The Organisation of States' Affairs

Guide to the proposals of the States' Review Committee June 2014

Abstract:

- On the 9th of March, 2012 the States approved the prayer of a requête which proposed the creation of a States' Review Committee to undertake a comprehensive review of the organisation of States' affairs and recommend any reforms considered necessary.
- After a review lasting 18 months, the members of the Committee are unanimously proposing substantial reforms to the Island's political structure. These proposals will be debated and voted upon at a meeting of the States starting on the 8th of July, 2014.
- The Committee's full report which has been published in Billet d'État No.
 XIV 2014 runs to over one hundred pages. This short guide summarises the Committee's main findings and proposals.

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Foreword

BY DEPUTY JONATHAN LE TOCQ

The previous major review of the structure and functions of the States resulted in significant changes introduced in 2004. Speaking as one of the few remaining States' members who was in the States both before and since those reforms, they did make some significant improvements upon the previous system. The

Committee's report recognises those strengths and its proposals seek to protect them - the Committee sees no merit in reverting to the unwieldy pre-2004 structure.

We are ten years on now and there is general agreement some aspects of the system are not working so well. In my view, these proposals further improve upon the strengths of the current system and address some of its key weaknesses.

Key to the Committee's proposals is that they keep the States of Deliberation as the final executive decision-maker. The alternative would be to create an executive with collective responsibility. The Committee has concluded that it cannot recommend this option and explains why in detail in its report and briefly in this guide.

It is important to remember that no system is perfect and that good governance is a journey of continuous improvement. In no way does the Committee suggest that its proposals are a panacea or are without imperfections and limitations. The Committee is realistic in recognising what can and cannot be achieved through structural and organisational reform alone.

Nevertheless, the reforms proposed are pragmatic, proportionate and achievable. They respect and seek to build upon existing strengths while addressing the most serious shortcomings in the present arrangements. The Committee is confident that, if approved by the States, the reforms proposed will provide conditions more conducive to effective leadership, sound co-ordination of policies and resources and proportionate checks and balances as well as ensuring that the structure is sufficiently flexible to adapt if and when circumstances change.

Unique **Guernsey**

OPPORTUNITY responsive *flexible*

10 Key proposals

The Committee's proposals provide clearer **leadership** through the **co-ordination** of policy and resources by creating a single senior committee – the **Policy & Resources Committee** – with members free of other major committee responsibilities.

- In order to provide clear leadership through the co-ordination of policy and resources, there shall be a single senior committee – designated the Policy & Resources Committee – with the following main functions:
 - Policy co-ordination, including leading the policy planning process;
 - Allocation and management of resources, including the States' budget;
 - Facilitating cross-committee policy development.
- 2. The Policy & Resources Committee shall comprise five States' Members, none of whom shall be members of the Principal Committees.
- 3. President of the Policy & Resources Committee shall be the Island's senior political office.
- 4. The Policy & Resources Committee shall have responsibility for external relations and constitutional affairs and the Committee shall designate its President or one of its members as the States' lead member for external relations and constitutional affairs.

The proposals provide greater **flexibility** by allowing the number and functions of committees to be modified in the future without it being necessary to change the size or profile of the States' senior committee. There is a presumption in favour of further **rationalisation** in the committee structure.

- 5. Most of the policy-making, regulatory and public service functions of the States shall be delegated to no more than nine Principal Committees, but when considering the precise allocation of such functions there shall be a general presumption in favour of rationalisation of committees where practicable.
- 6. Each Principal Committee shall be led by a President of the Committee and the number of other members shall be determined with reference to the range of functions, the workload and the likely number of sub-committees, but there shall be a presumption in favour of Principal Committees containing five States' Members unless there is a wide variance in the breadth of mandates among the Principal Committees.

The proposals make better use of States' members in **scrutiny** roles and encourage more **external challenge** of the States by creating a single Scrutiny Management Committee supported by 'task and finish' panels bringing together States' Members and people independent of the States.

- 7. There shall be a single Scrutiny Management Committee responsible to the States of Deliberation for the scrutiny of policy, finances and expenditure and legislation.
- 8. The States shall elect to the Scrutiny Management Committee two States' Members and one member independent of the States whose background and expertise is particularly well-suited to the scrutiny of financial affairs.

- 9. The Scrutiny Management Committee shall provide for structured and coordinated scrutiny of policy and services, financial affairs and expenditure and legislation by convening Scrutiny Panels along the following lines:
 - When the Scrutiny Management Committee identifies the need to undertake a review or examination of policy or services, it shall appoint a 'task and finish' group comprising in the main States' Members especially suited to the scrutiny of that particular area of policy or service but who have no seats on any of the Principal Committees likely to come under scrutiny, supplemented if felt appropriate by persons independent of the States;
 - When the Scrutiny Management Committee identifies the need to undertake a review or examination of a financial matter, it shall appoint a 'task and finish' group drawn in the main from among a panel of members independent of the States who are especially suited to the scrutiny of financial affairs, supplemented if felt appropriate by States' Members unconnected to the matters under scrutiny;
 - The Scrutiny Management Committee shall appoint a standing Legislation Review Panel to be chaired by the member of the Scrutiny Management Committee who leads in the scrutiny of legislation and with a membership which brings together a number of other States' Members and a number of persons independent of the States with backgrounds and skills especially suited to the scrutiny of legislation.

