

PRIVILEGES AND PROCEDURES COMMITTEE

(10th Meeting)

8th August 2002PART A

All members were present.

In attendance -

D.C.G. Filipponi, Executive Officer
 R.W. Whitehead, Principal Legal Adviser, Law Officers' Department
 Miss P. Staley, Senior Assistant Law Draftsman (for a time)
 M.P. Haden, Committee Clerk.

Note: The Minutes of this meeting comprise Part A only.

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| Minutes | A1. The Minutes of the Meeting held on 25th and 30th July 2002, having been previously circulated, were taken as read and were confirmed. |
| Formation of Scrutiny Committees.
1240/22/1(9) | A2. The Committee, with reference to its Act No. A4(a) of 30th July 2002 received an initial draft report on Scrutiny, prepared by Deputy R.G. Le Hérissier.

The Committee considered the following matters relating to Scrutiny - |
| Ex.Off. | <ul style="list-style-type: none"> (a) correspondence from the President to the President of the Harbours and Airport Committee and Professor I. Poll, Director of the College of Aeronautics, Cranfield University regarding the possibility of a pilot project scrutinising the proposals for the future funding of Jersey Airport; (b) that information had been received from the Mid-Bedfordfordshire Authority in the United Kingdom regarding the terms of reference of its Scrutiny Committees and the lessons learnt to date in the operation of its Scrutiny function; (c) that an Order of the United Kingdom Parliament had been received relating to means available to Select Committees to bypass current restrictions arising from the Data Protection Laws. The Order indicated how complicated were the implications of both Data Protection and Human Rights for the exercise of Scrutiny; (d) the need to give greater prominence in the above report to the possibility ad hoc States projects involving considerable financial expenditure falling within the remit of Scrutiny Committees; and (e) correspondence from the Treasurer of the States regarding the low priority given to expenditure on Select Committees in the United Kingdom in proportion to the total budget. The Committee requested the Deputy Greffier of the States to research the budget process for scrutiny in Scotland, Wales and local government in the United Kingdom. |

Code of conduct
for Members.
1240/9/1(110)
792/4(20)

A3. The Committee, with reference to its Act No. A4(b) of 30th July 2002, received a report, dated 1st August 2002, prepared by the Deputy Greffier of the States in connexion with a draft of the Code of Conduct for States members prepared by the Sub-Committee formed to take responsibility for this issue.

D.G.O.S.
Ex.Off.

The Committee noted that the draft Code was based on the 'Nolan' principles which had become accepted as the standards for holders of public office. It endorsed the recommendation of the above Sub-Committee that details relating to the Register of Members interests, which would necessarily form an extensive document, should be published as a separate Guide. This would enable the Code of Conduct to remain a concise document with just a short reference to the requirement to comply with the relevant procedures.

The Committee considered the proposed Procedure for Complaints. It endorsed the view that States members should regulate themselves through a Privileges and Procedures Sub-Committee on Standards and then onward to the Privileges and Procedures Committee itself and the States would be the final arbiter. The Committee recognised that further consideration was required on procedures and the possible range of sanctions. It formed the view that an independent Chairman of the Sub-Committee should be appointed to avoid possible conflict situations which might arise between members being required to investigate allegations against their peers. The Committee requested the Deputy Greffier of the States to research arrangements in other jurisdictions.

The Committee agreed to seek the views of the Bailiff before publishing the draft Code for consultation with members. The Executive Officer was requested to write to the Bailiff's Chief Officer to seek a meeting with the Bailiff to discuss this matter and to agree the best way forward.

The Committee thanked the Sub-Committee for its work in preparing the Draft Code of Conduct.

Accommo-
dation, services
and facilities for
States members.
1060/5/1(18)

A4. The Committee discussed the question of disabled access to the States Chamber in the event of a candidate with a wheelchair successfully standing for election to the States Assembly.

Ex.Off.

The Committee was advised that the arrangements which were planned as part of the refurbishment programme for the States building would enable a wheelchair-bound member to access the Chamber through the Royal Court. The Committee was concerned that this might cause some difficulty on occasions when the Royal Court might be in session at the same time as the States. The Committee requested the Principal Legal Adviser to clarify the legal obligations for ensuring adequate access for a disabled member to the States Chamber. The Committee also wished to be advised about the provision of suitable toilet facilities.

The Vice-President was requested to pursue the issue as part of her work on accommodation and facilities for members.

