

PRIVILEGES AND PROCEDURES COMMITTEE

(10th Meeting)

25th April 2003PART A

All members were present, with the exception of Deputy J-A Bridge from whom apologies had been received. Deputy R.G. Le Hérissier was not present for items A3 to A5.

Senator C.G.P. Lakeman
 Connétable D.F. Gray
 Deputy F.J. Hill, B.E.M.
 Deputy C.J. Scott-Warren
 Deputy R.G. Le Hérissier
 Deputy J.A. Bernstein

In attendance -

M.N. de la Haye, Greffier of the States
 Mrs. A.H. Harris, Deputy Greffier of the States
 P. Byrne, Executive Officer
 R.W. Whitehead, Principal Legal Adviser, Law Officers' Department (for a time).
 C. Pasturel, Assistant Legal Adviser
 M.P. Haden, Committee Clerk.

Note: The Minutes of this meeting comprise Part A and Part B.

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| Minutes | A1. The Minutes of the meeting held on 21st and 24th March and 4th April 2003, having been previously circulated, were taken as read and were confirmed |
| Scrutiny - draft report.
502/1(6) | A2. The Committee, with reference to its Act No. A1 of 24th March 2003, received and gave initial consideration to a draft report, regarding the proposed Scrutiny function within the new machinery of government. |
| Ex.Off.
D.G.O.S.
G.O.S. | <p>The Committee noted that the President had made some initial revisions of style. The Committee was asked to consider the substance of the proposals contained in the above report prior to a meeting dedicated to the scrutiny proposals, to be held on 12th May 2003. The Principal Legal Adviser was requested to comment on the legal issues in respect of scrutiny proposals in advance of that meeting. The Committee also requested that H.M. Attorney General be involved at an early stage.</p> <p>The Committee noted that a number of States members outside the Committee had expressed the view that Shadow Scrutiny Panels should be established as a matter of urgency. They felt that it was important for 'backbench' members to come together as quickly as possible to commence the learning process that would be part of members working together in teams in new ways in Scrutiny Panels. Currently, a number of members without Committee responsibilities were operating as individuals without the support that would be available in the future under the proposed Scrutiny system. The Committee agreed to invite two members who had discussed the matter with Deputy R.G. Le Hérissier, namely Deputies R.C. Duhamel and P.J. Rondel, to prepare papers outlining their views and to meet the Committee to</p> |

discuss their suggestions.

The Committee was mindful of the importance of adequate resources and training being made available to the members of any future Shadow Scrutiny Panels. **The Deputy Greffier of the States was requested to prepare an outline training programme with an estimate of costs.** The Deputy Greffier of the States was given authority to go directly to training providers rather than through the intermediary of the States Human Resources Department.

The Committee agreed that the proposition to accompany the draft report should set out the terms of reference, powers of Scrutiny Panels and any other matter upon which the States would be asked to agree.

The Committee recalled its intention of holding a further Scrutiny Seminar with particular focus on the Audit Function. The Committee agreed to defer any further Seminar until such time as its Report and Proposition had been lodged 'au Greffe'. The purpose of such a Seminar should be broadened in order to act as part of its consultation with members on its proposals as a whole.

The Committee recalled that the major outstanding issue yet to be resolved was the question whether or not a 'call-in' mechanism was appropriate for Jersey. The arguments both for and against its introduction had been clearly and comprehensively set out in the draft Report. It was suggested that it might be left to Scrutiny Panels themselves to decide, in the light of experience, whether or not 'call-in' should be introduced. **The Committee, having noted that some members had yet to finalise their views on the issue, agreed that the matter should be settled at its meeting on 12th May 2003.**