The improved committee system could operate effectively with at least a measure of reduction in the number of States' Members.

10. The number of States' Members shall be determined with reference only to the need to fulfil the full range of States' functions in a way which would properly balance democracy and efficiency, but when considering the precise number of States' Members there shall be a general presumption in favour of some reduction.

Why is change necessary?

The States' Review Committee has found that there are significant weaknesses in the present structure of the States. Reform of the States' structure is required to promote effective leadership, sound co-ordination of policies and resources, appropriate checks and balances and greater flexibility to adapt as and when circumstances change.

opportunity EVIDENCE review reform CHANGE

The Committee interviewed and read written submissions from a considerable number of people with direct experience of the States and others who through their work or other endeavours have been close observers of the States. The Committee also met separately with 15 committees of the States. The Committee took into account public consultations undertaken during previous reviews and studied the political structures of the other Crown Dependencies, Jersey and the Isle of Man.

A substantial majority of submissions made to the Committee advocated material reform of the structure and operation of the States. They consistently identified a few particularly significant weaknesses in the present arrangements.

Policy & Resources Committee

The Committee's proposals provide clearer leadership through the co-ordination of policy and resources by creating a single senior committee – the Policy & Resources Committee – with members free of other major committee responsibilities.

POLICY Coordination resources Leadership

clarity of roles

The Island's political system requires the States of Deliberation, when allocating resources, to compare and judge competing policies and priorities proposed by their various committees. The committees report and are directly accountable to the States: a difference of opinion on a substantial matter of policy ultimately falls to be resolved by the States. The Committee's proposed improved committee system envisages no change in this regard – the States of Deliberation would retain governing functions as the ultimate decision-maker. Nonetheless the Committee believes it is essential that the States should be advised and supported in that task by a single senior committee established expressly for that purpose.

At present, Guernsey has a Chief Minister and a committee of Ministers but neither has any conventional ministerial powers. Constitutionally the Policy Council has no authority over other States' committees. Its membership – the Ministers of all the departments plus a Chief Minister - is similar to what one would expect in a cabinet but it was set up expressly not to be a cabinet and its functions would need to be reformed significantly to act as one.

Rather, the Policy Council is a co-ordinating committee of 11 members. It is the largest of all States' committees. Most respondents who expressed a view about the size of committees felt that a committee is likely to function best when it has no fewer than three and no more than between five and seven members. The Committee doubts whether a standing committee of 11 members can be expected

to function as a close, coherent senior committee providing leadership and co-ordination.

Members are not elected to the Policy Council as such; neither are they appointed by a Chief Minister. Rather, they are elected by the States as political leads of departments and hold a seat on the Policy Council *ex officio*. It is not surprising, therefore, to find that many members of the Policy Council tend to feel more accountable for the policies and services of the departments which they lead than for anything done or not done at the level of the Policy Council.

A key observation heard by the Committee in the course of its review was that the planning and co-ordination of policy and resources across the States are in need of considerable improvement. There appear to be two specific concerns: first, the policy planning process is inadequate; second, confidence is low about the prospects for success in policy development where co-ordination is required between States' committees.

It is widely felt that the Policy Council is better equipped to undertake its 'executive' functions – such as external relations – than it is to co-ordinate the States' policy agenda and as far as possible ensure consistency between policy and the allocation of resources.

The Policy Council's mandate restricts its capacity to coordinate the policies and resources of the States because, other than in respect of employment functions, it has no responsibility at all for resources, including finance.

Policy and resources have an inextricable relationship: each is wholly dependent on the other. However, the present States' structure militates against effective and co-ordinated policy and resource planning.

The Committee has concluded that there is a need for a single senior committee with responsibility for the combined functions of policy co-ordination and the allocation of resources – the Policy & Resources Committee.

Key Proposal 1

- In order to provide clear leadership through the coordination of policy and resources, there shall be a single senior committee – designated the Policy & Resources Committee – with the following main functions:
 - Policy co-ordination, including leading the policy planning process;
 - Allocation and management of resources, including the States' budget;
 - Facilitating crosscommittee policy development.

The present States' structure is not sufficiently flexible to adapt as and when circumstances change.

The central concept underpinning the Policy Council is that each department's minister is a member. Therefore, either the number of departments is set according to what is considered to be the ideal number of members of the Policy Council, which is not the most rational way of determining the appropriate number of departments, or else the number of members of the Policy Council arises, almost by accident, out of the number of departments.

The number of departments cannot be adjusted without also changing the membership of the Policy Council. It is interesting to note that in the ten years since the present structure was established, there has not been a single change in the number or size of States' departments. The Committee doubts whether this is a mere coincidence.

Key Proposal 2

The Policy & Resources
 Committee shall
 comprise five States'
 Members, none of
 whom shall be members
 of the Principal
 Committees.

