

Privileges and Procedures Committee

(7th Meeting)

24th June 2024

Part A (Non-Exempt)

All members were present, with the exception of Connétable M.K. Jackson of St. Brelade, from whom apologies had been received.

Connétable K. Shenton-Stone of St. Martin, Chair
Deputy C. S. Alves of St. Helier Central, Vice Chair
Deputy L. K. F. Stephenson of St. Mary, St. Ouen and St. Peter
Deputy T.A. Coles of St. Helier South
Deputy S.M. Ahier of St. Helier North
Deputy L.M.C. Doublet of St. Saviour (for a time)

In attendance -

L-M. Hart, Greffier of the States
W. Millow, Deputy Greffier of the States
T. Oldham, Assistant Greffier of the States, Committees and Panels (for a time) (via Microsoft Teams)
J. Lepp, Research and Project Officer
J. Hales, Research and Project Officer (via Microsoft Teams)
H. Cardinal, Trainee Secretariat Officer
K. M. Larbalestier, Principal Secretariat Officer

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

Minutes.	<p>A1. The Minutes of the meeting of 20th May 2024 (Parts A and B), having previously been circulated, were taken as read and were confirmed.</p> <p>With reference to Minute No. A4 of the above meeting, the Committee noted the view of Deputy L.M.C. Doublet of St. Saviour that the Minute did not record her comments in detail.</p>
Privileges and Procedures Committee: 2024 work programme.	<p>A2. The Committee, with reference to Minute No. A2 of 20th May 2024, noted the 2024 work programme.</p>
Privileges and Procedures Committee: Sub-Committees – update on workstreams.	<p>A3. The Committee, with reference to its Minute No. A3 of 20th May 2024, received oral update reports from the Chairs of the various Sub-Committees which had been established to support the work of the Committee.</p> <p><u>Political Awareness and Education Sub-Committee</u></p> <p>The Committee received an update from Deputy C. S. Alves of St. Helier Central, who advised that the Connétables of St. Martin, St. John and St. Peter had agreed to</p>

trial a citizenship day in their respective parishes. Whilst it had originally been agreed to target those between the ages of 16 and 25, it had been concluded that it would be beneficial to open the event up to new residents too.

The Sub-Committee had recently reviewed the findings of the focus groups which had been established to explore voter engagement in the Island (Minute No. A5 of 19th June 2023, refers) and it was intended to respond to Professor C. Pich of Nottingham Trent University in this connexion.

The Sub-Committee had been made aware of a request from a States Member for a pre-poll to be established during the elections in 2026 at Highlands College. The Greffier of the States advised of the need to consult the Judicial Greffier on this matter. She added that the creation of a digital register would facilitate greater flexibility in terms of the location of pre-polls.

Deputy Alves advised that the Sub-Committee had also discussed changing the election day to a Sunday and it was agreed that Members should be consulted on this. The Sub-Committee had also considered whether it was appropriate for candidates to continue to gather outside polling stations. Deputy L.M.C. Doublet of St. Saviour stated that the current arrangements did not cater for candidates with mobility issues or those with Autism. Deputy T.A. Coles of St. Helier South also explained the challenges of the current arrangements for sight impaired persons. The Committee noted that some of the issues raised were addressed in reports prepared by the Greffier of the States (Minute Nos. A9 – A11 refer).

Machinery of Government Sub-Committee

The Committee received an update from Deputy T.A. Coles of St. Helier South, who advised that the Sub-Committee was considering the procedures and effects on Government of either a Vote of No Confidence proposition in the Chief Minister, or the death of a serving Chief Minister and the timescales for the submission of the nomination document in such circumstances. It was recalled that the Draft States of Jersey (Deputy Chief Minister) Amendment Law 202- was due to be debated in July 2024. The Law would enhance the powers of the Deputy Chief Minister and make provision for the incumbent to act on behalf of the Chief Minister in certain circumstances.