On a related matter, the Committee considered correspondence, dated 7th April 2003, from Deputy G.C.L. Baudains regarding the accountability of Civil Servants. The Committee agreed that it was important to clarify in some detail the responsibilities of Officers to report fully and accurately to their Committees and, in the future, to their Ministers. However, while it was sympathetic to the concerns raised by the Deputy, it recognised that the particular issues did not belong within its own terms of reference but should be raised with the Human Resources Sub-Committee of the Policy and Resources Committee. In addition, the Committee recognised that there was a need to research further the position of Civil Servants called to account to Scrutiny Panels. It was clear that Civil Servants could answer only for the implementation of policy. They should not be asked to comment on policy. There was a need for further clarity in defining the relative responsibilities of States members and Civil Servants. **The Greffier of the States was requested to research the position in other jurisdictions, in particular Westminster and the Scottish Parliament.**

States members' remuneration - report and proposition of Senator E.P. Vibert on establishment of an independent Review Board. (P.26/2003) 1240/3(70)

A3. The Committee, with reference to its Act No. A2 of 4th April 2003, gave further consideration to the report and proposition of Senator E.P. Vibert on establishment of an independent Review Board (P.26/2003).

The Committee recalled that the Vice President had undertaken to lead its response to the debate on the proposition. **It requested that briefing notes be prepared for members prior to the debate and that papers and records be circulated from the debate in July 1998 when the proposals of the independent review body under the chairmanship of the former Senator John Averty were considered.**

Ex.Off.

States members' remuneration - request for refund of overpayment. 1240/3(68)

Ex.Off.

A4. The Committee, with reference to its Act No. A(ii) of 7th February 2003, considered a letter, dated 20th March 2003, from H.M. Attorney General regarding the request by the Finance and Economics Committee to members to refund certain sums which had been overpaid in the period from January 2002 to March 2003.

The Committee recalled that the above overpayment had occurred due to a miscalculation on the part of the Treasury based on applying a Jersey Retail Prices Index percentage increase using the September 2001 rate of 4.2 per cent rather than the December 2001 rate of 3.1 per cent. The Committee noted the view expressed by H.M. Attorney General that the Finance and Economics Committee should, if it wished to recover the overpayment, bring an appropriate proposition to the States requiring members who had received the overpayment to reimburse public funds. Even if that was passed, however, in his view, the Court would not have jurisdiction to enforce that Act against any States member who refused to make reimbursement. It would be up to the States to consider what, if any, disciplinary action should be taken in respect of any member refusing to make reimbursement in those circumstances.

The Committee noted that there was a further question which H.M. Attorney General had not been asked to address, that is, whether or not the Treasury was entitled to rectify the mistake that had been made by reverting to the December rate increase.

The Committee agreed that, before making a public statement on the issue, a meeting should be arranged with H.M. Attorney General and the President of the Finance and Economics Committee to discuss how to move forward. The President undertook to make the necessary arrangements.

Question Time - Proposed Working Party on the arrangements for Public Business in the States. 1240/7/1(78)

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

A5. The Committee, with reference to its Act No. A4 of 4th April 2003, considered the membership of the proposed Working Party on the arrangements for Public Business in the States.

The Committee noted that Deputy M.F. Dubras had been nominated as the representative of the Policy and Resources Committee. The President, Vice President and Connétable D.F. Gray agreed to represent the Committee. **It was decided that two non-Executive members should be chosen on the basis of an informal ballot.** Letters inviting members to nominate their choice should be placed on members' desks at the beginning of a forthcoming States meeting.

The Committee agreed that the Working Party should be formally constituted as a Sub-Committee of the Privileges and Procedures Committee. **It was agreed that the Bailiff should be invited to chair the Working Party and the Greffier of the States was requested to discuss with him the role he might play.**

The Committee agreed that the options for changing the current format of 'Question Time' in the States should be referred to the Working Party for further consideration.

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

Administrative Appeals Panel - Annual Report. 1386(3) 465/1(30)

A6. The Committee, with reference to its Act No. A5 of 7th February 2003, received a report, dated 11th April 2003, from the Greffier of the States in connexion with the Annual Report of the Administrative Appeals Panel.

The Committee considered a draft Foreword to the Annual Report, prepared by the Greffier of the States. It endorsed the same, subject to a few minor changes which the

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

President was delegated to agree.

