

PRIVILEGES AND PROCEDURES COMMITTEE

(27th Meeting)

9th January 2004PART A

All members were present, with the exception of Deputy J-A. Bridge, from whom apologies had been received.

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. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States  
 Mrs. J. Marshall, Senior Executive Officer  
 Miss F. Agnès, Executive Officer  
 M.P. Haden, Committee Clerk.

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

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| Minutes                                       | A1. The Minutes of the meetings held on 12th and 18th December 2003, having been previously circulated, were taken as read and were confirmed.   |
| Simultaneous Electronic Voting.<br>1240/22(8) | A2. The Committee, with reference to its Act No. A11 (c) of 14th November 2003, received an oral report from the Executive Officer regarding a delay in the installation of the simultaneous electronic voting system for the States Assembly.   |
| E.P.S.C.(2)<br>Ex.Off.                        | <p>The Committee was advised that, due to an oversight by the Public Services Department, the required permission for internal alterations to a designated Site of Special Interest had not been sought in time for the work to be carried out, as expected during the Christmas recess. Consequently, it was not expected that the system would now be installed until the beginning of March 2004.</p> <p>The Committee requested that a memorandum be sent to all States members advising them of the delay. It also wished to formally express to the Environment and Public Services Committee its disappointment in this state of affairs. In addition, it recalled that it had not yet been possible to conclude a satisfactory a Service Level Agreement for users of the States Building. The Committee felt that such matters reflected badly on the States and the way it conducted its business.</p> <p>The Greffier of the States was directed to send a copy of this Act to the Environment and Public Services Committee.</p> |
| Simultaneous Electronic Voting.               | A3. The Committee received a report from the Greffier of the States regarding the changes required to be made to Standing Orders to enable the introduction of Simultaneous Electronic Voting.   |

1240/22(8)

Ex.Off.

The Committee was requested to consider the following matters -

- (a) whether members in their designated seat at the point of voting should be required to record a vote or an abstention, or might they simply decide not to push any button;
- (b) how to deal with the situation of a vote that was subsequently shown to be flawed because of a technical fault; and
- (c) whether there should be a defined period of time in which members were allowed to return to their designated seats before a vote was taken.

The Committee noted the first draft of the amendment to Standing Orders and agreed to give the matter further consideration at its next meeting.

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

Ex.Off.

A4. The Committee, with reference to its Act No. A2 of 30th May 2003, considered its handling of the forthcoming States debate on the Official Report of the States Assembly and its Committees (‘Hansard’) (P.81/2003) for which Deputy F.J. Hill, B.E.M. was to act as rapporteur.

The Committee noted the views of the Bailiff on the question of editing the report. In his view, light editing to remove obvious errors and incomprehensible phrases was appropriate. The published record of States debates would become a shopfront of the States Assembly throughout the Commonwealth and beyond. It was noted that the transcript of the Les Pas debate in the States, which had been produced in an absolutely literal fashion without editing, had, in several instances, been difficult to read. The Committee was prepared to support the ‘light editing’ approach.

The Committee was advised that the two Committee Rooms in the States Building would be wired for recording, with the cost initially being borne from the Committee’s budget. If the States approved P.81/2003, it was expected that the Committee would be reimbursed for the expenditure. Otherwise the cost would remain with the Committee.

The Committee was advised that, should the question of cost be raised in the States debate, it should be made clear that there appeared to be no cheaper, realistic option to that proposed in P.81/2003.

Code Of Practice  
On Public Access  
To Official  
Information:  
Register of  
Reports  
(P.196/2003) -  
comments  
955(32)

Ex.Off.  
Pub.Ed.  
States (2)

A5. The Committee, with reference to its Act No. A4 of 12th December 2003, considered its draft comments on the Code Of Practice On Public Access To Official Information: Register of Reports (P.193/2003).

The Committee agreed that it was important to get a clear definition of the term ‘report’ in order to establish the level of report required to be included in the proposed register.

The Committee commended the concept of a central register of reports, which it felt would contribute to open government. It felt, however, that more thought was required into the means by which the public would gain access to the reports listed on the register.

**The Committee approved the draft comment, subject to certain revisions put forward by the President.**

The Committee then considered an amendment to P.196/2003. It noted that Deputy Troy's proposition requested the States to agree that the proposed central register should be established '*with effect from 1st March 2004*'. The Committee was of the opinion that this deadline was unrealistic. It believed that three months from the date the proposition was accepted would be a more realistic target to enable the necessary systems to be put in place. **The Committee requested that an amendment be drafted accordingly.**

On a related matter, the Committee noted correspondence between the President and Mr. J. Avery in relation to public access to States Consultants' reports. The President said that he had been unable to contact Mr. Avery personally. The Committee agreed to give Mr. Avery's suggestions further consideration.

Code of Practice  
on Public Access  
To Official  
Information:  
measures to  
improve  
implement-ation  
(P.164/2003)  
955(32)

A6. The Committee, with reference to its Act No. A4 of 28th November 2003, noted an amendment, lodged 'au Greffe' by Senator S. Syvret, to its proposition Code of Practice on Public Access To Official Information: measures to improve implementation (P.164/2003).

**The Committee was of the opinion that the amendment merely strengthened measures already included in its own proposition and agreed to accept Senator Syvret's amendment.**

The Committee agreed to a request from Deputy P.N. Troy that the debate on proposition P.164/2003 should transferred to 3rd February 2004 to coincide with the debate on P.196/2003.

Ex.Off.  
Pub.Ed.  
States (2)

Shadow Scrutiny:  
arrangements and  
approval of  
Chairman and  
members  
(P.186/2003)  
502/1(6)

A7. The Committee received a report, dated 2nd January 2003, from the Greffier of the States regarding the proposed procedure for the election of the Shadow Scrutiny Chairmen.

