

PRIVILEGES AND PROCEDURES COMMITTEE

(14th Meeting)

15th July 2004PART A

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

Deputy R.G. Le Hérisssier
 Connétable D.F. Gray
 Deputy P.N. Troy
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 Mrs. S. Stoten, Committee Clerk
 Mr. R. Whitehead, Principal Legal Adviser

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

- Minutes. A1. The minutes of the meetings held on 25th May (Part A only), 3rd June (Parts A and B) and 10th June (Part A only), having been previously circulated were taken as read and were confirmed.
- Matters arising A2. The Committee recalled that Senator P.V.F. Le Claire and Deputy C.J. Scott Warren had been appointed as a Sub-Committee to review outstanding issues relating to the draft Code of Conduct. The Committee noted that once political directives had been given by the Sub-Committee research could be carried out over the summer recess in respect of the Code.
- The Greffier of the States was requested to investigate resource options to assist the Sub-Committee so that the item could be considered by the Committee at its next meeting.
- The Committee further noted that the Joint Working Party on Electoral Reform had yet to meet and that research was also required in preparation for its inaugural meeting. It was recognised that Deputy G.W.J. de Faye had spent considerable time producing his own research into the matter but that alternative viewpoints and academic approaches should be sought. The Committee agreed that Professor Adrian Lee of Plymouth University, should be approached to produce some independent research and initially a quote for providing his services.
- Deputy P.N. Troy, as Chairman of the Joint Working Party would obtain the contact details of Professor Lee from the President in order that introductions and initial enquiries could be made.
- Public Finances Law. A3. The Committee, with reference to Act No. A of its meeting held on 2004, received and considered a paper prepared by the Greffier of the States in connexion

with the Draft Public Finances Administration (Jersey) Law 200- and the ability of members to bring forward propositions with financial implications in the new system.

The Committee noted that present provisions on propositions with financial implications were somewhat unsatisfactory, with no restriction on propositions with financial consequences being brought forward. The Committee further noted that propositions could be approved by the States but effectively ignored if no funds were made available by the Finance and Economics Committee or identified in processes such as the Fundamental Spending Review. The new draft Public Finances Law would, as drafted, stop any such propositions being brought forward by a private member in the new system. Members would be able to lodge propositions asking for 'in principle' agreement for expenditure and the Council of Ministers would be required to take account of this when preparing the Annual Business Plan but would not be required to include the proposal.

The Committee had previously considered this matter and expressed a view that the draft Law should possibly be amended to allow members to bring propositions with financial implications up to a certain amount (possibly £250,000). The view of the Treasury and of the Finance and Economics Committee was that it would be extremely unsatisfactory for this to be allowed. Proposing an amendment to allow ad hoc spending decisions outside the budget cycle was considered to be bad financial practice and something that was not allowed in other jurisdictions. The Finance and Economics Committee argument was that ad hoc spending decisions meant that resources would not always be allocated to areas of highest priority (as the items will be considered in isolation) and that as a result total spending could not be under control.

The Committee recognised that the present system was extremely unsatisfactory as it effectively allowed the States to be ignored and could build public expectations on matters such as a Town Park or cheaper air fares that were never prioritised and, as a result, might never happen.

The Committee was asked whether to allow the draft to go forward as proposed by the Finance and Economics Committee; or bring forward an amendment to allow propositions with financial implications to be lodged by members, and if minded to pursue an amendment against the strong advice of the Finance and Economics Committee as summarised whether it would be sensible to amend the draft Law to require the Council of Ministers to include any spending decisions approved by the States in the next Annual Business Plan, to avoid the current situation where decisions of the States were effectively ignored.

The Committee recognised that in its present format, the draft Law restricted private members ability tremendously and made any propositions with financial implications redundant. The Committee considered whether potentially the general reserve could exist for the purpose of funding propositions adopted by the States without having first been approved in the annual business plan. The Committee further considered whether propositions could be drafted in such a way as to require investigation into funding rather than stressing an obligation on behalf of the sponsoring Department.

The Committee agreed that further thought was required on the matter and requested that it be tabled at its next meeting in September.

