

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

**ANSWER TO BE TABLED ON TUESDAY 12th FEBRUARY 2008**

**Question**

1. Following his response to my question 3673 of 29th January 2008, will the Chairman inform members what actions will be included on the list of offences on electoral expenses and advise how such matters will be reported and investigated in a timescale sufficient to prevent offences being committed in the course of an election and not simply some months or years later when it will be too late to affect the result of the election?

In particular will he address these issues in relation to:

- lobby organisations that are not registered
- expenditure by third parties without prior consent of candidate
- expenditure by third parties with consent
- total expenditure by candidates
- the use of websites based in foreign jurisdictions

**Answer**

1. The draft legislation soon to be considered by the Privileges and Procedures Committee on the issue of the regulation of election expenses will, subject to the receipt of legal advice, contain offences including the following -
- a) it will be an offence for a candidate or third party to exceed the permitted amount of election expenses;
  - b) it will be an offence for a candidate or third party to receive donations in excess of the permitted amounts and it will be an offence to keep anonymous donations of more than £100;
  - c) it will be an offence for a person who incurs or pays election expenses for a candidate or third party not to provide that person with information about the expenses;
  - d) it will be an offence for a person not to make the necessary return after the election setting out details of expenditure and donations or failing to provide necessary invoices, receipts and other proof if required to do so.

Expenditure by a third party with the consent of the candidate is considered to be the expenditure of the candidate himself or herself. Expenditure by third a party without the prior consent of the candidate is regulated by the rules on the maximum amount permitted to be spent by third parties.

It is important to stress that there would be no jurisdiction for the Jersey legislation to regulate activities undertaken entirely out of the Island. Nevertheless it is likely that in the majority of cases any activity by third parties will be managed and co-ordinated from Jersey and the legislation will therefore apply to any activity in the Island.

As stated in a previous answer the offences will be normal criminal offences which will be investigated in the usual way. Because of the relatively short period of an election campaign it is only fair to point out that it may be impossible for potential offences to be investigated and taken to Court until after the election. The legislation is nevertheless intended to act as a severe deterrent to any abuse because of the potential criminal offences and experience in other small jurisdictions such as Guernsey has shown that candidates will normally comply with the restrictions.

### **Question**

2. Does the Committee envisage a separate Electoral Commission to supervise elections and, if not, which other body will do this?

### **Answer**

2. The Committee does not envisage a separate Electoral Commission as it does not believe that this could be justified on grounds of costs in a small jurisdiction such as Jersey. Elections in Jersey have for many years been supervised through the Royal Court and the legislation will require candidates and third parties to submit returns of expenditure to the Judicial Greffier.

### **Question**

3. Will sanctions include the capacity to declare election results null and void as a result of offences committed?

### **Answer**

3. The Public Elections (Jersey) Law 2002 permits the Royal Court to order fresh elections in certain limited circumstances under that law. The Committee's current proposals do not include the ability to declare election results null and void as a result of offences committed but the Committee is willing to give further thought to this matter in the permanent legislation being brought forward in due course. It is important to recognise that the ability to prove that an election result had actually been affected by any breach of the rules on election expenditure may be extremely difficult to establish.

### **Question**

4. Will the Chairman further inform members what costs (both financial and in terms of staff) the Committee estimates will be involved in its proposals?

### **Answer**

4. The Judicial Greffier is satisfied that the resource implications of receiving necessary declarations of expenditure can be managed within existing resources. As stated above the offences created will be investigated as normal criminal offences and dealt with through the normal prosecution process.

## Question

5. What consideration has the Committee given to limiting candidates to a fixed format organised by the States or to providing limited assistance to candidates to ensure a level playing field?

## Answer

5. Candidates will be limited to a fixed level of expenditure and, in practice, the Committee believes that this is the most appropriate way to create a level playing field between candidates. The Committee does not believe it would be appropriate to limit candidates to a fixed format of electioneering as some candidates may, for example, wish to use the expenditure allowed for advertisements in the media whereas others may prefer to simply display posters or circulate letters. The Committee's proposals nevertheless provide for a free mailing at public expense for every candidate and these mailings will need to be in a fixed format determined by the Privileges and Procedures Committee.

## Question

6. Will the Chairman detail for members how the Committee proposes to define what constitutes acceptable assistance from volunteers? In particular, will the Committee consider the following alternatives in relation to the delivery of leaflets door-to-door by:
- a) friends of the candidate (unpaid);
  - b) friends of the candidate (paid nominal sum);
  - c) employees of the candidate (unpaid);
  - d) employees of the candidate (paid their normal hourly rate).

## Answer

6. The Committee is determined that the proposed regulation of election expenses does not affect the long tradition of voluntary assistance given to candidates. In order to avoid any loopholes in the legislation the Committee will nevertheless be ensuring that any voluntary assistance provided by a person who normally provides that service as part of his or her business is counted at full cost. For example a candidate who obtains a free website design from a friend who works professionally as a website designer would be required to obtain and declare the normal commercial value of the service as part of his or her overall expenditure limit. In the examples given by Deputy Southern -
- a) no election expenses would be incurred from this voluntary help;
  - b) the nominal amount paid would be an election expense;
  - c) the normal salary paid to the employee would count as an election expense for the time spent on election work;
  - d) the payment made would be an election expense.

The Committee notes that this lengthy set of questions is the third successive set of written questions submitted by Deputy Southern. Although the Committee is happy to continue to answer questions as submitted I would urge Deputy Southern, if he has concerns, to come to PPC to discuss this issue. If appropriate the Committee may be able to take on board some of his concerns before the legislation is finalised. In addition I must stress that the draft legislation that PPC will bring forward will, of course, be subject to amendment by any member in the usual way.