

Privileges and Procedures Committee

(28th Meeting)

30th October 2023

Part A (Non-Exempt)

All members were present.

Connétable K. Shenton-Stone of St. Martin, Chair
Deputy M. R. Le Hegarat of St. Helier North, Vice-Chair
Deputy L. J. Farnham of St. Mary, St. Ouen and St. Peter
Deputy C. S. Alves of St. Helier Central
Deputy M. R. Ferey of St. Saviour
Deputy L. K.F. Stephenson of St. Mary, St. Ouen and St. Peter
Deputy L.V. Feltham of St. Helier Central (for a time)

In attendance -

L-M. Hart, Greffier of the States
W. Millow, Assistant Greffier of the States, Chamber and Members' Support
K. Boydens, Principal Committee and Panel Officer
J. Hales, Research and Project Officer
K.M. LARBALÉSTIER, Principal Secretariat Officer, Specialist Secretariat

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

Minutes. A1. The Minutes of the meetings held on 29th August (Part A), 11th (Part B) and 18th September (Part A) and 10th October 2023 (Part A), were taken as read and approved, subject to an amendment to Minute No. B1 of 11th September 2023, which was proposed by Deputy L.V. Feltham of St. Helier Central, to clarify that Deputy S.Y. Mézec of St. Helier South's complaint against Deputy M.R. Scott of St. Brelade had been made in his capacity as Chair of the Scrutiny Liaison Committee.

Forthcoming business. A2. The Committee considered propositions, which had been lodged 'au Greffe' for the meetings of the States Assembly that were scheduled to commence on 7th and 28th November 2023.

The Committee recalled that it was due to discuss P.76/2023 – Reform of the composition of the States Assembly, which had been lodged 'au Greffe' by Deputy M.R. Scott of St. Brelade with the Deputy during the course of the meeting. The Committee had also presented comments in response to P.75/2023 – Ethical Standards – States Members, which had also been lodged 'au Greffe' by Deputy Scott and was due to discuss the same with her during the course of the meeting. The Committee noted the contents of an electronic mail message dated 11th October 2023, from Deputy Scott to all States Members in which she advised of her intention to request a deferral of the debate on P.75/2023 pending the outcome of discussions with the Committee. Finally, the Committee noted that P.85/2023 – Amendment to Standing Orders – statements had been lodged 'au Greffe' in the name of the Privileges and Procedures Committee and was due to be debated on 28th November 2023.

On a related matter, the Committee agreed that the States meeting scheduled to commence on 12th December 2023, at which the Government Plan was due to be debated, should commence on the afternoon of 11th December 2023. The Chair undertook to remind members at the next sitting of the potential for extended sessions with later finish times.

Proposed amendment to Standing Orders – decision tracker: States Assembly

A3. The Committee considered a draft report and proposition, which sought approval for an amendment to Standing Order 128 (Privileges and Procedures Committee: terms of reference) to facilitate the development and maintenance of a States' decision tracker which would be updated every quarter and published on the States Assembly website. In this connexion the Committee received Ms. R. Graham, Principal Research and Case Officer, Members' Resources Team.

The Committee noted that the tracker would make it easier for Members and the media to question Ministers about the implementation of decisions and to scrutinise the reasons given for any delay. Where Ministers decided not to implement a particular decision, the reasons would be publicly stated and inform questions to Ministers.

The development and maintenance of the tracker would be administered by the Members' Resources Team of the States Greffe through correspondence and engagement with Government. Ms. Graham explained the approach which had been adopted in relation to the formulation of the tracker (which included historic items) and the manner in which the information would be updated and shared by the States Greffe.

The Committee expressed its appreciation for the excellent work which had been undertaken in relation to the development of the tracker and asked that a read only copy be shared with all States Members ahead of the Government Plan debate. Deputy L.V. Feltham of St. Helier Central highlighted the correlation between the tracker and the Government policy pipeline and believed that it would be of considerable interest to the Public Accounts Committee (PAC). In her capacity as Chair of the PAC, she undertook to draw the tracker to the attention of Dr. A. McLaughlin, Interim Chief Executive and Head of the Public Service. The Committee also supported a suggestion made by Deputy L.K.F. Stephenson of St. Mary, St. Ouen and St. Peter that the media be alerted when quarterly updates to the tracker were made.

The Committee approved the report and proposition, subject to minor amendments, and requested that the Greffier of the States make the necessary arrangements for the same to be lodged 'au Greffe'.

The Committee repeated its appreciation for the work undertaken by Ms. Graham in relation to the development of the tracker and she withdrew from the meeting.

Determination of the Roll of Elected Members.

A4. The Committee, with reference to its Minute No. A7 of 17th July 2023, received a report entitled 'Determination of the Roll of Elected Members', which had been prepared by Ms. K. Boydens, Principal Committee and Panel Officer.

The Committee recalled that, during the determination of the roll following the 2022 elections, some Members had raised issues around the rules that had been applied to Connétables and Deputies in relation to previous service. The question had also been asked as to why those Members who had previously been Senators appeared after returning Deputies on the roll, when the opposite might have been expected. Further, it had been suggested by Deputy M. Tadier of St. Brelade that the roll should be called on the basis of length of service alone, with no distinction drawn between Connétables and Deputies.

