

PRIVILEGES AND PROCEDURES COMMITTEE

(21st Meeting)

14th November 2003PART A

All members were present, with the exception of Senator C.G.P. Lakeman, from whom apologies had been received.

Connétable D.F. Gray
 Deputy F.J. Hill, B.E.M.
 Deputy C.J. Scott-Warren
 Deputy R.G. Le Hérisier
 Deputy J-A. Bridge
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 Mrs. J. Marshall, Senior Executive Officer
 Miss F. Agnès, Executive Officer
 S. Drew, Assistant Legal Adviser
 M.P. Haden, Committee Clerk.

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

- Minutes. A1. The Minutes of the meeting held on 31st October 2003, having been previously circulated, were taken as read and were confirmed.
- Matters Arising. A2. The Committee noted the following matters arising from its meeting held on 31st October 2003 -
- (a) **Act No. A8(j) - States members' parking** - that a draft letter had been received from the President, Environment and Public Services Committee setting out the proposed trial arrangements for States members parking. It was agreed that it was not the role of the Executive Officers to deal with comments and possible complaints from States members on any problems associated with the trial arrangements. The Senior Executive Officer was requested to liaise with the Chief Executive, Public Services Committee, with a view to amending the draft letter accordingly;
 - (b) **Act No A3 - Shadow Scrutiny** - The Vice President raised her concern that Shadow Scrutiny would commence without establishing the protection of privilege for witnesses. She felt that this might lead to a tendency for witnesses to seek legal advice in relation to their appearance before a Shadow Scrutiny Panel. It was pointed out that the lack of powers bestowed on Shadow Panels would give reluctant witnesses the option of refusing an invitation to attend a Scrutiny Panel hearing if they felt uneasy about the process. Furthermore, it was

suggested that Chief Officers should know the extent to which they could answer the Scrutiny Panel's questions without compromising themselves. In the case of middle ranking officers, Chief Officers would normally attend to advise their subordinates. The issue would be addressed in the training programme which would be provided for officers who might be called before a Scrutiny Panel. It was agreed that clear advice about this issue should be given in Guidance Notes to Witnesses. **The Committee also requested that every effort should be made to make provisions within the States of Jersey Law 1966 as soon as possible for the establishment of privilege as a protection for witnesses before Shadow Scrutiny Panels.**

States Building -
Ground Floor
Committee Room
- request to
transfer to Jurats.
1060/5/1(27)

A3. The Committee considered a report, dated 10th November 2003, from the Executive Officer, regarding a request that Committee Room 2, States Building, be transferred to the occupancy of the Jurats for their full time and long term use. In this connexion, the Committee also received Jurat J. De Veulle and Mr. R. McLoughlin, Chief Officer, Bailiff's Chambers, and toured the current facilities afforded the Jurats and those set out for States members.

E.P.S.C.(2)
Ex.Off.
Bailiff

The Committee was apprised of the current unsatisfactory arrangements whereby the Jurats were obliged to pass the cells and use the same corridor as the defendants and their family/friends, often having to confront prisoners and their families whom they have just sentenced. This had been assessed by the States of Jersey Police as a serious security problem. A further issue was the fact that the Court of Appeal met in the Old Library thus cutting off on a regular basis one route from the current Jurats' Room to the Royal Court. The Jurats had experienced the current arrangements for three months and had reached the conclusion that the current arrangements could not be allowed to continue. Accordingly they were seeking a suitable room in the States Building close to the Court which would obviate the identified difficulties. The room would be required on a full time basis and could not be shared with other users. Committee Room 2 had been identified as an ideal solution. It was suggested that a reciprocal arrangement might be reached to compensate States members for the loss of this room through shared use of the rooms designated as the Remote Witness Room on the Ground Floor and the Witness Room next to the States members Coffee Room on the First Floor.

The Committee expressed its sympathy for the situation in which the Jurats found themselves. It was conscious, however, that it was important to meet the requirements of the future Scrutiny Panels which were to meet in the two designated Committee Rooms. These meetings needed to be accessible to the public and set up with appropriate recording facilities. Neither of the two rooms offered in compensation would meet these requirements. **The Committee agreed that it could not contemplate transferring one of these Committee Rooms before it had even started the Shadow Scrutiny process.**

The Committee considered an alternative suggestion, namely the transfer of the room designated as the States Members' Quiet Room. The Committee, however, decided not to approve this suggestion on the same grounds as above, namely that it was necessary to monitor and assess the provision of rooms for States members in the light of experience and that no rooms should be permanently transferred to other users at this stage. **The Committee accordingly agreed to advise the Jurats that it could not comply with their request at this stage.**

The Committee was also mindful of the draft report and proposition on the use and allocation of rooms in the States Building, which the Environment and Public Services Committee intended to lodge 'au Greffe' on 18th November 2003. The

Committee was supportive of the projet but decided to request the Environment and Public Services to delay lodging it to enable the Jurats, if they so wished, to approach that Committee with its proposal for transferring the occupancy of Committee Room 2. In the event that the Environment and Public Services Committee agreed to amend the draft projet to accede to the Jurats' request, the Committee resolved that it would seek to amend the projet to maintain the current proposed designation of rooms. In the meantime, the Committee agreed that the order for furniture for the rooms should proceed.

