.
- e) Publication schemes and index of information held (Article 19)
This Article had been expanded to include a duty to maintain an index of information held in order to enable improved records management.
- f) Supply of information held for a long time (Article 20(3))
Provision had been included for Regulations should a need arise to exempt information from release in the longer term.
- g) Personal information (Article 30(1))
Formerly Article 25, this revised Article amplified the previous provisions in respect of personal information, bringing it in line with the Data Protection (Jersey) Law 2005.
- h) Audit functions (Article 38(3))
This Article had been introduced following receipt of the consultation response of the Comptroller and Auditor General.
- i) Remit of the Information Commissioner (Articles 45 and 46)
These Articles had been introduced in order to enable the issue of a Code of Practice by the Information Commissioner and to bring the draft legislation in line with the provisions contained within the Data Protection (Jersey) Law 2005 for powers of entry, supply and inspection of information. It was noted that the new provisions provided an enabling power in each case.
- j) Appeals to the Information Commissioner (Articles 47(c) and Article 49(2)(d))
Both Articles had been newly inserted in the draft and related to information

otherwise available.

The Committee discussed whether the finalised report should be referred to the Corporate Services Scrutiny Panel in advance of being lodged for debate. It was decided that this would be likely to cause further delay in respect of the eventual lodging of the draft Law, and noted that Scrutiny could call in the draft legislation for review should it wish to do so. It was agreed that there could be a facility included for the review of the Law following the elapse of a specified time period after its introduction, as was the case in the Cayman Islands, where the equivalent legislation was currently under review following its introduction in January 2009.

The Committee **requested** the Deputy Greffier of the States to prepare a draft report to accompany the draft Freedom of Information (Jersey) Law 201-, with a view to the proposed legislation being lodged '*au Greffe*' for debate by the States in due course.

Forthcoming by
election.
424/2(69)

A7. The Committee received correspondence dated 20th April 2010 from the Deputy Judicial Greffier, Advocate Paul Matthews, in connexion with the forthcoming Senatorial by-election. Deputy C.H. Egré was not present for the consideration of this item.

The Deputy Judicial Greffier had requested the use of Meeting Room No. 1 in the States Building for the purposes of postal and pre-poll voting for the period 1st to 16th June 2010. Having discussed the impact which the use of the room may have upon elected members wishing to use the facilities, and having considered alternative options, the Committee recalled that the Judicial Greffe had used the room in the past for this purpose, and members had not made any complaint. It was therefore **agreed** that the Judicial Greffe should be permitted use of Meeting Room No. 1 from 1st to 16th June for postal and pre-poll voting.

The Greffier of the States was **requested** to notify the Deputy Judicial Greffier accordingly.

Review of the
Rôles of the
Crown Officers.
499/3(22)

A8. The Committee received correspondence dated 19th April 2010 from Lord R.J. Carswell, Chairman, Review of the Rôles of the Crown Officers, in connexion with access to Minutes of the Privileges and Procedures Committee. Deputy C.H. Egré was not present for the consideration of this item.

The Committee noted that a written submission received by the Review Panel had suggested that consideration should be given to the development of the States of Jersey Law 2005, in particular, the Minutes of the then Privileges and Procedures Committee, in order to develop the Panel's understanding of the issues surrounding the provision of legal advice by the Law Officers. Lord Carswell had therefore requested that the Panel be granted access to the Minutes of Committee meetings held in private session during the development of the Law, and it was noted that the Panel would not seek to disclose publicly any information it may, as a result, receive in confidence.

The Committee **agreed** that it would be willing to grant access to the relevant Minutes, and the Chairman was **requested** to write to Lord Carswell to advise him accordingly.

Public Accounts
Committee:
States Spending
Review
P.A.C.2/2010.
512(3)

A9. The Committee received a request from the Public Accounts Committee to submit a response to relevant findings and recommendations set out in the report: States Spending Review, which had been presented to the States on 23rd April 2010 (P.A.C.2/2010 refers). Deputy C.H. Egré was not present for the consideration of this item.

The Committee noted the following finding: "*States Assembly decisions are sometimes not implemented and it is not clear who is responsible for ensuring that*

they are.” It also considered the following recommendations:

- “1. *Members of the States Assembly should be aware that the exact wording of a proposition is more important than the accompanying report or what is said in the debate. Chief Officers should take account of the wishes of the Assembly when implementing policy, rather than simply ignoring policies that are inconvenient.*”

The Committee **agreed** that it would undertake to remind members that the proposition itself was the binding element of any project, and the content of the accompanying report was merely background information. The need for Chief Officers to take account of the wishes of the Assembly was not considered to be a matter for the Committee.

2. *Chief Officers should be more heedful of their mandate to carry out decisions of the States. There should be a follow-up process to ensure the work is done. A body or individual should be tasked with ensuring that the decisions of the States Assembly are realised. We note that there is currently no mechanism in place to ensure that this happens and recommend that the Privileges and Procedures Committee investigate whether such a mechanism should be put in place forthwith.*”

It was **agreed** that the requirement for Chief Officers to carry out decisions of the States was not the responsibility of the Committee. Nevertheless, with regard to Standing Order 128(a) of the Standing Orders of the States of Jersey, it was noted that the Committee had a responsibility to keep under review the composition, practices and procedures of the States. The Committee was therefore **minded to recommend** that a mechanism, such as a register of undertakings, be put in place by the Council of Ministers to ensure that decisions of the States Assembly were realised.

It was **agreed** that a response to the Public Accounts Committee should be drafted in this regard, to be approved by the Committee at a future meeting.

The Committee Clerk was **requested** to take the necessary action.

Correspondence. A10. The Committee noted the following correspondence, sent following its meeting of 13th April 2010:

- (a) from the Chairman to former Senator S. Syvret, dated 13th April 2010, in connexion with his ongoing residence outside the Island (Minute No. A10 of 13th April 2010 refers);
- (b) from the Vice Chairman, Deputy C.H. Egré, to the Chief Minister in connexion with the draft Freedom of Information (Jersey) Law 201- (Minute No. A2 of 13th April 2010 refers).

Deputy C.H. Egré was not present for the consideration of this item.

Ongoing work programme. A11. The Committee noted its ongoing work programme, with particular regard to the following:

- (i) Vice Chairman, Deputy C.H. Egré, advised that Information Services would investigate the possible provision of iPads for States members, although concern had been expressed regarding the divergence of the operating system from that used by States Departments.
- (ii) As Chairman of the States Business Organisation Sub-Group, Deputy

Egré advised that the Sub-Group would shortly have finalised its report, which would be referred to the Committee upon completion; and

- (iii) Deputy M.R. Higgins advised that he would make his report regarding electronic library resources to the Committee in early course and invited members to log onto websites entitled: Questia and Jstore.