The Committee, having noted that it was required, in accordance with the provisions of Article 10 of the Administrative Decisions (Review) (Jersey) Law, 1982, as amended, to present the Annual Report to the States and agreed to do so and requested the Greffier of the States to take the necessary action.

The Committee agreed to invite the retiring Chairman, Mr. R.R. Jeune, C.B.E., to a lunch to mark his contribution to the Appeals Panel over many years.

The Committee was advised that two applications had been received for the position of Deputy Chairman of the Appeals Panel, namely Advocate R.J. Renouf and Mr. N.P.E. Le Gresley. The Committee, having noted that it was necessary to have two Deputy Chairmen, agreed that both applicants would be suitable to the position and requested the Greffier of the States to take the necessary action to formalise their appointment.

On a related matter, the Committee noted the suggestions of Deputy A. Breckon in correspondence dated 19th April 2003, regarding the possible establishment of an Ombudsman for Jersey. The Committee was advised that this question had already been considered by the Sub-Committee tasked with reviewing the current operation of the Administrative appeals system. **The Greffier of the States was requested to prepare a paper on the issues involved in setting up such a mechanism, including a comparison with the position in other small jurisdictions. It was proposed that Deputy Breckon should be invited to the Committee to discuss his ideas.**

Code of Practice
on Public Access
to Official
Information:
Annual Report
for 2002.
955(11)

A7. The Committee considered a draft Annual Report for 2002, prepared by the Committee Clerk, in respect of the Code of Practice on Public Access to Official Information.

The Committee requested that a further paragraph be added to the Annual Report indicating the Committee's intentions to build on the Code with its proposals for new Freedom of Information legislation.

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

The Committee, having delegated agreement of the above change to the President, approved the Annual Report for presentation to the States.

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

Annual Report of
Privileges and
Procedures
Committee
465/1(40)

A8. The Committee received its draft expenditure report, for the year ending 31st December 2002, prepared by the Executive Officer.

The Committee noted that further information on its annual accounts would be presented at its next meeting.

Ex.Off.

Simultaneous
Electronic
Voting.
1240/22(8)

A9. The Committee, with reference to its Act No. A2(b) of 21st March 2003, received a report, dated 9th April 2003, from the Greffier of the States regarding the installation of the system for Simultaneous Electronic Voting.

Ex.Off.
G.O.S.

The Committee received notes of a meeting held on 27th March 2003 in the States Chamber and the decisions that been taken to date. It was noted that the Committee would be consulted before the proposals were finalised once prototype voting buttons had been received. It was also noted that the Bailiff would be involved in this round

of discussions.

The Committee requested the Greffier of the States to inquire about the possibility of providing Braille signs on the voting buttons.

Media Training.

A10. The Committee considered a letter, dated 26th March 2003, from Mr. A. Watts, News Editor, Channel Television, regarding proposals to offer the media a training session in States procedures and terminology.

Ex.Off.

G.O.S.

It was agreed that a session would be offered in the Chamber before a States meeting.

The Executive Officer was requested to issue an invitation to all sections of the local media.

Guide to the Use
of the States
Crest and States
Stationery.

1240/9/1(108)

A11. The Committee received a draft Guide to the Use of the States Crest and States Stationery, prepared by the Committee Clerk.

The Committee recalled that the need for such a Guide had become apparent following a complaint regarding the use of States stationery during the elections in 2002.

Ex.Off.

The Committee referred the draft Guide to the Code of Conduct Sub-Committee and to the Bailiff for comment.

Election
mailings.

1240/9/1(120)

A12. The Committee noted that its views had been requested on a proposal received from the Director of Finance and Retail, Jersey Post, relating to payment for political mailings.

Ex.Off.

