

PRIVILEGES AND PROCEDURES COMMITTEE

(74th Meeting)

7th September 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
 Connétable P.F.M. Hanning of St. Saviour
 Deputy J.B. Fox
 Deputy J.A. Martin
 Deputy C.H. Egré
 Deputy M.R. Higgins (not present for items Nos. A11, B1, B2 and B3)

In attendance -

M.N. de la Haye, 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 13th July 2010 (Part A and Part B), 27th July 2010 (Part A and Part B), and 19th August 2010 (Part A only), having previously been circulated, were taken as read and were confirmed.

Draft Freedom of Information (Jersey) Law 201-670/1(21) A2. The Committee, with reference to its Minute No. A2 of 13th July 2010 received correspondence dated 10th August 2010 from Mr. J. Harris, Director General, Jersey Financial Services Commission, in connexion with the draft Freedom of Information (Jersey) Law 201- (P.101/2010 refers).

The Committee noted that, while the majority of concerns raised by the Commission during the consultation period had been addressed, concern remained that the qualified exemption available under Article 43(g) of the draft Law was too narrow, and that this could result in prejudice to the carrying out of certain of the Commission's functions. The Commission therefore considered that the Article should be amended to cover information which it held as a result of carrying out of its statutory functions under Article 5 of the Financial Services Commission (Jersey) Law 1998. The Commission also raised concern with regard to Article 19(3) of the draft Law, which stated that "each public authority, in order to facilitate the implementation of th[e] Law... whether immediately or at some future time, must prepare and maintain an index of the information that it holds". In the light of the practical, resource and manpower implications of this requirement, the Commission had requested that the wording be amended to reflect paragraph 2.1.1 of the Code of Practice on Public Access to Official Information, to require an authority "to keep a general record of all information that it holds", or that the Article be deleted.

The Committee, having considered the Commission's request, agreed that it was not minded to amend the exemption under Article 43(g). It was noted that information which did not relate to the proper supervision or regulation of financial services, and

which should be classified exempt, would almost certainly already be covered by other exemptions contained within the draft Law. These exemptions could be applied to information held by the Jersey Financial Services Commission if the public interest in supplying the information was deemed to outweigh the public interest in not doing so. It was agreed that, if the Commission was able to provide a specific example where information which should be exempt would not already be covered by another exemption it should advise the Committee accordingly. With regard to the Commission's request that the Committee consider a revision to the indexing requirement under Article 19(3) of the draft Law, the Committee considered it imperative that public authorities should maintain an index in order to ensure the proper function of the Law. The Committee also noted a number of comments contained within the Annex to the correspondence from Mr. Harris and it was agreed that these should be drawn to the attention of the Law Draftsman as necessary.

The Chairman was requested to write to Mr. Harris in the above terms. The Committee Clerk was requested to take the necessary action.

Deposits for
election
candidates.
424/2(70)

A3. The Committee, with reference to its Minute No. A3 of 13th July 2010 considered a draft report and proposition in connexion with deposits for election candidates and nomination procedures for Senators.

The Committee recalled that it had agreed on 13th July 2010 to draft a proposition which would propose the introduction of a deposit of £500 for election candidates, as well as new procedures which would require senatorial candidates to obtain signatures from 2 electors in each parish on his or her nomination form. The Committee was mindful that it intended to discuss the proposals of the Public Elections Working Party at its next meeting, and accordingly **agreed** to defer consideration of this item, as it would be preferable to discuss matters pertaining to public elections simultaneously.

The position was noted and the matter was **deferred** until 21st September 2010.

Election
candidates'
declarations.
424/2(71)

A4. The Committee, with reference to its Minute No. A6 of 27th July 2010 received a report in connexion with election candidates' declarations.

The Committee recalled that, in accordance with Article 9 of the States of Jersey Law 2005, candidates' declarations were provided at the time of nomination. The content of the declaration was not verified in advance, and there was no express provision in the Public Elections (Jersey) Law 2002 for an election candidate to be challenged on the declaration prior to the election date. To make a false declaration would be a criminal offence under Article 9(4) of the States of Jersey Law 2005 with a maximum penalty of a fine and no automatic disqualification for a successful candidate.

The Committee **agreed** that it would wish to examine the current procedure to determine whether the process whereby a declaration could be challenged was effective, and to establish whether the consequences of making a false declaration were sufficient. It was **agreed** that a meeting should be arranged with the Chairman of the Comité des Connétables, the Attorney General and the Deputy Judicial Greffier due to their involvement in the nomination, election and swearing in procedures.

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

Draft Annual
Business Plan.

A5. The Committee received a draft comment in connexion with the proposition entitled: Draft Annual Business Plan 2011 (P.99/2010): seventh amendment, lodged

P.99/2010
447/1/1/5(1)

“*au Greffe*” on 24th August 2010 by Senator B.E. Shenton (P.99/2010 Amd. (7) refers).