The Committee agreed -

(a) that the elections would take place on the date of the debate on P.186/2003;

(b) that the procedure should mirror the current procedure for the election of Committee Presidents, as set out in Standing Order 41. Members would be invited to vote for two candidates, with the top two being elected.

The Greffier of the States was requested to discuss the procedure with the Bailiff.

States of Jersey  
Law - final draft.  
450/1(1)

A8. The Committee, with reference to its Act No. A5 of 28th November 2003 and with H.M. Attorney General in attendance, considered the final draft of the new States of Jersey Law.

Ex.Off.  
A.G.

The Committee noted that the Human Resources Sub-Committee of the Policy and Resources Committee had been requested to discuss the matter of disqualification of States employees for election. It also noted the suggestion that the matter of qualification and disqualification should focus on the individual's seniority, by reference to his or her grade, rather than on the kind of work undertaken.

The Committee discussed with the Attorney General the implications of Article 30 on

the Duty to refer certain matters to the States. The Committee requested clarification whether it had any genuine discretion to revise or comment on United Kingdom legislation, or Orders in Council, being extended to the Island. The Committee was advised that Article 30 was a protective mechanism which indicated the Island's constitutional right to have the opportunity to comment, as appropriate, on such legislation. It was acknowledged that, sometimes, legislation was enacted with very short notice for good reason. However, the Article was a reminder that legislation should not be registered in the Royal Court without due reference to the States. The Committee felt that it was important that States members received appropriate briefing on such legislation. It was also mindful that a number of States members were concerned about the volume of legislation coming from the European Union over which the Island appeared to have little or no control. It was advised that the Island was obliged for commercial reasons to comply with regulations regarding trade in goods. With regard to international conventions the policy now applied by the Law Officers' Department was that Treaties and Conventions should not be ratified on behalf of the Island unless its own domestic laws were adequate to fulfil the requirements of such conventions.

The Committee noted that the previous article on the Vote of No Confidence had been removed from the final draft. It was agreed that States members should be made aware of the reasons for this alteration from the agreed position in the States debate on P.149/2002 on the election and removal of ministers and votes of no confidence in ministers.

**The Committee approved the draft Law and requested that it be sent for consideration to the Department of Constitutional Affairs in the usual way. It also requested that the draft Law be distributed to States members, Chief Officers and the media and agreed to invite members to a presentation on the draft Law on 23rd January 2003, commencing at 11 a.m.**

The Committee wished to record its thanks to the Law Draftsman and the Law Officers Department for their work in preparing the draft Law.

Administrative  
Appeals  
System/Ombudsman  
- draft discussion  
document.  
1386/2(71)  
465/1(30)

A9. The Committee, with reference to its Act No. A5 of 14th November 2003, and with H.M. Attorney General in attendance, received a draft discussion document, prepared by the Greffier of the States regarding proposals to improve the current Administrative Appeals system.

The Committee noted that in the United Kingdom only approximately 21 per cent of complainants obtained remedies as a result of going to the local Government Ombudsman. However, it was of the opinion that the system was useful in that it allowed complainants the opportunity to have their case heard in public. In addition, it appeared that in a large number of cases the findings of the Ombudsman were implemented. The weakness of the current system in Jersey was that the findings of the Board of Administrative Appeals were too often ignored.

The Attorney General raised the question whether attention should be drawn in paragraph 53 to the ability of individual States members to force a States debate on Committee decisions. He suggested that this appeared to be inconsistent with the changes to the machinery of government which promoted the distinction between Executive decision-making and States policy-making roles.

The Committee agreed that the draft discussion document addressed the main areas of concern in relation to the current system. It agreed to send the draft document to the Chairman and Members of the Administrative Appeals Panel for comment and to

invite the members of the Panel to the next Committee meeting to discuss the proposals.

Matters for information/ Acts of other Committees.

A10. The Committee noted the following matters for information -

- (a) a letter, dated 22nd December 2003, addressed to all States members from the President of the Policy and Resources Committee in relation to the proposed Committee of Inquiry into the circumstances leading to the States' decision to reach an agreement with Les Pas Holdings over the claim to the St. Helier foreshore;
- (b) a copy of correspondence, dated 8th January 2004, from Deputy G.C.L. Baudains in response to the above letter;
- (c) correspondence, dated 30th December 2003, from Mr. B. Cooper in relation to the Committee of Inquiry. The Committee was advised that the Attorney General had already written to Mr. Cooper regarding the issues he had raised. It was agreed that this was not a matter for the Committee and that no action would be taken in this regard;
- (d) Act No. A7 of the Finance and Economics Committee of the 10th December 2003 in connexion with Shadow Public Accounts Committee terms of reference;
- (e) Act No. A4 of the Economic Development Committee of the 26th November 2003 in connexion with the Working Party on the Arrangement of Public Business;
- (f) Act No. A5 of the Employment and Social Security Committee of the 11th December 2003 in connexion with States Members Remuneration: contribution liability;
- (g) Act No. A6 of the Policy & Resources Committee of the 18th December 2003 in connexion with the Code of Practice on Public Access to Information: measures to improve implementation;
- (h) Act No. A7 of the Policy and Resources Committee of the 18th December 2003 in connexion with the Shadow Public Accounts Committee: Terms of Reference.
- (i) Notes and Action Points from the inaugural meeting of the Working Party on the Organisation of Public Business, held on 17th December 2003.

Meetings 2004.

A11. The Committee recalled that it had agreed to meet on a three weekly cycle in 2004. The Senior Executive Officer was requested to circulate the schedule of meeting dates.

The Committee confirmed the date of its next meeting to be held on Friday 30th January commencing at 11 a.m. in the Halkett Room, Morier House.