

**WRITTEN QUESTION TO THE CHAIRMAN OF PRIVILEGES AND PROCEDURES COMMITTEE
BY DEPUTY G.P. SOUTHERN OF ST. HELIER**

ANSWER TO BE TABLED ON TUESDAY 15th JANUARY 2008

Question

1. Will the Chairman of the Privileges and Procedures Committee inform members whether the Committee has considered including organisations akin to “Elect Jersey 2005” (which do not have to register as political parties) in measures to limit the election expenditure of election candidates (or their parties) and if not, when will it do so?
2. Will the Chairman advise how he proposes to regulate or to investigate members’ declarations of expenditure; the sources of such expenditure (whether from individuals, or from non-accountable bodies, as above); benefits in kind, such as services provided at nominal cost; or positive coverage in non-regulated websites as part of a service purporting to be a “neutral” medium?
3. Will the Committee be bringing any measures to regulate election expenditure to the States, in time to ensure a level playing field in the 2008 elections, and if not, why not?

Answer

1. I am pleased to be able to answer this question to update members on the progress of legislation to regulate election expenses by candidates.

The issue of the expenditure by third parties during election campaigns has been one of the most difficult issues for PPC to deal with during its work on the regulation of election expenses. Although the Committee initially thought it might be appropriate to outlaw all expenditure by third parties it received legal advice that this course of action would not be human rights compliant in a democratic society where third parties must be free to express their views. The Committee will nevertheless be including measures in the legislation being brought forward which will regulate and limit expenditure by third parties. In this context third parties could include individuals, registered political parties or lobby organisations, including those that do not have to register as political parties. The intention of the legislation will be to ensure that all possible steps are taken to create a level playing field for elections although it is only proper to reiterate, as mentioned above, that in a democratic society no undue or disproportionate restriction must be imposed on the expression of political viewpoints and comments.

2. The legislation being proposed by PPC will include a monetary limit on candidates’ expenditure that will be made up of a basic sum supplemented by an additional amount related to the number of electors in the relevant constituency. The principles will be broadly in line with the Committee’s consultation document on this issue presented to the States on 15th January 2007 (R.2/2007). The restriction on expenditure will include money received from donations or professional services received at reduced cost although, for the avoidance of doubt, PPC wishes to make it clear that the wide ranging assistance provided to candidates in Jersey by volunteers will not be restricted. Candidates will be required to make a declaration of expenditure following the election setting out not only the total expenditure incurred (which must be within the statutory limit) but also setting out the source of expenditure. Candidates who receive assistance or donations will therefore be required to provide details of this in their return of expenditure. Any expenditure incurred on behalf of a candidate without his or her knowledge or consent will be regulated by the measures relating to third parties referred above. Although it would be inappropriate in a democratic society to restrict the circulation of purely factual information about candidates and policies, any websites that are created for the purpose of encouraging the electorate to vote for or against any particular candidate will be covered by the regulation of third parties. The legislation will provide that the

initial returns of expenditure by candidates are submitted to the Judicial Greffe after an election, in view of the role of the Royal Court in overseeing elections. The legislation will contain criminal offences for any breaches of the rules and any alleged offences will be investigated as criminal offences in the normal way.

3. The drafting of legislation relating to election expenses was included in the 2008 Law Drafting programme and comprehensive instructions were forwarded to the Law Draftsmen on 17th December 2007. Although the Committee had been working on this issue for some time the matter of third party funding required considerable research and legal advice and it was this aspect that delayed the preparation of complete drafting instructions. The Committee's intention is to present the legislation as triennial Regulations as the legislation relates to a purely domestic matter for Jersey and does not require the amendment of any existing primary legislation. As triennial Regulations do not require sanction by the Privy Council the Committee is confident that the necessary measures can be debated by the States and, if approved, be in force before the elections in the autumn of 2008. The Committee's intention is to convert the triennial Regulations into primary legislation in the light of experience after the 2008 elections.