The Committee noted that the Senator’s amendment proposed a decrease in the net revenue expenditure of the States Assembly and its services by freezing the remuneration of elected members for 2011 at its 2010 level and making a further reduction in the budget for 2012 and beyond. Senator Shenton contended that the overall cost of political representation on the Island was too high; noted that members’ current salary structure did not take into account their workload or position; and considered that reducing the remuneration budget would push the States Assembly towards reform. Should Senator Shenton’s proposed additional decrease for 2012 and beyond be approved and the States decide to retain salaries at current levels, the number of members would need to be reduced by 10. Alternatively, if 53 members were retained, the proposed reduction would result in earnings of £37,238 per annum, per member, in 2012.

The Committee recalled that the States had agreed in 2003 that it was not appropriate for members to discuss their own remuneration, and that this had led to the establishment of the independent States Members’ Remuneration Review Body. The Review Body had recommended an increase in members’ salaries of £800 per annum from 2011, however, there was no requirement for elected members to claim the full amount of remuneration available and members could take the decision not to receive the increase should they so wish. With regard to the proposal to reduce the number of States members by 10 in order to maintain salaries at their current level and to achieve the proposed saving, the Committee **agreed** that deliberation on the appropriate composition of the Assembly should not be driven by purely financial considerations.

The Committee **agreed** that the draft comment on Senator Shenton’s amendment to P.99/2010 should be amended to include reference to the pay freeze for States members in 2010, as well as reference to the proposition of Senator A. Breckon entitled: Machinery of government: establishment of Ministerial Boards and revised system of scrutiny (P.120/2010 refers), as this could result in changes to the appropriate membership of the Assembly. The revised draft comment should then be circulated to members for approval.

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

Financial and
manpower
statements in
propositions:
revised
procedures.
P.92/2010
450/2/1(31)

A6. The Committee received the proposition entitled: Financial and manpower statements in propositions: revised procedures, lodged “*au Greffe*” on 30th June 2010 by Deputy P.V.F. Le Claire (P.92/2010 refers).

The Deputy proposed that the current procedures under Standing Order 21 of the Standing Orders of the States of Jersey be amended in respect of the requirement to include a statement of financial and manpower implications in propositions or amendments. Under the proposed revised procedure a member would be able to insert a complete financial and manpower statement, or, alternatively, a statement specifying that the information had been requested from the relevant Minister or Ministers but was not yet available. The information would then be circulated by the Greffier of the States as an addendum to the proposition. Any Minister requested in writing to provide the information would be required to do so within 7 days. Should the proposition be adopted by the States, the Privileges and Procedures Committee would be requested to bring forward the necessary amendments to Standing Orders.

The Committee, having discussed the report and proposition, **agreed** that Standing Order 21 should be amended in order to provide an indication of the time-scale

within which a Minister would be expected to assist a member. The Committee was not, however, content with the proposed time-frame of 7 days for a response. It was agreed that a 14-day deadline would be preferable as a shorter timescale could result in deficient propositions being lodged "*au Greffe*". The Committee **agreed** that it would be content to consider the matter and bring forward a proposition to amend Standing Order 21 in early course.

The Committee **agreed** that it would wish to present a comment to the States to this effect.

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

Machinery of
Government:
establishment of
Ministerial
Boards and
revised system of
scrutiny.
P.120/2010
1240/22/1(55)

A7. The Committee received the proposition entitled: Machinery of government: establishment of Ministerial Boards and revised system of scrutiny, lodged "*au Greffe*" on 26th August 2010 by Senator A. Breckon (P.120/2010 refers).

The Committee recalled that it had discussed a previous proposition in respect of the machinery of government, which had since been withdrawn by the Senator (P.70/2010 refers). The original proposition having been lodged, a working party was subsequently established to discuss the proposals outlined in the proposition. The Committee noted the report of the working party, which had been appended to P.120/2010. The revised system would remove the current restriction on the total number of Assistant Ministers and introduce a system of Ministerial Boards, whose members would be elected and removed from office by the States. The current system of 5 Scrutiny Panels would be replaced by an overarching system of scrutiny whereby topic review plans would be established by a Policy Review Committee. If the proposition was to be adopted by the States, the Privileges and Procedures Committee would be required to bring forward the necessary legislation to give effect to the changes, in consultation with the Council of Ministers, with a view to introducing the revised system in 2011 after the next ordinary elections.

The Committee discussed the proposition and noted that some concern had been expressed regarding the effectiveness of the proposed Ministerial Boards. It was agreed that, provided Ministers were willing to engage in a meaningful and constructive way with all Board members, the Boards would function effectively. The Committee also considered that, in addition to being a forum for discussion and consultation, the Boards would provide members with the opportunity to participate in executive decision-making due to the provision of delegated powers from Ministers to Board members.