In July 2022, the Committee had decided that the total length of service as an elected Member of the States Assembly, irrespective of the category of Member and when that service had taken place, should be the determining factor in where a Member was located in the roll. In order to garner the views of other Members, a question had been placed in the annual survey asking whether the way in which the roll was established should be changed. 9 Members had responded in the affirmative (all of whom were Deputies) and 2 had suggested roll call by seniority and 2 alphabetically.

At its meeting on 17th July 2023, the Committee had considered whether the Connétables and Deputies should continue to be called separately, whether the total length of service should be the overarching determination of a Member's location on the roll or whether the roll should be called alphabetically. Members had concluded that the total length of service should be the overarching determination of a Member's location on the roll and the Committee had agreed to consult with Members on this ahead of seeking to amend Standing Order 2, whilst agreeing that this approach would come into effect following the 2026 election.

With respect to the seating plan of the States Chamber, the Greffier of the States was required under the provisions of Standing Order 171 to maintain a seating plan, but no further directions were included. As a consequence, the seats were determined on the basis of convention, which resulted in all Connétables sitting together and all Deputies sitting together. Seats were then chosen based on a Member's position in the roll. Due to the increased prevalence of political parties in the 2022 election, the Bailiff had made a ruling relating to the allocation of seats that enabled a political party to opt out of the process to enable their members to sit together.

Whilst acknowledging that it was unlikely that the seating plan would need to be reviewed until the next election in 2026, the Committee had been asked to consider whether it was minded to make any changes to existing practice. Specifically, it had been asked for its views on whether members should continue to sit with their fellow Deputies or Connétables; whether there should be any specific provision for Members to highlight personal requirements and to determine what provision should be made for the allocation of designated seating for political parties. It would be possible to amend Standing Order 171 to stipulate how the seating plan of the Chamber was to be determined or guidance could be issued by the Committee. The Committee had arrived at no firm conclusions in respect of the seating plan.

The Committee noted that 21 States Members had attended a briefing on 21st September 2023, in connexion with the above. Questions regarding the roll call and the seating plan had been posed and Members had concluded that the roll call should be based on length of service, with the same rules applying to Deputies and Connétables. Where there were 2 or more members with the same length of service their names should be called in alphabetical order. With regard to the seating plan, there had been support for allocation on the basis of seniority but with all Connétables continuing to sit together and all Deputies sitting together, with the exception of political parties. There had been no support for reliance on personal requirements in the allocation of seating. As a consequence, an amendment to Standing Order 2 was proposed on the basis of the feedback from Members. Alternatively, further feedback could be sought from Members on the proposals (this had been suggested by one Member who had attended the briefing session).

The Committee discussed the details of other issues which had been raised at the briefing but there was no appetite for pursuing wider changes at the present time.

Having noted the outcome of the consultation with Members, the Committee

endorsed the preferred approach (as set out above) and requested that the necessary amendment to Standing Orders be drafted for its consideration to come into effect after the next election.

Political Awareness and Education Sub-Committee: proposed amendment to Standing Orders.

A5. The Committee, with reference to its Minute No. A10 of 18th September 2023, considered a draft report and proposition which sought approval for an amendment to Standing Order 128 – Privileges and Procedures Committee terms of reference, to facilitate the establishment of the Political Awareness and Education Sub-Committee under Standing Orders.

The Committee noted that the aim of the proposal was to raise awareness of the work of the Assembly and encourage public engagement in politics.

Having considered the report and proposition the Committee accordingly approved the same and requested that the Greffier of the States make the necessary arrangements for the proposition to be lodged 'au Greffe'. Whilst in support of the proposition, Deputy L.K.F. Stephenson of St. Mary, St. Ouen and St. Peter believed that the Committee was likely to be asked why this particular Sub-Committee merited established under Standing Orders over others.

Proposed appointment of Deputy Commissioner for Standards.

A6. The Committee considered various documentation in connexion with draft proposals in the Island of Guernsey for the appointment of a Deputy Commissioner for Standards and noted that its views were sought in this regard.

The Committee noted that the appointment of a Deputy Commissioner was being considered in Guernsey to facilitate an appeals mechanism for Members on one or more of the following grounds: (a) the decision was ultra vires or there was some other error of law, (b) the decision was unreasonable, (c) the decision was made in bad faith, (d) there was a lack of proportionality, or (e) there was a material error as to the facts or as to the procedure. The Deputy Commissioner for Standards would consider the appeal, review the findings and recommendations of the Commissioner for Standards, in light of the information provided by the Member, and produce a final report on the matter.

The Committee discussed the matter and noted that there did not appear to be any particular rationale for the proposals and members were surprised to note that an individual had been identified for the role ahead of a proper appointment process.

The Committee concluded that it could not support the appointment of a Deputy Commissioner for Standards in Jersey on the basis of cost and the wider implications in terms of the role of the Commissioner. The Committee also noted that it was not believed to be common practice to appoint a Deputy in other jurisdictions and the Greffier of the States was requested to clarify what arrangements existed in other administrations.