Diversity Forum

The Committee received an update from Deputy L. K. F. Stephenson of St. Mary, St. Ouen and St. Peter, who advised that a response, which lacked substance, had been received from the Chief Minister in relation to a request for information on the Government's diversity and inclusion agenda.

The Forum was also pursuing other workstreams, to include seeking an update on accessibility in the context of the States building; meeting the new Chief Executive of Liberate and Mr. V. Tanner Davy, both of whom had provided useful information in the context of encouraging individuals to stand for election. It was also noted that a member of the executive (Deputy M.R. Ferey of St. Saviour) had agreed to join the Forum and that Deputy L.M.C. Doublet of St. Saviour would be meeting the Chair of the Committee to discuss the establishment of a Women's Caucus.

The Deputy Greffier of the States reminded the Committee that it had previously agreed that the number of Members on each Sub-Committee should mirror arrangements for the main Committee (7 Members). This was designed to address the challenge of obtaining a quorum at meetings of larger Sub-Committees. In

response, Deputy Stephenson advised that having a Member of the Executive on the Sub-Committee was considered extremely beneficial and that there had been no issues with achieving a quorum. Deputy Doublet suggested that consideration should also be given to associate membership of bodies to encourage the involvement of as many Members as possible, particularly in the context of education and diversity.

Pensions Sub-Committee

Deputy S.M. Ahier of St. Helier North advised that consideration was being given to encouraging more Members to join the pension scheme. Deputy Alves suggested that training on the use of the on-line portal would be useful in this context.

The Greffier of the States advised the Committee that Deputy M.E. Millar of St. John, St. Lawrence and Trinity, Minister for Treasury and Resources had recently written to her, as an Accountable Officer, advising of a requirement to identify savings of 1.4 per cent from 2025 and beyond (equating to £150,000). It was noted that as 50 per cent of the States Greffe's budget was used to fund States Members' remuneration so achieving savings of this magnitude presented significant challenges. The States Greffe had recently funded increases to Members' pay by using funding allocated for posts in the States Greffe which had not yet been filled. However, the States Greffe wished to proceed constructively and was proposing to offer up half of the amount requested by reducing the Growth Bid amount allocated for additional States Members to join the pension scheme. At present sufficient funding for 39 Members had been allocated, with 26 Members having joined the scheme. It was proposed to reduce this number to 30 in 2025, releasing funds in the sum of £79,000.

The Greffier highlighted the fact that the necessity to respond to Members' requests for additional support and services often required a flexible approach to the allocation of the budget in order to meet the cost of elements for which no funding existed. Reliance on staff underspends was not sustainable and it was noted that no funding had been set aside in 2026 for exit payments for Members who were not re-elected, the cost of which had been absorbed in 2022 from such underspends.

Deputy Alves suggested that consideration could be given to reviewing eligibility criteria for the States Members' Pension scheme and maximum contribution rates. In terms of contribution rates, the Deputy Greffier reminded the Committee that such matters fell within the remit of the Remuneration Reviewer.

Having considered the above matter, the Committee endorsed the Greffier's recommended savings and agreed to review the pension position after 2025.

Legislation
Advisory Panel
– ability of the
Chair or Vice-
Chair to act as
rapporteur.

A4. The Committee, with reference to Minute No. B6 of 15th April 2024, welcomed Deputy C.D. Curtis of St. Helier Central and Mr. B. Markwell-Sales, Business and Governance Officer to the Council of Ministers. In this connexion the Committee also noted correspondence dated 7th March 2024, which related to ongoing discussions regarding the ability of the Chair/Vice Chair to act in the States Assembly on behalf of the Panel.

It was recalled that the LAP considered areas of Jersey Law that did not naturally align with one particular Minister and were often largely technical and apolitical. As an example, the Panel was currently reviewing the legislation around succession. When proposals for Ministerial Government had been advanced, it had been agreed that responsibility for the former Legislation Committee should be transferred to the

Chief Minister. It was now being suggested that the Chair of the LAP would be best placed to act as *rapporteur* when matters which the Panel had considered were debated by the States Assembly.

