

2.10 Deputy R.G. Le Hérissier of the Chairman of the Privileges and Procedures Committee regarding the Draft Freedom of Information Law:

Would the Chairman update the Assembly as to the progress his Committee is making in delivering the States' decision to introduce a freedom of information law?

Connétable D.F. Gray of St. Clement (Chairman of the Privileges and Procedures Committee):

The P.P.C. (Privileges and Procedures Committee) believes in the importance of access to information, and it has been working to produce an acceptable draft law to comply with the in-principle decision of the States. P.P.C. has considered 2 draft laws to date. The first draft was put out to consultation in April 2006. Comments included concerns that the draft law was overly complex for a small jurisdiction and would cost around £500,000 a year to implement. The Committee put a simpler document out to consultation in June 2007, which it hoped would be less costly. However, comments maintain that the cost will be the same. It is only fair to say that P.P.C. is not convinced that the above costs relate only to the delivery of an F.O.I. (Freedom of Information) law. It is possible that part of this £500,000 is necessary to enable departments to comply with the Public Records Law introduced in 2002 and the F.O.I. law is not solely responsible. Nevertheless, P.P.C. felt it would need to provide the States with compelling evidence that the Code of Practice on public access to official information was not working or could not be improved at lower cost. A precursory review of the annual reports for 2001 to 2006 shows that the existing appeals procedure under the code has never been exhausted. Over this period 731 applications for information have been recorded, of which 20 - or less than 3 per cent - have been refused. There have been 2 appeals for the President or Minister, as the case may be, and there have been no appeals to the States of Jersey Complaints Board. Monitoring the code has been relatively rudimentary because the focus was on delivering a law. P.P.C. has decided to review, again, the detailed provisions of the second draft law at its next meeting and it will decide whether to review the performance of the code in depth before going on to recommend legislation. The Corporate Services Scrutiny Panel has deferred its intended review of the resources implication of the draft law until P.P.C. has confirmed the direction it wishes to take.

2.10.1 Deputy R.G. Le Hérissier:

Would the chairman indicate why there is no cost in operating a code and why there is such an enormous apparent cost in operating a law?

The Connétable of St. Clement:

The replies we have had from the various departments in consultation did not indicate that they had any costs, as far as the code was concerned. They had costs in relation only to the F.O.I. law.

2.10.2 Deputy C.J. Scott Warren:

Does the chairman accept that the implementation of some laws - such as the introduction of a Freedom of Information Law - should be measured against the overall benefit, which ensues to the community, rather than the cost and that if you look at the cost saving, it could set a dangerous precedent for some very much needed laws in our society? Thank you.

The Connétable of St. Clement:

Yes, I would agree entirely with the Deputy but the responses we got from the departments were that there was a cost and we need to look at that as well.

2.10.3 Deputy A. Breckon of St. Saviour:

I wonder if the chairman of P.P.C. would agree with me that if people had greater access to information, especially financial - including us as well as the public - then it could lead to savings? He has mentioned a sum of money there and the question, Sir, is would he support better reporting and access to information in general terms?

The Connétable of St. Clement:

Yes, Sir, I think I would. Again, I just emphasise that the costs have been indicated to us by the departments. This is not something that P.P.C. has invented.

2.10.4 Deputy R.G. Le Hérisier:

Could the chairman indicate, given the rather surprising result, that the much simplified law apparently resulting in precisely the same cost as the more complex law? Obviously, suspicions must have been aroused by that finding. Could he indicate whether he has looked at the experience of other jurisdictions as to see whether this is indeed a valid objection to the law?

The Connétable of St. Clement:

We have, indeed, looked at other jurisdictions but I do not think we have related it to cost.

2.10.5 Deputy R.G. Le Hérisier:

If, indeed, the chairman has accepted cost as the main obstacle to the implementation of the law, is it not rather surprising that the Committee's research has not embraced the cost of implementation in other jurisdictions? Why is the Committee accepting this evidence, uncritically, from departments, some of whose motives, quite frankly, are open to question?

The Connétable of St. Clement:

I think I indicated my answer that we are looking at the law. We are not accepting, uncritically, the cost that the departments have indicated. We have already said, in my statement, that we think that some of those costs are related to the Public Records Law rather than to the F.O.I. law. We will look at other jurisdictions. I am not certain that we can relate what happens in Jersey to what happens in bigger jurisdictions.