Code of Conduct for Elected Members: Commissioner for Standards.

A7. The Committee considered correspondence dated 17th October 2023, addressed to the Chair from the Pan Island Commissioner for Standards in connexion with the Code of Conduct for Elected Members.

The Committee noted that the Commissioner had highlighted the fact that the Seven Principles of Public Life descriptors in the Code of Conduct were not reflective of the current descriptors from the Committee on Standards in Public Life. As an example the Commissioner had highlighted the fact that honesty, as described in Jersey's current Code referred to Members having a duty to declare any private interests relating to their public duties and taking steps to resolve any conflicts arising in a way that protected the public interest. Honesty as currently described by the Committee on Standards in Public Life stated that holders of public office should

be truthful.

The Commissioner was recommending that the Committee undertake a review of the Code in order to update the descriptors. She also believed that there were many ways to strengthen the Code, such as the inclusion of reference to unacceptable behaviours to reflect the Commissioner's published Statement, improvements to the layout, the development of guidance to be used in conjunction with the Code (to include a section on sanctions), defining the "scope of the code" and options for remedial action.

The Committee discussed the issues raised by the Commissioner and, whilst supportive of updating and strengthening the Code, agreed in the first instance that the Greffier of the States should seek to obtain costings from the Commissioner in relation to the work proposed. The Deputy Greffier highlighted the fact that this work need not be carried out by the Commissioner.

Privileges and
Procedures
Committee:
Sub-
Committees –
update on
workstreams.

A8. The Committee, with reference to its Minute No. A10 of 18th September 2023, considered a report which set out the progress that had been made by the various Sub-Committees which had been established to support the work of the Privileges and Procedures Committee.

It was noted that the Political Awareness and Education Sub-Committee was scheduled to meet on 23rd November 2023, and the Committee recalled that it had decided to seek approval for the establishment of the Sub-Committee under Standing Orders (Minute No. A5 refers). The States Members' Pensions Sub-Committee had met on 10th October 2023, and had noted that all Members would receive a presentation on pensions on 20th November 2023, which would encompass the views of the Remunerator in relation to the role of the Sub-Committee and the pension scheme. The Diversity Forum was due to meet on 15th November 2023, when it would consider the prospect of organising sessions on topical issues such as trans awareness. Finally, the Machinery of Government Sub-Committee had met on 19th October 2023, to consider the recommendations of the Democratic Accountability and Governance Sub-Committee, which would continue to be reviewed at the Sub-Committee meeting on 22nd November 2023.

The Committee noted the position.

Privileges and
Procedures
Committee:
2023 work
programme.

A9. The Committee, with reference to its Minute No. A11 of 19th September 2023, considered its 2023 work programme and the progress which had been made to date.

It was noted that consideration would have to be given as to whether the Committee wished to establish a Sub-Committee to consider the report entitled 'How might the Standing Orders of the States of Jersey respond to the formation of political parties', which had been Commissioned by the Committee as previously constituted in 2021, and written by Dr. C. Morris of Queen Mary University in collaboration with Mr. P. Evans, CBE.

The Committee noted the position.

Ms. C.M.
Newcombe,
former Greffier
of the States:
naming of
meeting room

A10. The Committee received an oral report from the Greffier of the States in connexion with a proposal to name a meeting room in the States building in recognition of Ms. C.M. Newcombe, the first female Greffier of the States.

Ms. Newcombe's career at the States Greffe spanned a number of years and it was noted that she had been the Deputy Greffier of the States before her appointment to

in the States
building.

the position of Greffier on 1st October 2000.

It was proposed that a meeting room adjacent to Le Capelain room should be named in honour of Ms. Newcombe. If approved, the naming of the room would not only mark the appointment of the first female Greffier of the States but would also coincide with the forthcoming 500th anniversary of the production of States Minutes. Ms. Newcombe had also been a Committee Clerk during her career with the States Greffe, with responsibility for the production of the formal records of a number of States Committees and bodies, to include the former Policy and Resources Committee.

The Committee endorsed the recommendation to name a meeting room in honour of Ms. Newcombe and requested that the necessary arrangements be made to mark the occasion.

Briefings for
States
Members and
the media.

A11. The Committee discussed ongoing issues with regard to the timings of briefings for States Members and the media and agreed that an in person meeting with the Head of Strategic Communications (in the absence of the Director) should be arranged to discuss this. In the meantime, the Committee requested that the guidelines for briefings be recirculated to the Cabinet Office.

Matters for
information.

A12. The Committee noted the following matters for information –

that all States Members would receive a reminder about the provision of office accommodation space at No. 23 Hill Street and the access arrangements;

that a briefing for States Members would be held on 5th December 2023, in relation to remote participation and the proposition associated with the same would be redrafted and circulated; and,

in response to a question from Deputy L.V. Feltham of St. Helier, Deputy M.R. Ferey of St. Saviour confirmed that Deputy P.FC. Ozouf of St. Saviour had returned to work after a period of absence.