On considering the above matter, the Committee as previously constituted had agreed to support a proposal which would allow the Chair or Vice-Chair of the Legislation Advisory Panel to act as *rapporteur* in the States Assembly in matters where the Panel had taken the lead. Members had requested that the necessary amendments to Standing Orders be drafted for approval by the Committee. The Committee had also agreed to request the Chief Minister to present a report to the States which set out the functions of the Panel ahead of lodging amendments to Standing Orders.

The Committee noted that the terms of reference of the Legislation Advisory Panel had been approved by the Chief Minister in a Ministerial Decision (MD-CM-2024-102) on 16th February 2024. Consequently, the Panel was now keen to ensure that the Committee progressed the necessary amendments to Standing Orders, as previously agreed. However, the Committee as presently constituted, had formed the initial view from the terms of reference that the role of the LAP was an advisory one. Reference had also been made to Article 25A(1) of the States of Jersey Law 2005, and Standing Order 112A, which stipulated that the aggregate of the Chief Minister, Ministers and Assistant Ministers should not exceed 21 individuals. In other words, the number of Members in the non-Executive must be greater by a margin of 10 percent (rounded up to the next whole number) than the number in the Executive (this was known colloquially as the ‘Troy rule’).

Deputy Curtis advised that the LAP was seeking a similar arrangement to that enjoyed by the States Employment Board. She explained the practical challenges which arose for the Chief Minister with the current arrangements due to the fact that he had no direct involvement in the work of the LAP. Reference was made by the Chair to the so called ‘Troy rule’ and the advisory role of the Panel, as set out in its Terms of Reference. It was also recognised that whilst the LAP as presently constituted, included Members with considerable professional legal experience, this might not be the case in the future. Deputy Curtis suggested that if this was of concern, the final approval of the Chief Minister could be sought for the progression of any States’ business. Accountability and the blurring of responsibilities were also raised as potential issues by Deputy L.M.C. Doublet of St. Saviour. She was also concerned that permitting the LAP to progress States business in its own right was at odds with the decision not to permit Assistant Ministers to do so. With regard to the parallels which had been drawn with the States Employment Board, the Committee recognised that the Board was appointed in accordance with the Employment of States of Jersey Employees (Jersey) Law 2005, with the Chief Minister as its Chair and 2 other Members (a Minister or Assistant Minister) being appointed by the Chief Minister. The remaining 2 Members were appointed from the non-executive by the States Assembly. Deputy T.A. Coles of St. Helier South suggested that consideration could be given to constituting the Panel in a similar manner. Mr. Markwell-Sales stated that whilst the LAP was now more akin to a Ministerial Group, with the Chair and Vice Chair being appointed by the Chief Minister, it had previously been a Committee of the States. He undertook to share the Committee’s views and suggestions with the Chief Minister and the LAP.

On a related matter, Deputy Doublet suggested that consideration should be given to establishing a Scrutiny Panel with specific responsibility for scrutinising legislation.

Jersey Law
2005 – Article
25A(1)/
Standing Order
112A (Troy
Rule).

been expressed by the Scrutiny Liaison Committee (SLC) in a letter dated 4th June 2024, addressed to the Chair, with regard to adherence to Article 25A (1) of the States of Jersey Law 2005 and Standing Order 112A.

The Committee recalled that Article 25A (1) and Standing Order 112A stipulated that the aggregate of the Chief Minister, Ministers and Assistant Ministers should not exceed 21 individuals. In other words, the number of Members in the non-executive must be greater by a margin of 10 percent (rounded up to the next whole number) than the number in the Executive (this was known colloquially as the ‘Troy rule’).

