

PRIVILEGES AND PROCEDURES COMMITTEE

(40th Meeting)

17th March 2005PART A

All members were present, with the exception of Senator P.V.F. Le Claire, from whom apologies had been received.

Deputy R.G. Le Hérisssier  
 Connétable D.F. Gray  
 Deputy P.N. Troy  
 Deputy C.J. Scott Warren  
 Deputy J-A. Bridge  
 Deputy J.A. Bernstein

Deputy C.J. Scott Warren was not present for Items A1-A6 inclusive.

In attendance -

Mrs. A.H. Harris, Deputy Greffier of the States  
 P. Monamy, Senior 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 3rd February (Part A only), 8th February (Part A only), 24th February (Part A only) and 4th March 2005 (Part A only), having been previously circulated, were taken as read and were confirmed.  |
| Matters arising from previous Minutes. | A2. The Committee noted the following matters arising from its previous Minutes -  |
| Clerk                                  | <p>(a) <b>Act A1 of 24th January 2005 - Joint Working Party on Electoral Reform</b> - Having recalled that statistics relating to the attendance of voters at polling stations from 8 a.m. to 10 a.m. had been made available in respect of the most recent Senatorial election, the Committee asked to see for any available statistics relating to the attendance of such voters in respect of elections;</p> <p>(b) <b>Act A4 of 24th January 2005 - A People's Advocate: comments</b> - The Committee, having recalled that it had agreed that the proposition (P.202/2004) highlighted the need for a full review of the role and functions of the unelected members of the States Assembly, noted that it was understood that Senator E.P. Vibert intended to propose a report and proposition to that effect in due course;</p> <p>(c) <b>Act A2 of 3rd February 2005 - Standing Orders: Register of Members' Interests - publication</b> - The Committee noted that further correspondence had been received from Mr. B. Querée, a journalist from the Jersey Evening Post, seeking information regarding the action being taken regarding his request for permission to publish the Register of Members' Interests;</p> <p>(d) <b>Act A1 of 8th February 2005 - Freedom of Information: position paper</b> - The Committee noted from the Vice-President that the final version of the key policy principles were not yet available for</p> |

presentation to it, as submissions remained outstanding from various respondents. It was agreed that, once completed, the final paper should also be provided to Senator S. Syvret and Deputy A. Breckon, which members had previously expressed an interest in this matter;

- (e) **Act A2 of 24th February 2005 - Standing Orders of the States of Jersey: revision** - The Committee noted that the first draft of the revised Standing Orders had been completed by the Law Draftsman and would appear on the Agenda for the Committee's next meeting;
- (f) **Act A6 of 24th February 2005 - Ombudsman: report concerning Ombudsman in Gibraltar** - The Committee noted that a response had not yet been received to its invitation to Deputy A. Breckon for discussion of the advantages and disadvantages of an Ombudsman system.

'Red Tape Reform':  
response to  
correspondence.  
465/1(61)

A3. The Committee noted a request from an officer of the Policy and Resources Department for the Committee's comments on submissions which had been made in response to its invitation for views on 'Red Tape Reform', which sought to identify and eliminate unnecessary bureaucracy.

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

The Committee decided to bring to the attention of the Policy and Resources Committee the difficulties associated with the complexity of the "Class 2 Contributions Claim Form" and also the re-claim procedures in respect of Class 2 Contributions.

The Greffier of the States was directed to send a copy of this Act to the Policy and Resources Committee.

Recording and  
promulgation of  
ministerial  
decisions.  
1240/22/1(35)

A4. The Committee, with reference to its Act No. A10 of 5th March 2004, considered a report dated 10th March 2005 prepared by the Business Manager, Policy and Resources Department concerning the current situation in relation to the proposed recording and promulgation of ministerial decisions.

Clerk  
C.E., P&R  
P.R.E.O.  
P.R.C.C.  
T.O.S.  
C.I.Aud.  
F.E.C.C.

The Committee noted that the arrangements for the recording and promulgation of ministerial decisions were well advanced, with a trial currently in operation involving the Education, Sport and Culture Committee which, it was hoped, would provide a good opportunity to test out the proposed arrangements in advance of the transition to the ministerial system at the end of 2005.