The Greffier of the States was directed to send a copy of this Act to the Environment and Public Services Committee for information.

Fundamental
Spending Review
- growth
proposals
2005-2007.
422/10/1(71)

A4. The Committee, with reference to its Act No. A6 of 31st October 2003, considered a report, dated 11th November 2003, from the Assistant Greffier of the States regarding its proposed growth submissions as part of the 2005-2007 Fundamental Spending Review process.

The Committee considered and approved the following growth proposals for 2005, the majority of which coincided with the introduction of ministerial government -

Ex.Off.
A.G.O.S.
T.O.S.
C.I.Aud.
F.E.C.C.

Members' Income Supplement	£ 760,000
States Building (occupier charges)	£ 82,500
Scrutiny	£1,205,000
Public Accounts Committee	£ 380,000
Hansard	£ 157,500
Commonwealth Parliamentary Association (one-off cost: hosting 2005 regional conference)	£ 60,000

Total **£2,644,500**

In addition, the Committee approved the following proposed bids for the years 2006 and 2007, in respect of the States Building occupier charges -

2006	£ 92,000 (over and above that submitted for 2005)
2007	£190,000 (over and above that submitted for 2006)

The Committee recalled that it had considered savings proposals under the Fundamental Spending Review process at its previous meeting but had deferred approval subject to an approach to be made by the President to the President of the Finance and Economics Committee to treat the Committee as a special case in view of the substantial impact of those savings proposals during a period of significant change resulting from the Machinery of Government reforms. **The Committee, having been advised that such an approach was most unlikely to be successful, approved the proposed package of savings proposals.**

The Committee, having agreed to inform the Finance and Economics Committee of its savings and growth proposals, requested the Assistant Greffier of the States to prepare the necessary documentation under the Fundamental Spending Review process.

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

Administrative
Appeals System/

A5. The Committee, with reference to its Act No. A6 of 25th April 2003, considered a report, prepared by the Greffier of the States, in relation to the current

Ombudsman.
1386/2(71)
465/1(30)

operation of the Administrative Appeals System and its possible replacement with an ombudsman system, as referred to in the Report of the Review Panel on the Machinery of Government (Clothier report) and subsequently in a draft proposition from Deputy Breckon.

Ex.Off.
G.O.S.

The Committee was advised that the Ombudsman system in the United Kingdom was considered to be an effective complaints mechanism yet, of 18,376 complaints submitted to the English Local Government Ombudsman in 2002/2003, only 3,880 obtained remedies (21.11 per cent). In Jersey, in contrast, the current Administrative Appeals system was considered weak and ineffectual, although the figures for successful appeals were not significantly different from the United Kingdom Ombudsman. There was a general perception in the Island that the findings of the Board were often ignored by Committees and Departments, with no clear follow up procedure when the findings of Boards were not implemented. Furthermore, the role of the Greffier appeared to compromise the independence of the process from the States.

The Committee considered the suggestion by some Committees that the findings of the Board had not always been based on a full knowledge of the policies and procedures of the Committee concerned. It appeared that on many occasions, complainants were testing policy rather than maladministration. It was also suggested that, at times, the Boards had found against Committees because the Committees had failed to make a clear explanation of the policy context. It was recognised that the new Scrutiny system should give a more effective outlet to challenging Committee policies, which would, in turn, enable the Board to focus on the rights and wrongs of particular decisions taken by Committees as they affected individuals. The Committee requested that further research be carried into the reasons given by Committees when they rejected the findings of an Appeals Board.

The Committee agreed that it was essential to amend or replace the current system because of the present lack of confidence in it. It was mindful that the establishment of an Ombudsman system in Jersey would be costly in comparison to the current system and agreed that, rather than set up such a scheme at this time, it would seek to make the present system more robust. The key improvements would include changing the role of the Greffier in deciding whether or not to refer complaints to the Board; a better system of reporting the outcome of Boards and of publicising a Committee's response; clear guidelines for Committees and Departments on dealing with complaints; and greater flexibility in the system. It was suggested that the current Board might be renamed an 'Ombudsman Panel' on the basis that the current Panel already belonged to the British and Irish Ombudsman Association and fulfilled the criteria for that Association.

The Committee requested the Greffier of the States to prepare a further paper, for consideration at a subsequent meeting, on proposals for a revised, strengthened system for Administrative Appeals.

New Standing
Orders for the
States of Jersey.
1240/4(138)

A6. The Committee, with reference to its Act No. A3 of 19th September 2003, received an update report, dated 7th November 2003, from the Greffier of the States in connexion with the proposed approach to preparing new Standing Orders for the States of Jersey.

