
STATES OF JERSEY



BAILIFF'S PANEL FOR THE CONTROL OF PUBLIC ENTERTAINMENT: APPOINTMENT OF MEMBERS

**Presented to the States on 19th October 2011
by the Minister for Education, Sport and Culture**

STATES GREFFE

REPORT

Summary

The Minister for Education, Sport and Culture is minded to invite the States to change the manner in which advice is obtained from the Bailiff's Panel for the Control of Public Entertainment, taking account of the very rare occasions when this advice is required.

Currently there are no terms of office for Panel members. If conventional periods were introduced, it is possible that members could be appointed but never be called upon to sit or give advice: the Panel has met only twice in the last 15 years.

Consequently, the Minister is minded to propose a more flexible method of securing advice when it is required by inviting representative bodies to provide individuals to sit at short notice, as and when required.

Context

The licensing of public entertainment is the responsibility of the Bailiff under customary powers. While it has been suggested in the past that an independent body might ultimately take over this function, the present position is that the Bailiff exercises the duty with support from a number of agencies, including the States and Honorary Police, Health and Safety, the Fire and Ambulance Services, and the Health Protection Department. Other professional bodies/agencies are also consulted when required, depending on the nature of any specific application. These bodies meet as an impartial advisory Panel ('the Bailiff's Panel') to review applications for public entertainment permits and advise the Bailiff accordingly.

In addition to this Panel which meets regularly, there is a *second* Panel which meets much less frequently and which offers advice of an entirely different nature. This second Panel, known as 'the Bailiff's Panel for the Control of Public Entertainment', is the subject of this report.

The report has been produced following discussions with Mrs. Susan Bone, the current Chairman of the Bailiff's Panel for the Control of Public Entertainment, who was appointed by the States on 16th March 2005.

Background

The Bailiff's Panel for the Control of Public Entertainment was established by the States of Jersey in October 1987, following the adoption on 13th October 1987 of a proposition and report of a Committee of Inquiry ('Control of Public Entertainment: proposals of Committee of Inquiry' – P.139/1987). It sat in the aftermath of a controversy surrounding a stage play presented the previous year.

In 1987 the States accepted that the Bailiff should continue to exercise control over public entertainment, and agreed to create the Panel, nominated by the then Education Committee, and appointed by the Assembly, to –

- establish initial guidelines, in consultation with the Bailiff, to assist the Bailiff in monitoring the standards of entertainment being presented and, as necessary, to make recommendations to the Bailiff concerning any aspect of entertainment; and
- advise the Bailiff and update the standard conditions attached to permits and suggest specific conditions for particular events.

It should be stressed that the function of the Panel is advisory: it is the Bailiff whose permission is required to present public entertainment.

Operation of the Panel

The Panel is convened at the request of the Minister for Education, Sport and Culture, following an indication from the Bailiff that he would value advice on a specific matter. Following its formal appointment in 1987, the Panel met on a number of occasions in the late 1980s and early 1990s, setting out guidance for nightclubs and theatres. Its approach was based to a significant extent on ensuring that the public was appropriately prepared for productions which might contain, for instance, ‘bad language’ or nudity. Consequently, a ‘flagging’ system was introduced, requiring venues to advise patrons clearly of such content so that they could decide whether or not they wished to attend.

More recently, however, the Bailiff has needed such advice much less frequently. In fact, the Panel has met only twice in 15 years. This reflects both the success of the ‘flagging’ system, which has reduced the number of complaints received, and also changing attitudes to public entertainment over the 24 years since the Committee of Inquiry produced its report.

The need for a Panel

It might be asked, as a result, whether the Panel still fulfils a useful role. However, it is important to appreciate its underlying purpose: to ensure that when the Bailiff exercises his customary powers to determine whether, or in what circumstances, a particular public entertainment should take place, he should do so with the benefit of impartial soundings from the wider community.

This principle still applies. Irrespective of how often the need arises, there are likely to be occasions on which the view of a Panel of lay people will be of value to the Bailiff while he continues to exercise this responsibility. The Chief Officer to the Bailiff confirmed, by letter of 27th September 2010 to the Department of Education, Sport and Culture, that the present Bailiff “values the contribution made by the Panel and would hope that any future Panel would continue to contribute in its advisory role”.

Membership of the Panel

Accepting that the Panel still has a purpose, there is a need to review its membership, particularly in the light of the fact that no terms of office were originally set down for membership. It would be straightforward simply to remedy this and to make further appointments accordingly.

However, the infrequency with which the Panel meets creates a fundamental dilemma. Good practice in making public appointments has changed since the Panel was established. It is no longer appropriate to designate individuals: there should be open advertisement with a formal appointments process. But having completed such a process, it is likely – on the basis of recent experience – that some considerable time might elapse before a member actually took part in a meeting. Indeed, under fixed periods of office, they could easily have completed their service without ever having been called upon to participate! This seems perverse given that the individuals concerned will have volunteered for public service and undergone a formal appointments mechanism to become involved.

The same issue arises if efforts are made to appoint a balanced Panel containing, for instance, youth representatives: they might have advanced well into adult life by the time their views were actually sought.

More fundamentally, although appointment criteria could be devised, the value of the Panel is to connect the Bailiff with public opinion *as a whole* rather than the views of those with particular qualifications or experience. And although it would be useful to have input from some individuals with experience of public entertainment, the value of the Panel's guidance to the Bailiff lies precisely in its diversity.

The Minister is, therefore, not convinced that a conventional approach to appointment remains appropriate.

An alternative approach

An alternative would be to convene a Panel as and when it was required. To ensure that this could be done swiftly – as, when it *does* sit, there is invariably a need for it to do so at short notice – it would be necessary to identify in advance a number of different bodies from whose ranks the members could be drawn.

Rather than appoint individuals to a permanent body which meets very rarely, the Department of Education, Sport and Culture would contact the Chairperson of an agreed list of bodies to ask them each to nominate a person to sit on the comparatively rare occasions when the Bailiff indicated that he would value advice.

There would be no requirement for the same person to be nominated each time a Panel was convened; indeed, different 'delegates' would reinforce the value of the Panel as a sounding board for wider public opinion.

It might be beneficial for the States to continue to appoint a Chairperson – perhaps for a period of 10 years – in order that discussions could be appropriately chaired without possible influence from the Department or any external body. The Chairperson would be appointed according to Appointments Commission principles.

The nature of the Panel's advice

Since the function of the Panel is to provide the Bailiff with a range of impartial advice, there is no requirement for it to reach a consensus; rather, its value lies in being able to report the range of views to the Bailiff to inform any decision he makes. It should be emphasized that the Panel is purely advisory: the Bailiff retains the

responsibility to licence public entertainment and does so through wide and well established consultation.

Implementation

The purpose of this report is to set out the intended approach and to allow any representations to be made before the Minister seeks to update the functioning of the Panel in the manner indicated. The Minister will welcome expressions of interest on the part of community bodies in being approached to supply members when required.

Note: The Chairperson of the Appointments Commission has been consulted in developing this proposed approach, and has indicated that it would be appropriate to the circumstances.