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P.R.E.O.
P.R.C.C.
T.O.S.
F.E.C.C.

was discussed. The Committee recalled that that it had considered Acts of the Policy and Resources and Finance and Economics Committees at its last meeting, having agreed that the topic required significant research in order to address its concerns regarding accountability and sufficient scrutiny of the Annual Business Plan.

In order to give adequate emphasis to the issue of scrutiny, it had previously been proposed that the lodging period for both the Annual Business Plan and Budget should be extended and that the Treasury and Resources Minister would need to consult with the public and all other relevant bodies on all major proposals in advance of lodging the documents. Furthermore States Members would be given the opportunity to bring forward propositions for 'in principle' approval of spending/taxation proposals outside of the Annual Business Plan and Budget processes. It was noted that in other jurisdictions there was a standing Budget/Resource Plan Scrutiny Committee which reviewed matters on an ongoing basis, and it was acknowledged that this would ensure budgets flowed from the Business Plan.

The Committee noted that representatives of the Committees attending the Tripartite meeting had agreed the Privileges and Procedures Committee should investigate how other jurisdictions dealt with the scrutiny of budgetary matters and that a report would be prepared by the Committee and circulated to all three Committees by the end of July. Senator Le Sueur had specifically requested that the report should detail the plans to scrutinise expenditure. It was noted that an officer from the Treasury would assist in the preparation of the report, which would be considered at a subsequent Tripartite Meeting.

The Committee agreed that it was important to separate how funds were raised and spent and that Scrutiny should concentrate on expenditure. It was accepted that once the Public Accounts Committee was established there would be more information available regarding the use of funds. The Committee further agreed that a report should be prepared and requested that the Greffier of the States allocate an Officer to carry out the necessary research although it recognised that a more realistic deadline of late September for the report to be published should be agreed.

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

Introduction of a
'division bell'.
1240/22(44)

A5. The Committee received and considered a report, dated 15th July 2004 prepared by the Greffier of the States in connexion with the introduction of a 'division bell' in rooms adjacent to the States Chamber.

The Committee recalled that it had considered the matter at the time of the introduction of electronic voting but at that time rejected the idea. The Committee was requested to consider whether it was in favour of introducing a 'division bell' and noted the following arguments for and against its introduction -

Arguments in favour of a 'division bell'

The main argument in favour was that a division bell would alert members that a vote was to be taken and all members would be able to return to the Chamber to participate. The Committee noted that Division bells were common in many other Parliaments around the world although it was probably true to say that in many Parliaments attendance in the Chamber was regarded as considerably less important than in Jersey. The introduction of a division bell would allow members to return to

the Chamber in an orderly way rather than the “scramble” that could appear to happen at present, especially since the introduction of electronic voting.

Arguments against a ‘division bell’

The draft Code of Conduct stated that members should be present in the Chamber when the States were meeting unless there were “compelling reasons” not to be there. The States of Jersey Law 1966 (and the recently lodged draft States of Jersey Law 200-) contained a statutory requirement for a minimum number of members (24) to be present when the States were meeting.

If members knew that they could await the ringing of a ‘division bell’ before returning to the Chamber it could encourage members to remain out of the Chamber for longer periods than at present. The introduction of a bell could be said to send a message that attendance in debates was unimportant provided that members returned for the vote. On a purely practical level the introduction of a bell would clearly lead to some delay as it would not be worthwhile having a bell unless there was a delay of, say, one minute before the vote was opened. This waiting period would effectively be wasted time and some of the time benefit that had been shown to be a feature of electronic voting would be lost.

The Committee gave in principle agreement to the introduction of a ‘division bell’ but agreed that the opinions of the Bailiff and Deputy Bailiff as speaker of the Assembly should be sought and the arguments circulated to all States members in order to establish a consensus. Connétable D.F. Gray requested that his dissent be recorded in respect of the introduction of the ‘division bell’.

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

Freedom of
Information.
955(36)

A6. The Committee received and considered a report entitled ‘Freedom of Information in Jersey - Code versus Law’ prepared by Mrs. Tracy Mourant, Research Assistant, States Greffe, dated July 2004.

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Encl.

The Committee was apprised of the perceived deficiencies of the existing Code of Practice on Public Access to Official Information and the estimated costs of implementing a Law.