It was understood that a member of the non-Executive, Deputy Sir P.M. Bailhache of St. Clement had undertaken certain work on behalf of Deputy T.J.A. Binet of St. Saviour, Minister for Health and Social Services. This matter had been referenced in the States Assembly on 2 separate occasions and, whilst it had been stated that the work had been undertaken at a time when Deputy Bailhache was not a member of a Scrutiny Panel, it was believed the work had continued beyond Deputy Bailhache’s appointment to Scrutiny. The President of the SLC had written to the Chief Minister highlighting the potential conflict with the Troy rule and the blurring of boundaries between the work of the Executive and the non-Executive. The Health and Social Security Panel had also written to the Minister for Health and Social Services drawing attention to potential conflicts of interests and setting a target date of 23rd April 2024, for the completion of the work.

The SLC had suggested that consideration be given to amending Standing Orders/the Code of Conduct for Elected Members to provide clarification on the management of situations like this.

Having considered the matter, the Committee concluded that whilst the actions did not appear to be in the spirit of the Troy rule, neither did they constitute a breach. The Committee considered the matter in the context of the Code of Conduct for Elected Members and the Code of Conduct for Ministers. No consensus was reached as to whether the matter constituted a breach of the Code of Conduct for Elected Members and, even if this was considered to be the case, it would be inappropriate for the Privileges and Procedures Committee to refer such a matter to the Commissioner given its role in the complaints process.

The Committee requested that the SLC be advised of its decision, as set out above. It was confirmed that Deputy Doublet could communicate the Committee’s discussion to the SLC in her capacity as a representative of that Committee on the Privileges and Procedures Committee.

States meeting
dates for 2025.

A6. The Committee, with reference to its Minute No. A5 of 17th July 2023, recalled that, in accordance with Standing Order 4 of the Standing Orders of the States of Jersey, it was required to present to the States Assembly, no later than the end of September each year, a list of days for meetings of the States for the first and second sessions in the following year. It was further recalled that, as a consequence of a decision taken by the Committee several years previously, the dates were arranged to avoid meetings during school holiday periods.

The Committee noted the proposed meeting dates for the States Assembly for 2025 as follows –

First Session

January 21st	<u>Continuation (if necessary)</u> January 22nd, 23rd and 24th
February 11th	February 12th, 13th and 14th
March 4th	March 5th, 6th and 7th
March 25th	March 26th, 27th and 28th
April 22nd	April 23rd, 24th and 25th
May 9th (Liberation Day)	
May 13th	May 14th, 15th and 16th
June 3rd	June 4th, 5th and 6th
June 24th	June 25th, 26th and 27th
July 15th	July 16th, 17th and 18th

Second Session

	<u>Continuation (if necessary)</u>
September 9th	September 10th, 11th and 12th
September 30th	October 1st, 2nd and 3rd
October 21st	October 22nd, 23rd and 24th
November 11th	November 12th, 13th and 14th
December 2nd	December 3rd, 4th and 5th

Following some discussion, and in the light of various alternative dates proposed by Deputy C. S. Alves of St. Helier Central, Vice Chair, the Greffier of the States was requested to give further consideration to the proposed dates and to circulate a revised schedule for the Committee's approval at a subsequent meeting.

States of
Jersey
Complaints
Board: Mr. B.
Shenton versus
the Chief
Minister.

A7. The Committee considered a report of the States of Jersey Complaints Board in relation to a complaint against the Chief Minister, which had been made by Mr. B. Shenton, in his capacity as the former Chair of the Jersey Lifeboat Association. It was noted that the complaint related to the alleged illegal suspension of a voluntary organisation (the Jersey Lifeboat Association).

Connétable K. Shenton-Stone of St. Martin, Chair did not participate in this discussion due to a conflict of interest and withdrew from the meeting during consideration of this item.

The Committee approved the report and requested that the Greffier of the States make the necessary arrangements for the report to be presented to the States.

Code of
Conduct for
Elected
Members:
review.

A8. The Committee, with reference to Minute No. A7 of 15th January 2024, of the Committee as previously constituted, considered a report in relation to a survey which had been undertaken in connexion with the previously agreed review of the Code of Conduct for Elected Members.