Ex.Off.

The Committee approved the proposed schedule which had a target date for completion of a Law drafting brief by the end of April 2004.

Proposed
amendments to

A7. The Committee considered a report, dated 7th November 2003, from the Greffier of the States in connexion with proposed minor amendments to the Standing

Standing Orders relating to Certain Transactions in Land. 1240/4/1(25)

Orders relating to Certain Transactions in Land.

The Committee was advised that the proposed amendments were minor changes brought forward to address legal and technical difficulties with the present rules. The Committee noted that the proposed changes were quite separate from the major review of Standing Orders was currently under way.

E.P.S.C.(2)
Ex.Off.
L.D.
D.P.S.
H.Conv.

The Committee approved the proposed changes and requested the Law Draftsman to prepare the necessary amendments to Standing Orders on the basis of the brief prepared by the Greffier of the States.

Machinery of Government Reform Plan. 1240/22/1(31)

A8. The Committee received a report, dated 7th November 2003, from the Senior Executive Officer in connexion with the Machinery of Government Reform Plan.

The Committee noted that the Plan, which had been drawn up by the Senior Executive Officer, the Machinery of Government Manager and the Chief Executive, Policy and Resources Committee, set out the overall actions which needed to be completed in order for Ministerial Government to be implemented effectively.

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

It further noted -

- (a) that the dates for Freedom of Information were already out of date. The Committee referred this matter to the Working Party on Freedom of Information;
- (b) that the date for the introduction of Ministerial Government had yet to be determined;
- (c) that the timescale for any changes resulting from the work of the Special Committee on the Composition and Election of the States Assembly was only tentatively included, pending the outcome of the Special Committee meeting on 13th November 2003.

The Committee agreed those items set down for action on its behalf, together with the suggested timetable. It noted the items listed for other Committees.

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

Code of Practice on Public Access to Official Information: measures to improve implementation. 955(30)

A9. The Committee, with reference to its Act No. A6, dated 3rd October 2003, received a revised draft Report and Proposition on the Code of Practice on Public Access to Official Information: measures to improve implementation.

The Committee approved the above draft Report and Proposition, subject to minor textual revisions which were delegated to Connétable D.F. Gray for agreement, and requested that it be lodged 'au Greffe' for consideration by the States at the next available opportunity.

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

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

Arrangement of Public Business in the States -

A10. The Committee, with reference to its Act No. A7 of 31st October 2003, noted that it had received expressions of interest the following States members willing to participate in a Working Party to consider the arrangement of Public Business in the

proposed
Working Party.
1240/7/1(78)

Ex.Off.
C.E., P&R
P.R.E.O.
P.R.C.C.
E.D.C.(2)

States -

Connétable T.J. Du Feu
Deputy P.J. Rondel (as a reserve)
Deputy G.C.L. Baudains

The Committee decided to amend its original proposal, which was to invite two backbench members to join the Working Party, and agreed to invite all three members.

The Committee Clerk was requested to prepare a letter on behalf of the President to all States members informing them of the composition of the Working Party.

Matters for
information/ Acts
of other
Committee.

A11. The Committee noted the following matters for information -

- (a) **Act No. A3, dated 30th October 2003, of the Employment and Social Security Committee in connexion with States members' remuneration: abolition of means-testing.** The Committee noted the claim made in the Act that the Employment and Social Security Committee had not received a formal request to consider the legislative changes necessary to enable States members to be treated as 'employed' in respect of Class 2 Social Security contributions. The Committee recalled, however, that it had made this request in its Act No A11 of the 22nd August 2003 following consideration of correspondence from the Director of Compliance and Governance at the Employment and Social Security Department. The Committee requested the Senior Executive Officer to prepare a letter on behalf of the President to the President of the Employment and Social Security Committee in order to confirm this request;
- (b) **New Standing Orders from States of Guernsey**, entitled 'The Rules of Procedure of the states of Deliberation';
- (c) **Simultaneous voting system** - an oral update report from the Executive Officer in relation to progress on the installation of a system in the States Assembly. The Committee was advised that the system would be installed over the Christmas recess and would be ready for use for the first session in 2004;
- (d) **States members' access to States Building** - The Committee requested that a protocol be drawn up for consideration at its next meeting setting out conditions of use for access cards for States members to enter the States Building;
- (e) **Act No. B1, dated 23rd October 2003, of the Policy and Resources Committee** regarding the proposed Committee of Inquiry into the circumstances leading to the settlement with Les Pas Holdings Limited;
- (f) e-mail correspondence, dated 14th November 2003, from Senator E.P. Vibert regarding proposed changes to Standing Orders. The Committee agreed to refer the proposals relating to questions and the frequency of meetings to the Working Party on Arrangement of Public Business;
- (g) **dates of future meetings** - It was agreed that a move to a three weekly cycle of meetings would allow more time for forward planning of

agendas.