Having noted a draft template for the Minutes of the Council of Ministers and for ministerial decisions, the Committee further noted that H.M. Attorney General had commented on the draft template. It was recognised that the expectation was that the Minutes of the Council of Ministers would be similar to those presently produced in respect of the Policy and Resources Committee.

**The Committee, having considered the difficulties associated with recording decisions made on the basis of verbal reports, agreed that consideration should be given to adding "financial information" to the template, as well as those parties who had been present when the decision was made.**

The Greffier of the States was directed to send a copy of this Act to the Policy and Resources and Finance and Economics Committees.

Public Elections  
(Jersey) Law  
2002:  
amendments  
regarding  
proposals for

A5. The Committee, with reference to its Act No. A1 of 24th January 2005, considered responses to its "Public Elections (Jersey) Law 2002: proposals for change" consultative paper (R.C.7/2005).

The Committee agreed that it would wish to progress those matters which were considered to be routine and minor so that they might be in place for the elections

change and ballot  
papers/political  
parties.  
424/2(13)  
424/2(27)

Clerk  
L.D.  
C.E., P&R  
P.R.E.O.  
P.R.C.C.

to be held in the autumn of 2005. These included the identical change to the States of Jersey Law to accompany the change to Article 5 of the Public Elections Law regarding eligibility for election. The Committee noted that the amendments to Articles 37 to 46 relating to postal or pre-poll votes were not considered to be routine or minor and could not therefore be progressed during 2005. The Committee agreed, however, to request the Policy and Resources Committee to include amendments relating to postal and pre-poll votes in a forthcoming law drafting programme.

The Committee also considered a memorandum from the Principal Legal Adviser relating to amendments to the Public Elections (Jersey) Law 2002 in order to provide that the name of a political party could be added to the name of a candidate on the ballot paper. **The Committee agreed that it would wish to pursue an amendment to Article 24(3) of the Law in order to provide for this information, and to request that an amendment be prepared by Regulation to the form of the ballot. In order to keep the form as simple as possible, the Committee decide that it should include the name of the political party written in full (i.e. initials were not to be used), or in the event that a candidate did not belong to a party and wanted to make this clear they could instead include the word "independent." The Committee considered that the name of such a political party should be a reasonable length and it was agreed that four words should be sufficient. The Committee further agreed that a logo would not be provided for on the ballot form. The Committee decided to enquire as to whether there might be a way in which any of the detail (e.g. the designation of the name of a political party) could be dealt with administratively.**

The Committee recalled that a Mr. J. Gosselin had submitted comments in writing following the publication of the Report by the Joint Working Party on Electoral Reform (R.C.7/2005). Deputy Troy undertook to advise the Committee regarding that submission at its next meeting.

The Committee requested the Law Draftsman to prepare the above-mentioned 'routine and minor' amendments with a view to their being debated and brought into force in time for the elections to be held in the autumn of 2005, on the basis of a brief to be provided by the Greffier of the States. The Committee further requested the Policy and Resources Committee to allocate Law Drafting time in a subsequent Legislation Programme to enable the amendments to Articles 37 to 46 relating to postal or pre-poll votes to be prepared.

The Greffier of the States was directed to send a copy of this Act to the Policy and Resources Committee.

Public petitions  
system: revision  
and implement-  
ation.  
1240/13(83)

Clerk

A6. The Committee, with reference to its Act No. 23rd April 2004, considered a paper prepared by the Committee Clerk concerning means by which the matter of revisions to the public petitions system might be progressed.

The Committee recalled that it had previously decided that, as part of its ongoing review of the Standing Orders of the States of Jersey, it wished to consider further the establishment of a system comparable with the Public Petitions Committee in the Scottish Parliament.

**Having considered the issues involved, including responsibility for any reformed system for public petitions and the resource implications arising therefrom, the Committee agreed that this matter was not high amongst its overall priorities but could warrant future consideration.**

In the circumstances, the Committee asked the Deputy Greffier of the States to provide it with a more detailed assessment of the resource implications.