The Committee recalled that it had been agreed to undertake a review of the Code following discussions with Deputy M.R. Scott of St. Brelade. In response, Deputy Scott had withdrawn her proposition entitled Ethical Standards (P.75/2023).

The Committee noted that all States Members had been invited to participate in the survey, which had been open from 8th April – 10th May 2024. A total of 10 responses had been received and the Committee considered the responses which had been received in relation to a range of topics.

On the recommendation of Deputy C. S. Alves of St. Helier Central, Vice Chair, the

Committee agreed that the survey should be re-circulated before the summer recess with Members being requested to respond within 2 weeks.

Jersey
Electoral
Authority:
outstanding
recommendat-
ions arising
from the 2022
election.

A9. The Committee, with reference to Minute No. B4 of 20th May 2024, considered a report which had been prepared by the Greffier of the States in connexion with outstanding recommendations arising from the Jersey Electoral Authority's final report following the 2022 election.

The Committee noted that many of the recommendations required practical procedural changes which could be managed by key stakeholders, particularly in relation to the production and circulation of manifesto booklets. Suggested changes to the Elections (Jersey) Law 2002, included the following –

- Consider whether an alternative qualifying address could be used (only where making the address public posed a genuine risk to the individual).

The Committee agreed that the qualifying address should be used for administrative purposes only.

- Reduce proposers and seconders to a proposer and one seconder.

The Committee agreed to consult all States Members on the above recommendation (as part of a wider survey).

- Consider a modest refundable election deposit for candidates.

The Committee agreed to defer consideration of this recommendation pending the receipt of survey responses on the number of proposers and seconders.

- require a police check certificate with nomination documents.

The Committee rejected this recommendation.

Manifesto booklets should be the responsibility of the JEA. **The Committee endorsed this recommendation.**

- Requirements for the manifesto booklet should be fully integrated into the nomination process.

The Committee endorsed this recommendation.

- Disallow sitting members of the Assembly from using “gov.je” contact email addresses in the manifesto booklet.

The Committee endorsed this recommendation.

- Linking the nomination announcement to an election launch event where candidates could gather (to generate publicity)

The Committee rejected this recommendation.

- Formalise hustings.

The Committee deferred consideration of this recommendation.

- The delivery of polling cards to voters close to election day as a prompt (in place of registration letters) or, alternatively sending registration letters out closer to the election (it was noted that the introduction of the digital register in 2026 might result in the removal of Article 7A entirely).

The Committee endorsed this recommendation.

- Making campaign material look like official election documentation should be deemed an offence.

The Committee deferred consideration of this recommendation.

- The process of postal voting should be reviewed with a view to using an external provider.

The Committee deferred consideration of this recommendation. It was agreed that a presentation from UK Engage, a provider of voting services for elections, should be arranged and that the Judicial Greffier should be invited to attend.

- Consideration should be given to setting an earlier deadline for the receipt of postal votes to allow for signature checking before election day.

The Committee deferred consideration of this recommendation.

The Greffier of the States was requested to take the necessary action and Members were invited to contact her if there were any additional changes they would wish to take forward in relation to the Election legislation and process. Law Drafting instructions, based on what had been agreed to date, would be prepared so that the draft legislation could be ready for debate well before the June 2025 deadline.

Electoral
Observers
Mission:
outstanding
recommendat-
ions arising
from the 2022
election.

A10. The Committee, with reference to Minute No. B4 of 20th May 2024, considered a report which had been prepared by the Greffier of the States in connexion with outstanding recommendations arising from the Commonwealth Parliamentary Association Electoral Observers' Mission report, which had been prepared following the 2022 election.

The Committee noted the following suggested changes to the Elections (Jersey) Law 2002–

To allow for broader electoral participation on an equal basis, the blanket ban on the right to vote for persons serving prison sentences exceeding 4 years should be removed. (if supported consideration would have to be given to the which constituency prisoners would be able to vote in).