The Committee noted the report and congratulated the author in its clarity. The Committee expressed its commitment to establishing a Freedom of Information Law which had been strengthened by the report and its findings; the Working Party was requested to meet at the earliest convenience to consider the Law drafting timetable and further discussions in relation to the cost of a publications scheme. The Committee further authorised the Working Party to progress the outstanding policy issues in conjunction with the Data Protection Registrar, and to prepare an appropriate update for the Committee at its next meeting.

The Greffier of the States was requested to send a copy of this Act to the Finance and Economics Committee to advise it of proposed cost implications should a publications scheme or advanced information asset register be introduced. A copy was also requested for the Education, Sport and Culture Committee in order that the Working Party might obtain a copy of the Records Management Report commissioned by the Department.

Code of Practice

A7. The Committee, with reference to Act no A5 of its meeting held on 23rd April

on Public Access
to Official
Information –
measures to
improve
implement-ation.
955(32)

2004, received an oral update from the Deputy Greffier of the States with regard to the implementations of changes to the Code of Practice of Public Access to Official Information.

The Committee recalled that its proposition ‘Code of Practice on Public Access to Official Information – measures to improve implementation’ (P80/2004) had been adopted by the States on 8th June 2004. The Committee was advised that the introduction of an Information Asset Register would come into force on the 8th September 2004 which would result in the titles of all reports considered of a strategic or consultancy nature being published on the register.

The Deputy Greffier informed the Committee that she had recently met with Deputy P.N. Troy to discuss the publication of third party report titles and the format of the register either in hard copy or on the internet. It was hoped that an indication of whether a report was confidential, in progress or to be released on a specific day would also be included on the register.

Adjustments were due to be completed on the States Greffe web site to accommodate the requirements of the improved Code of Practice on Public Access to Official Information and it was hoped that all Committees and Departments would comply.

The Committee noted that a letter was due to be distributed to all Presidents and Chief Officers advising of the implications of the improvement measures whilst also encouraging their support of the initiative. The Committee agreed the changes represented a move toward openness of government and freedom of information and thanked Deputy Troy and the Deputy Greffier for their work to date.

States Members’
Remuneration
Review Body.
1240/3(73)

A8. The Committee, with reference to Act No A3 of its meeting held on 26th May 2004, received an oral update from the Greffier of the States in respect of the Remuneration Review Body and its progress to date.

The Committee was apprised that the Body would hold its inaugural meeting on 19th July and intended to send out questionnaires to all States members. The Body also planned to request submissions from members of the public with public hearings anticipated for September. An October deadline for the publication of the Body’s recommendations was considered achievable and the Committee was asked for guidance on the matter of whether it should address the issue of different levels of pay for different roles for example Ministers, Committee Presidents or Assistant Ministers.

The Committee agreed that the Remuneration Review Body should maintain complete independence from the Privileges and Procedures Committee and encouraged it to pursue the matter if deemed necessary without Committee direction. The Committee further agreed that it would not be able to distinguish between the different roles and ministerial responsibilities until the system had been in place for some time.

The Greffier of the States was requested to update the Remuneration Review Body accordingly and looked forward to its findings being published in due course.

Scrutiny Budgets.
502/1(25)

A9. The Committee, with reference to Act No. A6 of its meeting held on 24th June 2004, recalled that it had considered the issue of splitting the budget assigned for the Scrutiny function between the two Panels.

Scrutiny

The Committee was advised that the total budget for the two Panels for expenditure such as specialist advisers and transcription was thought to be approximately

£100,000. It was deemed appropriate to split the budget as follows –

£35,000	Vibert Panel
£35,000	Dorey Panel
£30,000	Held in a central fund overseen by the Chairmen's Panel.

The Committee approved the above split subject to confirmation being received that the total budget available was indeed £100,000 and that it would receive regular financial reports from the Chairman's Panel.

The Committee directed its Officers to carry out the necessary financial analysis and advise the Panels accordingly. It was anticipated that the Chairmen would discuss the matter further at its quarterly update meeting with the Committee at its September meeting.

Guidelines to
Officers
attending
Scrutiny Panel
hearings.
502/1(17)

A10. The Committee, with reference to Act No. A8 of its meeting held on 24th June 2004, re-considered an Act of the Policy and Resources Committee dated 6th May 2004 and associated report entitled 'Guidelines to Officers attending Scrutiny Panels'.