Code of Conduct:

A7. The Committee received correspondence, dated 7th March 2005, from

complaint against  
Senator M.E.  
Vibert.  
1240/9/2(9)

Advocate C. Lakeman, in his capacity as Chairman of the Board of the Jersey Opera House, concerning a complaint against Senator M.E. Vibert in relation to questions in the States to which the Senator had provided answers on 1st March 2005.

G.O.S.  
Clerk.  
A.G.

Having noted the grounds of the complaint and that the Company's lawyers were "considering what action to take against Senator Vibert in respect of a purported agreement", the Committee recalled that it had no formal powers at present to conduct investigations under the Code of Conduct for members of the States as that code had no legal effect. The Committee recognised that it had previously received clear advice from the Law Officers' Department that it should not attempt to become involved in any complaints where legal action was pending or threatened.

**The Committee concluded that it was unable to investigate the complaint against Senator Vibert and the Deputy Greffier of the States was directed to respond to Advocate Lakeman accordingly.**

Standing Orders  
of the States of  
Jersey:  
Committee  
Statements.  
1240/4(169)  
  
Clerk

A8. The Committee discussed with the Deputy Greffier of the States her report concerning Committee Statements which were made in pursuance of the Standing Orders of the States of Jersey.

The Committee noted that, while the contents of a proposed statement made as a "personal explanation" (Standing Order No. 16) were required to be submitted in full to the Bailiff in order to seek his leave to make it, The contents of Committee statements were not provided for in Standing Orders. The Committee further noted that the Bailiff had suggested that the Privileges and Procedures Committee might wish to consider this disparity in treatment as between personal and Committee statements and to decide whether any changes might be required to Standing Orders.

**The Committee, having agreed that it considered that Committee Statements should be confirmed by the Committee concerned and recorded in an appropriate Minute, recognised that this matter would be addressed as part of the overall review of Standing Orders of the States of Jersey.**

2006-2008  
Resource  
Allocation  
Process: outcome  
for Privileges and  
Procedures  
Committee.  
422/10/1(74)  
  
Clerk  
A.G.O.S.  
L.D.

A9. The Committee considered a memorandum, dated 15th March 2005, from the Greffier of the States concerning the outcomes of deliberation by Committee Presidents in relation to the submissions made by the Privileges and Procedures Committee to the 2006-2008 Resource Allocation Process

The Committee recognised that, other than the efficiency savings which all chief officers had been asked to identify within their respective departments (without impacting on services), it had not been asked to make any direct savings for 2006. In relation to growth, the Committee noted that a total of £553,000 had been agreed for 2006 and beyond, as follows -

- (a) Hansard - an additional £150,000 per annum;
- (b) Comptroller and Auditor General - an additional £189,000 per annum;
- (c) Scrutiny - an additional £214,000 per annum.

The Committee noted that the outcomes of the Presidents' meeting indicated a proposed reduction in its cash limit for 2007 and 2008 of £80,000 annually. This reduction was in respect of the Law Draftsman's Office and related to 2 post savings (which coincided with retirements). It was recognised that the budget for the Law Draftsman's Office would be transferred to the Chief Minister at the end of 2005, so that this saving would need to be addressed by the Chief Minister's Department in due course.

**Having recalled that the President had been present at the resource allocation meetings, the Committee decided to indicate to the Finance and Economics Committee that it was prepared to accept the proposed growth for the Privileges and Procedures Committee for 2006 to 2008.**

The Greffier of the States was directed to send a copy of this Act to the Finance and Economics Committee.

Privileges and  
Procedures  
Committee draft  
Business Plan  
2005.  
422/10(63)

A10. The Committee considered a report, dated 14th March 2005, prepared by the Assistant Greffier of the States concerning an updated version of the Committee's draft Business Plan for 2005, which represented its contribution to the States-wide agreement to participate and contribute towards the key aims of the States Strategic Plan 2005 to 2010.