The Committee requested the Greffier of the States to undertake research on the position in other jurisdictions and to consult all States Members on the above recommendation (as part of a wider survey in relation to a number of issues).

To allow for broader electoral participation on an equal basis, candidates rights should be reviewed and brought in line with international standards and good practices for democratic elections, including:

- a) the blanket ban on the right to stand for 7 years for anyone previously sentenced to more than 3 months in prison should be removed;
- b) the indefinite blanket ban on the right to stand for anyone found guilty of electoral offences under the Corruption (Jersey) Law 2006 while serving a public function should be removed;
- c) Any restrictions on the right to stand against persons with disabilities should be eliminated from the law.

The Committee agreed to consult all States Members on the above recommendation (as part of a wider survey).

The Committee noted that, if adopted, the aforementioned recommendations would also require an amendment to the States of Jersey Law 2005.

Results should be announced and published per polling station and per constituency or Parish, including the total number of voters on the voters' list, the number of voters having cast a ballot, the number of invalid ballots, and the number of votes cast per candidate.

The Committee agreed to consult all States Members on the above recommendation (as part of a wider survey).

The Committee was asked to consider whether it might be more appropriate for the count to take place on the day following the election.

The Committee agreed to consult all States Members on the above recommendation (as part of a wider survey).

The Committee supported the Greffier's suggestion that, alongside the survey, Members could also be invited to join a live event where voting on the recommendations could take place.

Electoral Administrators' recommendations arising from the 2022 election.

A11. The Committee, with reference to Minute No. B4 of 20th May 2024, considered a report which had been prepared by the Greffier of the States in connexion with outstanding recommendations arising from the Electoral Administrators' (Parish Secretaries) report, which had been prepared following the 2022 election.

The Committee noted that many of the recommendations aligned with those of the Jersey Electoral Authority (JEA) and Commonwealth Parliamentary Election Observers Mission. Most were of a practical nature and could be implemented without legislative changes, as follows –

- The JEA could play a role in co-ordinating resource sharing across the Island to increase the resilience of the election.
- An exercise should be conducted to ascertain the impact a severe disruptive

physical event on election day.

- All material relating to the election/electoral process should be available in large print, including applications for postal voting.
- In advance of the next election, the JEA and others should meet with relevant organisations to fully understand the needs of all voters.
- The importance of pre-poll and polling station staff marking the correct voter on the register should be emphasised in any training provided.
- Consideration should be given to holding election counts the day after the election rather than immediately following the close of the poll, as long as election material can be appropriately secured overnight.
- The required level of detail in results forms should be reviewed and completed forms scrutinised as soon as possible after the count is completed so that any errors can be addressed immediately.
- In relation to the consistency of a secret ballot with ballot paper counterfoil numbers being marked on the register, consideration should be given as to whether confidence could be reinforced if the destruction of previous election material was undertaken after public demonstration that the previous seals remained intact.
- In terms of the removal of all election material, consideration should be given to making non-removal (following notice) subject to an administrative fine.

The Committee noted the rationale for the proposed changes and endorsed the recommendations.

Referendum
Commission:
appointment of
Chair.

A12. The Committee, with reference to Minute No. A6 of 20th May 2024, received an oral report from the Deputy Greffier of the States in connexion with the appointment of a Chair to the Referendum Commission, which had been established in accordance with the Referendum (Jersey) Law 2017.

The Committee recalled that it had recently approved the appointment of 3 Commissioners pending further information on progress in relation to the appointment of a Chair.

The Committee was advised that Advocate M. Boothman had expressed an interest in chairing the Commission on a permanent basis and this proposal would be considered by the recruitment panel. It was noted that the recruitment process to fill the 2 vacant posts would commence shortly.

The Committee noted the position.

Date of next
meeting.

A13. The Committee noted that the next scheduled meeting would be held on 8th July 2024, at 10.00 am in the Blampied Room.