Scrutiny

The Committee recognised that the issue was of particular concern to the Vice President who had previously questioned the legal advice received in preparing the guidelines. The Principal Legal Adviser, having witnessed a Scrutiny Panel hearing, had noted that witnesses were referred to scrutiny protocols in giving evidence which would also require some legal analysis.

The Committee requested that the Law Officers Department review the guidelines published by the Policy and Resources Department whilst also considering the legal implications of the Scrutiny Protocols for witnesses attending hearings.

The Committee stressed that it did not wish to hold up any of the Panels work nor be overcritical of the guideline and protocols published to date but nevertheless expressed its serious concerns with regard to the legality of some statements.

Quarterly
Scrutiny update
meeting.
465/1(55)

A11. The Committee, with reference to Act No. A13 of its meeting held on 23rd April 2004, recalled it had agreed to hold quarterly meetings with the Chairmen of the Shadow Scrutiny Panels and the Shadow Chairman of the Public Accounts Committee in order to maintain a general overview of the Scrutiny work program.

Scrutiny

The Committee noted that it had missed an opportunity to hold a meeting in June and further noted that its next meeting scheduled for September represented the most convenient time to invite the Chairmen to attend.

The Committee agreed that the Shadow Chairman of the Public Accounts Committee and the Scrutiny Chairmen should be invited to its next meeting and directed the Committee Clerk accordingly

Proposed 2005
Budget and Cash
limits.
422/10/1(73)

A12. The Committee received and considered a letter dated 25th June 2004 from the Treasurer of the States concerning the Committee's proposed 2005 budget and cash limits.

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The Committee noted that the proposed cash limit for 2005 was £5,199,700 for the purposes of the Resource Plan with an indicative figure of £5,235,000 once pay awards were added in due course. The Committee recognised that it had received a net increase in budget of £1,232,700 i.e. the Fundamental Spending Review process

which represented a 31% increase on the previous year. The Committee further noted that the breakdown of the increase was as follows –

Growth allocated in FSR (funding for Scrutiny, members' remuneration, States Building costs and Comptroller and Auditor General)	£ 1,369,000
Savings required as part of FSR process	£ (156,000)
Additional funds for non-staff inflation	£ 84,800
PPC share of percentage corporate efficiency saving (imposed on every Committee)	£ (65,100)

The Assistant Greffier of the States, who acted as Finance Officer for the Committee, was satisfied that the savings shown above could be achieved, as they had already been achieved in part following the closure of the PPC office earlier in the year. The Committee was informed that a further report, including the detailed information requested by the Treasurer, would be presented to the Committee for approval in due course.

The Committee recalled that it had agreed to submit an amendment to the Resource Plan at its last meeting in respect of establishing a Hansard system. The Committee agreed that despite being unsuccessful at retaining funds for this initiative during the FSR process, it was of the opinion that Hansard represented an important aspect of government in particular to record the new style of question time and of the scrutiny function.

The Committee noted the proposed 2005 cash limits but agreed it could only accept them subject to additional funds being made available for the establishment of a Hansard system and requested that an amendment be submitted to the 2005 Resource Plan accordingly.

The Greffier of the States was requested to send a copy of this Act to the Finance and Economics Committee and take the necessary action in respect of the aforementioned amendment.

Future of
Legislation
Committee.
1092/1(30)

C.E., P&R
P.R.E.O.
P.R.C.C.

A.13. The Committee, with reference to Act No B5.of the Policy and Resources Committee dated 1st July 2004, received an oral report form Connétable D.F. Gray as President of the Legislation Committee in relation to the future of the Legislation Committee and the allocation of its responsibilities in the Ministerial system of Government.

The Committee noted that Connétable Gray had attended a meeting of the Policy and Resources Committee when the matter had been discussed in his capacity as President of the Legislation Committee. It was further noted that as a result of the Ministry of Government Reforms, ten Departments of government would be formed and that it had initially been proposed that the Chief Minister's Department would be responsible for the Law Commission. Whilst it had been agreed that the Legislation Committee would continue to function during the transitional period leading up to the introduction of the Ministerial system, further consultation would be required before a decision could be made as to how its work would be undertaken once Ministerial government was established.

