STATES OF JERSEY

STANDING ORDERS: ANSWERS TO QUESTIONS (P.25/2017) – COMMENTS

Presented to the States on 18th May 2017
by the Privileges and Procedures Committee

STATES GREFFE

COMMENTS

In 'Standing Orders: Answers to Questions' (P.25/2017), Deputy G.P. Southern of St. Helier has proposed that the following two amendments be made to Standing Orders –

1. Where lists of data are required in order to answer a particular oral question, these may be circulated to Members in printed form at the time the answer is given; and

2. Answers given shall address the content of the question being asked and be confined to the subject matter of the question; if the presiding officer is of the opinion that the answer given fails to do so, he shall draw the Member's attention to these requirements in Standing Orders and ask the Member to attempt to address the content of the question more directly.

The Privileges and Procedures Committee considered these two proposed amendments at a recent meeting, particularly in the light of work we are ourselves undertaking on prospective amendments to Standing Orders.

Proposed Amendment 1 – Lists of data to be circulated alongside answers to oral questions

Paragraph (a)(i) of the proposition would, if adopted, make it possible for lists of data to be circulated in printed form at the time that an oral answer was given, if such a list were required to answer that particular oral question.

We believe it would be helpful if Deputy Southern were able to confirm his intentions in respect of this provision. It is not entirely clear from the proposition and accompanying report why precisely this provision is needed and how it would be applied in practice.

The accompanying report states that "*there are occasions, after the written deadline has passed*," when a question which requires a list or table in order to be answered has to be submitted as an oral question. Paragraph (a)(i) could thereby be seen as seeking the introduction of a provision for an 'urgent written question', albeit that it would be answered predominantly orally. Whilst the logic for such a provision might be understood, its introduction should not provide a means of circumventing the deadlines which otherwise currently apply in Standing Orders. It should not be a means by which a Member could effectively ask a written question if they had simply happened to miss the deadline for written questions for that meeting.

It is also not entirely clear from the proposition or accompanying report who would decide whether a list of data was required to answer the oral question and that the list should therefore be circulated. Would it be the questioner or the respondent?

Notwithstanding the above, the Deputy has used the word 'may' in paragraph (a)(i), and it would appear that he is not seeking for this provision to be applied as an obligation; the circulation of a list would instead be an option. If taking that option were at the discretion of the respondent, we can see there being benefits in what the Deputy has proposed.

One advantage would likely be that any list of data would be entered into the formal record of the Assembly and uploaded to the Assembly's website. As the Deputy states in the report accompanying his proposition, Members currently answering oral questions where the provision of a list is requested take different approaches to dealing with such questions. One approach is to circulate the material subsequent to, or during, the Assembly's meeting. However, this is done at the Member's own initiative, and the information does not necessarily appear in the Assembly's official records as a result. That could feasibly change if provision were made for lists of data officially to be circulated to accompany an answer to an oral question. If paragraph (a)(i) were adopted, a standard procedure could therefore be introduced to the effect that, where a Minister or other respondent undertook to circulate papers to Members after a meeting of the States, the States Greffe would arrange for these to be published as part of the official record, for instance as an addendum to Hansard.

Proposed Amendment 2 – Direct answers to questions

Paragraph (a)(ii) of the proposition would, if adopted, make it a requirement for answers to address the content of the question being asked and to be confined to the subject matter of the question. It would also allow the presiding officer, where he or she were of the opinion that the answer given did not meet these requirements, to draw the respondent's attention to the requirements and to ask that Member to attempt to address the content of the question more directly.

What the Deputy is seeking to achieve with paragraph (a)(ii) is very similar to a prospective amendment which we have been working on. We are currently developing amendments that would, if adopted, implement recommendations of the Standing Orders and Internal Procedures Sub-Committee (which comprised Senator P.F.C. Ozouf and Deputy J.A. Martin of St. Helier).

The first recommendation of the Sub-Committee was that "*Standing Orders 63 and 65, which relate to the answering of oral questions with, and without, notice, should be amended to provide that an answer must be directly relevant to the question*." We accepted this recommendation and have therefore been working on amendments to these two Standing Orders. In making its recommendation, the Sub-Committee had seen that similar provisions relating to the relevance of answers exist elsewhere, for example in the Standing Orders of Australia's House of Representatives, and also those of the House of Representatives of New Zealand.

In light of the fact that the Assembly will debate paragraph (a)(ii), we have decided not to proceed with our own prospective amendment for the time being, pending the Assembly's decision on Deputy Southern's proposition.

In accepting the Sub-Committee's recommendation, we were aware that such a requirement would see the presiding officer, on occasion, required to rule on the matter of whether or not an answer was directly relevant to the question. Deputy Southern's proposition also effectively acknowledges that, in the way paragraph (a)(ii) is worded.

The Deputy has previously sought the Assembly's approval of a measure such as this, in 'Standing Orders: Answers to Questions' (P.30/2012). Comments on that proposition from the Privileges and Procedures Committee of the day were that such a change "*could make question time less effective*", as the Committee's enquiries had shown that

"*a significant proportion of question time in the New Zealand Parliament is actually spent responding to points of order rather than answering questions*."

In the report accompanying his proposition, Deputy Southern has acknowledged that the introduction of this provision could indeed make matters more "*problematical*" for the presiding officer, who would be asked to adjudicate on the relevance of an answer provided. However, were paragraph (a)(ii) to be adopted, there are measures which could be taken to mitigate the challenge facing the presiding officer and to ensure that question time did not in fact become less effective.

In that regard, consideration could be given to mirroring practice followed in Australia; where procedures acknowledge that this kind of provision can lead to disputes between the presiding officer and the Member responding to a question about the relevance of the answer given. Those procedures also therefore provide that, where there is such a dispute, the respondent is required to provide a more relevant answer in writing for the presiding officer to approve within 48 hours. This allows a way out of any impasse which might arise in the Chamber and a potential 'cooling-off' period on both sides. Should the Assembly decide to adopt paragraph (a)(ii) of the proposition, a similar, consequential amendment to Standing Orders should also be made to allow for such situations to be addressed.