Remuneration
and expenses
provision for
States members.
1240/3(64)

A5. The Committee, with reference to its Act No. A4(d) of 30th July 2002, considered an amended draft report on remuneration of States members for inclusion in the Committee's first report to the States.

Ex.Off.

The Committee gave further consideration to the question of expenses and confirmed its view that firm recommendations on this matter could not be made until the issue of facilities for members had been concluded. If improved facilities were available to

members certain expenses currently privately arranged by members, such as the renting of office accommodation, might no longer be required. The Committee also confirmed its view that it would be inappropriate to establish a complex, bureaucratic system requiring members to account formally and fully for every item of expense. Again once improved facilities were in place it might be possible to restrict expenses' allowance to the level set by the Comptroller of Income Tax as deductible without a formal claim.

In addition, the Committee confirmed its view that it would be difficult to justify the expense and administration required to set up a dedicated pension scheme for members. It was preferable for members to make their own personal pension provision and to set a level of basic salary which recognised that members would not have the benefit of the employer's contribution to their arrangements. The Committee endorsed the proposal that an appropriate benchmark would be the equivalent of Grade 11/3 on the Civil Service pay scale. The Executive Officer was requested to provide information on the costs of implementing this proposal and a comparison with the current allowances and expenses provision available to members. The Vice President was requested to progress with the Finance and Economics Committee the issue of identifying the necessary source of funding for the proposed salaries for members.

The Committee noted that a finalised report would be circulated in due course.

Seminar for prospective election candidates.

Ex.Off.

A6. The Committee, with reference to its Act No. A10 of 30th July 2002, noted that, owing to work being undertaken on the States Chamber, it would be impossible to hold the proposed seminar for prospective election candidates in that location. An alternative venue had been arranged, namely the offices of the Superintendent Registrar, for 19th September 2002, commencing at 4 p.m. Members of the Committee agreed to make brief presentations on various aspects of the role and functions of States members.

Draft States Reform: Reorganization of Committees (Transitional Arrangements) (Jersey) Act 200-. 1240/22/1(17)

Ex.Off.
D.G.O.S.
L.D.
A.G.
Pub.Ed.
States (2)
C.E., P&R
P.R.C.C.
P.R.E.O.

A7. The Committee, with reference to its Act No. A6 of 30th July 2002, and with Miss P. Staley, Senior Assistant Law Draftsman, in attendance, considered the revised draft States Reform: Reorganization of Committees (Transitional Arrangements) (Jersey) Act 200-, the purpose of which was to give effect to the transitional departmental structure set out in Appendix 3 to P.70/2002 (Machinery of Government: Proposed Departmental Structure and Transitional Arrangements), as amended and adopted by the States on 24th July 2002.

The Committee was advised that the Chief Executive of the Policy and Resources Committee had raised queries on the following matters in the above draft Act -

- (a) paragraphs 3(2) and 4(2) where reference was made to 'enactments of the United Kingdom Parliament extended to the Island by Orders in Council' - the Committee was advised that the wording was adequate to cover all other enactments relevant to the Island, for example, those made by the European Union;
- (b) Telecommunications Board, which was not included in paragraph 2(2) referring to the amalgamation of Committees into the Economic Development Committee - the Committee was advised that the Telecommunications (Jersey) Law 200- provided for the transfer of functions of the Telecommunications Board to the Economic Development Committee. The matter of property rights and liability was dealt with separately. The above draft Act was sufficient for its purpose.

The Committee approved the draft States Reform: Reorganization of Committees (Transitional Arrangements)(Jersey) Act 200- accordingly and requested that it be lodged 'au Greffe' on 10th September 2002 for debate in the States. The Executive Officer was requested to notify the Policy and Resources Committee by letter of this intention.

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

Amendment
(No.23) of the
Standing Orders
of the States of
Jersey.
1240/22/1(17)

A8. The Committee, with reference to its Act No. A8 of 30th July 2002, and with Miss P. Staley, Senior Assistant Law Draftsman, in attendance, considered the draft Amendment (No.23) of the Standing Orders of the States of Jersey.

The Committee recalled that it had agreed to abolish the distinction between Major and Minor Committees. In addition the amendment provided for the following matters, not previously described in Standing Orders -

D.G.O.S.
Ex.Off.
Pub.Ed.
States (2)

- (a) Ballot procedures for the election of Presidents;
- (b) Right of a member of the States to attend, as an observer, a meeting of any Committee of the States or its Sub-Committees. (The Committee recalled that this right had been agreed by the States in adopting paragraph (a) of P.53/1999 of Senator S. Syvret on 12th October 1999.)