Leg.C.(2)

The Committee noted that, following problems experienced by Jersey Post in the past in receiving payment from certain election candidates, Jersey Post proposed that all mailings promoting candidates in elections be paid in advance. The Committee felt that politicians should not be treated differently, with respect to payment, from any other Jersey Post customers. **It was agreed that it was a matter for Jersey Post, as for any other business, to set its own credit arrangements applicable to all clients unless otherwise arranged.**

The Committee noted that further suggestions had been made regarding election mailings; for example, the Committee might sponsor joint election mailings, or mailshot time might be booked in the approach to elections. The Committee agreed that these suggestions merited further consideration. It agreed to return to them before the next election in conjunction with the Legislation Committee.

The Greffier of the States was directed to send a copy of this Act to the Legislation Committee.

Review of States
of Jersey Law -
position of Dean
and Viscount.

450/1(1)

A13. The Committee, with reference to its Act No. A8 of 7th March 2003, considered a Memorandum, dated 10th April 2003, from the President relating to the current position of the Viscount and the Dean in the States Assembly, following the President's discussion with the Bailiff on these matters.

Ex.Off.

The Committee noted that the Bailiff appeared to be averse to changes in the current position of the Dean. The Committee, however, felt that there might be a place for broadening the role of the Heads of other denominations and faiths in the Island. **The Committee agreed that the views of the Dean should be sought on his rôle in the States.** The President undertook to speak to him.

With regard to the role of the Viscount, the Committee received papers relating to the duties of the Serjeant at Arms in the House of Commons. The Committee felt that this type of function might be appropriate for Jersey but was unsure whether or not the current Viscount would favour such a change.

Shadow Scrutiny
- Committee
support.
465/1(31)

A14. The Committee, with reference to its Act No. A5 of 21st March 2003 noted Acts from the Environment and Public Services, Employment and Social Security, Education, Sport and Culture and Legislation Committees confirming their willingness to co-operate with a 'shadow' scrutiny exercise on the basis that further information would be made available on the operation of the proposed Panels, their terms of reference and the likely resources and facilities that would be required. The Committee recalled that it had received support from other Committees in this respect.

Ed.S.C.C.(2)
Emp.SSC(2)

The Committee recognised that the voluntary support of other Committees was essential to the success of the proposed Shadow Scrutiny Panels. It recalled that it had agreed to draw up a voluntary protocol for inclusion in its forthcoming report and proposition on the establishment of a Scrutiny Function in Jersey in order that the Shadow Scrutiny Panels might operate without the full powers which it was proposed to accord to future Scrutiny Panels.

The Committee noted that two of the above Committees, Education, Sport and Culture and Employment and Social Security, had included the matter on the 'B' Confidential Part of the Agenda. The Committee could not see any reason why this matter should be treated as confidential and decided to request the above Committees to review their procedures with regard to the use of the 'B' Agenda.

The Greffier of the States was directed to send a copy of this Act to the Education, Sport and Culture and Employment and Social Security Committees accordingly.

Acts of other
Committees.

A15. The Committee noted the following Acts of other Committees -

- (a) Act No. A11, dated 6th March 2003, of the Policy and Resources Committee in connexion with a progress report from the Machinery of Government Sub-Committee;
- (b) Act No. A10, dated 6th March 2003, of the Policy and Resources Committee in connexion with that Committee's proposals for communicating with other members of the States;
- (c) Act No. A3, dated 12th March 2003, of the Finance and Economics Committee regarding the draft report and proposition on States members' remuneration;
- (d) Act No. A7, dated 26th March 2003, of the Finance and Economics Committee regarding the process for approval of legislation relating to the machinery of government.

Matters for
information.

A16. The Committee noted the following matters for information -

- (a) an outline of its planned visit to the London Assembly on 2nd May 2003 to investigate its Scrutiny arrangements. It was agreed that a media briefing would be prepared linking this visit with the publication of the Committee's report on Scrutiny;
- (b) that action had been taken to address the problem of pigeons perching in

the area outside the Public Entrance to the States Building. Spikes had been fixed to window sills at a cost of £120;

- (c) that a draft Service Level Agreement for the States Building had been received. It was not considered to be acceptable in its current form. The Greffier of the States was requested liaise with the Public Services Department in revising the said document.