G.O.S.  
D.G.O.S.  
Clerk  
**Encl.**

The Committee noted that all Committee Business Plans were required to follow a format based on a template approved by the Policy and Resources Committee designed to promote consistency in approach. It was recognised that the plan would be complemented by an additional section relating to the work of the States Greffe and the Law Draftsman's Office, showing the range of services currently provided and how these would be developed and delivered in 2005, where appropriate, in support of the key aims.

The Committee agreed that, from 2006 onwards, and in view of the recent amendment to the Public Finances (Jersey) Law 200-, it would be more appropriate to produce a separate States Assembly annual resource and business plan to take account of the separation of executive and non-executive functions of government, as was the practice followed in other jurisdictions. The Committee also recalled that Article 18(2)(e) of the draft States of Jersey Law 200 clearly stated that the Council of Ministers had an obligation to produce a "statement of their common strategic policy", which would only include executive functions.

The Committee accordingly confirmed and approved the content of its draft 2005 Business Plan for inclusion in the master document consolidating material covering all States' Committees.

The Greffier of the States was directed to send a copy of this Act, together with the 2005 Business Plan, to the Policy and Resources Committee.

Matters for  
information.  
  
Clerk

A11. The Committee noted the following matters for information -

- (a) outstanding Committee actions and matters arising from previous meetings;
- (b) correspondence, dated 2nd March 2005, from the President of the Policy and Resources Committee regarding a Shadow Scrutiny review of the Migration Policy (P.25/2005 refers);
- (c) correspondence from law firm Ogier and Le Masurier concerning the Freedom of Information: Position paper (R.C.55/2004); and
- (d) an Act, dated 10th February 2005, of the Finance and Economics Committee concerning oversight of the Shadow Public Accounts Committee. The Committee requested the Deputy Greffier of the States to prepare the necessary report and proposition to formalise this transfer of responsibility, for consideration at its next meeting. The Committee asked for a report to be requested from the Shadow Public Accounts Committee outlining its achievements since its inception.

Administrative  
Decisions

A12. The Committee, in accordance with the Administrative Decisions (Review) (Jersey) Law 1982, as amended, considered a draft of the Report of the

(Review) (Jersey)  
Law 1982:  
Report of the  
Administrative  
Appeals Panel for  
2003-2004.  
1386/2(79)

Administrative Appeals Panel for 2003-2004.

The Committee agreed that it would wish to place on record its thanks to the Chairman, Deputy Chairman and all the members of the Panel for their hard work in an honorary capacity dealing with a wide variety of complaints during the period 2003-2004.

States (2)  
Pub.Ed.

The Committee recalled that it had embarked on a review of the Administrative Appeals system and had presented to the States a consultation report on proposals for improvement to the system (R.C.20/2004 refers) comparing and contrasting the Administrative Appeals system with the United Kingdom public sector Ombudsman's system and putting forward the options for change in Jersey.

**The Committee accordingly approved the Report and requested the President to present it to the States on 5th April 2005, for their information.**

The Committee further recalled that a number of improvements had been suggested (e.g. the creation of greater flexibility in the system, dealing with the findings of Boards, introducing stricter timescales and publicizing the system) and that, following the above-mentioned consultation, it intended to bring forward proposals during 2005. The Greffier of the States was requested to prepare a draft report and proposition for the Committee's consideration in due course.

"Dean of Jersey:  
cessation of  
membership of  
the  
States" (P.49/2005):  
report and  
proposition of  
Senator E.P.  
Vibert - comment  
to be prepared.  
50/1(8)

A13. The Committee recalled that a report and proposition entitled "Dean of Jersey: cessation of membership of the States" (P.49/2005) had been lodged 'au Greffe' on 15th March 2005 by Senator E.P. Vibert.

The Committee recognised that the proposition sought the agreement of the States, in principle, that from the date of the retirement of the present incumbent the Dean of Jersey should no longer be a member of the States of Jersey, and to charge the Privileges and Procedures Committee to bring forward for approval the necessary amendments to the States of Jersey Law 2005 to give effect to the proposal.

**The Committee requested the Greffier of the States to prepare a draft comment for the Committee's consideration at its next meeting.**

Clerk  
D.G.O.S.