The Committee proposed that a further change should be made, in respect of Standing Order 44 on the Register of Members' Business Interests, to take due account, where appropriate, of a member's partner.

The Committee further agreed, in respect of Standing Order 40, that the standard number of members in a Committee, in addition to the President, should be set at four, recognising that it was possible, under Article 28 of the States of Jersey Law, 1966, for a President to request the States to agree an exception to this standard for a Committee if deemed necessary.

It was noted that the Telecommunications Board would need to be added to the list of Committees in Article 1(2)(a) of the Amendment if the Board was still in existence on 12th December 2002.

The Committee agreed to lodge the draft Amendment (No.23) of the Standing Orders of the States of Jersey, subject to the above revisions and the preparation of an accompanying report, at the next available opportunity. The Greffier of the States was directed to take the necessary action.

States of Jersey
(Declaration by
Candidate) Order
200-.
1240/1/2(27)
1240/1/7(1)

A9. The Committee, with reference to its Act No. A7 of 30th July 2002, and with Miss P. Staley, Senior Assistant Law Draftsman, in attendance, considered the draft States of Jersey (Declaration by Candidate) Order 200-, the purpose of which was to specify the form and content of the declaration that a candidate for election as Senator or Deputy was required to make under Article 8(2) of the States of Jersey Law, 1966, as amended.

D.G.O.S.
Ex.Off.
States (2)

The Committee noted that the form made it clear that the declaration would be made public at the nomination meeting.

Pub.Ed. In addition, the Committee noted the guidance notes which had been prepared for prospective candidates.

The Committee, in pursuance of Article 8(5) of the States of Jersey Law, 1966, as amended made the above Order which was to come into force seven days later.

The Greffier of the States was directed to make the necessary arrangements for the said Order to be laid before then States and the Executive Officer to arrange for appropriate distribution of the forms and guidance notes.

Policy and Resources Committee: draft report and proposition on the Structure of the Executive. 1240/22/1(18)

A10. The Committee, with reference to its Act No. A9 of 30th July 2002, received a paper prepared by the President in connexion with the proposals of the Policy and Resources Committee on the structure of the Executive.

The Committee, having requested that the comments made on collective responsibility in the above paper be strengthened in line with paragraph (b) of the aforementioned Act, endorsed the above paper as a reflection of its discussions on the draft proposals of the Policy and Resources Committee and requested that a copy be sent to the President of that Committee accordingly.

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

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

Meeting with Treasurer of States: (a) private members' propositions with financial consequences; (b) responsibilities for Public Accounts Committee and general Auditor. 1038(52) 1240/22/1(8)

A11. The Committee, with reference to its Act No. A7(a) of 24th May 2002, noted correspondence, dated 18th July 2002, from the Treasurer of the States regarding the ability of States members to bring propositions to the States with financial consequences.

The Committee noted the flowchart attached to the above correspondence indicating the current and proposed procedures for approving proposals with financial consequences. It recalled that the proposed procedures were designed to avoid the situation whereby individual members could bring forward propositions to commit the States to spending outside the budget process. It noted that, under the proposed procedures, an individual member would have up to three opportunities to have a spending proposal approved, namely -

- (a) minor spending proposals could be agreed by Ministers;
- (b) the individual member would have the right to put major spending proposals to the States in a proposition for 'approval in principle'; and
- (c) if the 'approved in principle' proposal was not considered a priority in the States Business Plan by the Council of Ministers, the individual member could propose an amendment to the Business Plan when it was debated by the States.

Ex.Off.

The Committee requested the Executive Officer to obtain information on the budgetary process in the United Kingdom Parliament for the subsequent meeting.

The Committee further noted a suggestion from the Treasurer of the States that individual States members be allowed to bring one-off spending propositions to the States subject to a maximum of £50,000. The Committee, however, considered that the limit was set too low and suggested that £250,000 would be more appropriate.

On a related matter, the Committee, with reference to its Act No. A3 of 27th June 2002, noted further e-mail correspondence between the President and the Treasurer of the States in connexion with identifying responsibilities for the Public Accounts Committee and the General Auditor in the new States of Jersey and Public Finance Laws. The Committee agreed to meet with the Treasurer of the States to clarify this matter on 13th August 2002.