The Committee noted that Senator Breckon's proposition was the culmination of a series of projects which sought to examine the function of the machinery of government in Jersey. The States Business Organisation Sub-Group had been established by the Committee in November 2009 and had made the initial recommendation that a more wide-ranging review should be carried out; Deputy J.B. Fox and Connétable J.M. Refault had addressed the Committee in connexion with the function of ministerial government in the Isle of Man following research which they had undertaken during a regional Commonwealth Parliamentary Association conference; and the officers of the States Greffe and the Chief Minister's Department had supported the working party which had reviewed Senator Breckon's original proposition (P.70/2010). The Committee agreed that it would wish to acknowledge the work carried out by members and officers in this regard and accordingly **agreed** to present a comment to this effect to the States.

The Committee **agreed** that a comment should be drafted for consideration at its next meeting. The Committee Clerk was directed to take the necessary action.

Members' profiles on the States Assembly website.
871/1(2)

A8. The Committee received e-mail correspondence from Deputy M. Tadier dated 23rd July 2010 in connexion with members' profiles on the States Assembly website.

The Deputy had requested that the details of his blogsite be added to his profile page. The Committee agreed that only official States links should be uploaded to the website. It was noted that, should a member of the public wish to access a States member's personal website or blogsite they could use the contact details provided to request the address from the relevant member.

It was **agreed** that Deputy Tadier should be advised accordingly. The Committee Clerk was requested to take the necessary action.

Media relations: Code of Conduct. P.100/2010 1240/10(36)

A9. The Committee, with reference to its Minute No. A7 of 13th July 2010 received the amendment of Deputy R.G. Le Hérissier to the proposition: Media relations: Code of Conduct, lodged "*au Greffe*" on 2nd September 2010 (P.100/2010 Amd. refers).

The Committee recalled that its proposition P.100/2010 proposed the introduction of a Code of Conduct which would limit the taking of visual or audio recordings of States meetings to members of the accredited media. Deputy Le Hérissier's amendment proposed the establishment of a second Code of Conduct to govern the taking of visual and audio recordings by members of the public. The Committee did not consider it appropriate for 2 contradictory Codes of Conduct to run simultaneously. It was noted that, if the Code proposed by the Committee was to be adopted, members of the public would continue to be permitted to attend meetings and it would not, in any way, "suppress political comment," as Deputy Le Hérissier had suggested. If an additional Code were to be adopted to permit members of the public to record meetings, the Committee was not content that the necessary safeguards would be available to ensure that they would, upon publication, differentiate between opinion and factual reporting; adhere to relevant legislation including defamation and data protection laws; and provide a means of redress for parties aggrieved by publication. It had been agreed that it would not be cost-effective to install broadcast quality cameras in the States Building, and that a system should instead be installed to enable audio web-streaming to the States Assembly website.

The Committee **agreed** that a comment on Deputy Le Hérissier's amendment should be drafted to this effect. The Committee Clerk was directed to take the necessary action.

Matters for information.

A10. The Committee noted the following matters for information:

- 1) correspondence sent following its meeting on 27th July 2010:
 - (a) from the Chairman to the Chief Minister, dated 30th July 2010 regarding the Code of Conduct for Ministers;
 - (b) from the Chairman to Mr. M.F. Dubras dated 30th July 2010 regarding hustings procedures;
 - (c) from the Greffier of the States to the Acting Chief Officer of the States of Jersey Police dated 5th August 2010 regarding members' security;
 - (d) from the Chairman to all States members dated 6th August 2010

regarding postal charges;

- (e) from the Chairman to all States members dated 11th August 2010 regarding the findings of the Public Accounts Committee in its financial review of the Jersey Heritage Trust;
 - (f) from the Greffier of the States to the Chief Usher dated 16th August 2010 regarding admission to the Public Gallery.
- 2) correspondence received by the Chairman from a member of the public which alleged the misuse by a States member of the free parking provision. It was **agreed** that the Chairman should circulate the terms and conditions of use of the parking provision to all States members.
 - 3) the forthcoming draft Annual Business Plan debate was expected to take a number of days. It was accordingly **agreed** that on Monday 13th September 2010 the Chairman would propose that the States sit until 7 p.m. on Tuesday 14th, Wednesday 15th, Thursday 16th and Friday 17th September 2010. The Chairman was **requested** to e-mail all members in advance to advise them accordingly; and
 - 4) the extensive workload of the States Assembly, which led the Committee to **agree** to defer debate on the proposition entitled: Media relations: Code of Conduct, lodged "*au Greffe*" on 15th July 2010 (P.100/2010 refers).

Work
programme.
465/1(110)

A11. The Committee noted its on-going work programme, with particular regard to the following:

- (i) free mailing for election candidates - it was **agreed** that members would give individual consideration to this matter in advance of the next scheduled meeting;
- (ii) information technology provision for States members - Deputy C.H. Egré would continue to progress the establishment of trial in respect of the provision of iPads or e-readers for States members.