The Committee recognised that much of the work carried out by the Legislation Committee would not easily match the responsibilities of existing Committees and noted the concerns of H.M. Attorney General that dealing with procedural items of

legislation would not receive priority attention by the Chief Minister. A report requested by the Policy and Resources Committee relating to the possible composition of a sub-committee or advisory group that might take on current roles and responsibilities of the current Legislation Committee would be published in due course.

The Committee considered the views expressed by the Legislation Committee that responsibility for the Public Elections Law would sit more comfortably within an extended remit of the Privileges and Procedures Committee as opposed to the Chief Minister's Department and agreed that this appeared to be an appropriate arrangement where the work would sit well with that of the newly established Joint Working Party for Electoral Reform chaired by Deputy P.N. Troy.

The Greffier of the States was requested to send a copy of the Act to the Policy and Resources Committee advising that it would be prepared to adopt responsibility for the Public Elections Law.

States Building
and members
facilities –
outstanding
issues.
1060/5/1(50)

A14. The Committee considered an issue list prepared by the Committee Clerk regarding facilities management of the States Building.

The Committee noted that since the States Building had been refurbished various matters of a domestic nature remained outstanding such as the quality of States lunches and the distribution of furniture in the members' quiet room.

With regard to the members quiet room and its possible adoption by the Jurats, the Committee agreed that it would await the outcome of the debate of the proposition lodged 'au Greffe' on 20th April 2004 by the Environment and Public Services Committee, 'Royal Court House, States Building: Allocation of Accommodation (P.69-2004) before considering moving any furniture.

The Committee also agreed that Deputy J.B. Bernstein would approach the current supplier of members' lunches, Simple Simons, to notify of a possible re-tendering process in an effort to improve quality and variety in lunches served during States sittings.

The Committee Clerk was requested to co-ordinate any future issue and those still outstanding and ensure a resolution within the Department unless its attention was specifically required.

Deputy C.J.
Scott-Warren –
expense claim.

A15. The Committee recalled that the President and Deputy Scott-Warren had recently attended a Jersey Law Review Conference of which the Deputy's expenses were to be covered by the Committee up to £200.

The Committee was advised that Deputy Scott-Warren's expenses exceeded this amount by £50. The Committee noted the increase and approved repayment accordingly.

Composition and
Election of the
States Assembly
(P.115/2004).
1240/22/1(13)

A16. The Committee received an oral presentation from Deputy F.J. Hill B.E.M. with regard to his proposition 'Composition and Election of the States Assembly' (P.115/2004).

The Committee was informed that Deputy Hill had faced some obstacles in setting a date for debate prior to the Special Committee on the Composition and Election of the States Assembly put forward its own proposal. The Deputy informed the

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Committee that he had wished to present proposals relating to the reform of the States Assembly when still a member of the Special Committee himself but since not being re-elected had chosen to bring his own proposition to the Assembly. The Committee was requested to support Deputy Hill in securing a date of debate for the first session of the Autumn sittings on 14th September 2004 to maintain momentum.

The Committee noted that there was significant opposition in the Assembly to any proposition relating to the Composition and Election of the States Assembly not lodged by the Committee specifically established to deal with such matters. The Committee, whilst mindful of Deputy Hill's intentions and the similarities between the Special Committee's consultation paper and his proposition was of the opinion that the Special Committee should reconvene.

The Committee recognised the complex issues at play but agreed that it was the responsibility of Deputy Hill to put forward a case for a appropriate date of debate considering the opposition he faced in the Assembly.

Future meetings.

A17. The Committee noted that the next meeting scheduled for 2nd September 2004 was not possible for some members and accordingly agreed to meet on 16th September 2004 between 1pm and 4pm.

Items for information

A18. The Committee noted the following matters for information –

- (a) a letter dated 6th July 2004 addressed to the President from the Bailiff in response to the Committee's enquiries regarding the organisation of States dinners;
- (b) an Act of the Legislation Committee dated 28th May 2004 in connexion with the Joint Party on Electoral reform and the nomination of Deputy G.W.J. de Faye as a member.