The Committee believes that the efforts of the senior committee to manage States' finances and other resources, co-ordinate policy across the States and take responsibility for external relations would be aided greatly by the members of the senior committee being impartial of the principal (spending) committees and therefore able genuinely to stand above sectoral interests and take a corporate view of States' affairs. This would allow the members of the senior committee to focus fully on the particular responsibilities of that committee rather than perpetuating the unclear dual function which members of the Policy Council are required to fulfil today.

The States of Deliberation can hold to account their committees to the point of dismissal through motions of no confidence, but the lines of accountability are more confused in respect of the Policy Council. There is no way to hold the Policy Council to account separately from States' departments. For example, the States cannot remove the Policy Council without simultaneously removing every department Minister and thereby disrupting departments which may have had nothing to do with the events which provoked the removal of the Policy Council. This would be appropriate to an executive system, but in a committee system this cannot be satisfactory.

The Committee is of the opinion that accountability in the senior committee – and, as importantly, the senior committee's own sense of accountability to the States of Deliberation – would be stronger if the members of the senior committee were elected to be responsible for the mandate of that committee <u>only</u> rather than becoming members of it on an *ex officio* basis through their responsibilities heading other committees.

Ministers, especially those leading the larger departments, are always likely to be among the busiest members of the States. The Committee received representations questioning whether it was reasonable to expect – indeed, to require – ministers to be able to combine the role of departmental head with the role of member of the Policy Council responsible for policy co-ordination. Undoubtedly membership of the Policy & Resources Committee would require considerable commitment and, in the opinion of the Committee, such commitment cannot reasonably be expected – at least not on a consistent basis – of political heads of other major committees. On the other hand, arranging the membership of the Policy & Resources Committee in the way proposed will ensure that its members do not need to have a workload which is more onerous than that of members of the Policy Council today.

While governing functions remain with the States of Deliberation and the Island has no identifiable executive distinct from parliament, the holder of the office which is currently designated *Chief Minister* is a very different role to that of Prime Minister or Chief Minister at the head of a conventional cabinet government.

In Guernsey the office-holder cannot rely on the exercise of formal constitutional powers (especially the right of appointment and dismissal over other members of the government) but can still be regarded as first among equals and, if the role is reformed along the lines proposed, can provide leadership, which the Committee regards as an essential component of any competent system of administration.

Allowing the holder of the Island's senior political office to lead a senior committee with responsibility for the planning and co-ordination of policy, the allocation of resources and external relations would enhance the capacity of the office-holder to provide leadership.

Key Proposal 3

 President of the Policy & Resources Committee shall be the Island's senior political office.

Strengthening the States' **focus** on the Island's external relations

The nature of Guernsey's economy and the increasing inter-dependence of the modern world mean that the need for the States to apply resources – both time and money – to the Island's relations with other jurisdictions is likely to grow rather than diminish.

The Committee sees no merit in recommending the creation of a separate States' committee for external relations. The Committee believes that external relations must sit at the heart of whatever organisational structure the States adopt.

The Committee has concluded that the most appropriate arrangement is for responsibility for external relations to sit with the Policy & Resources Committee and for that Committee to designate its President or one of its members to be the lead member for external relations.

The proposed arrangement has the following benefits:

Key Proposal 4

- 4. The Policy & Resources Committee shall have responsibility for external relations and constitutional affairs and the Committee shall designate its President or one of its members as the States' lead member for external relations and constitutional affairs.
- Responsibility for external relations policy, developed on behalf of the States and in accordance with States' resolutions, would sit at the centre of the proposed new structure;
- One member of the Policy & Resources Committee, though still able to contribute to all other parts of the committee's mandate, would be able at all times to afford priority to the Island's external relations;
- The Policy & Resources Committee would designate as lead member whichever of its members it considers to have the skills and interests best-suited to dealing with external relations;
- If the member with designated responsibility for political leadership of external relations was indisposed, another member of the Policy & Resources Committee would be able to deputise and, therefore, the States' capacity for external relations would be resilient;

 More recently a collegiate approach has been developed to external relations. The proposal of the Committee would allow that to be maintained should the Policy & Resources Committee determine that to be in the Island's best interests. The member with designated responsibility for external relations would be free to call upon colleagues – e.g. other members of the Policy & Resources Committee or the political heads of the Principal Committees – to take the lead or assist whenever particular circumstances required.

Principal Committees

The proposals provide greater flexibility by allowing the number and functions of committees to be modified in the future without it being necessary to change the size or profile of the States' senior committee.

FLEXIBILITY services *functions Policy development* implementation

At present most policy-making, regulatory and public service functions are delegated to ten committees of the States: Commerce & Employment, Culture & Leisure, Education, Environment, Health & Social Services, Home, Housing, Public Services, Social Security and Treasury & Resources.

The proposed system *could* function effectively whether the States now or in the future wish to retain the same number of Principal Committees, rationalise their functions and reduce the number of Principal Committees or increase the number to provide for greater specialisation.

Many submissions received by the Committee favoured further rationalisation of the number of committees with a view to encouraging focus on policy-making, aiding coordination between committees and obtaining efficiencies in bureaucracy.

The Committee is well aware of the competing arguments: adding to the number of Principal Committees would be likely to inhibit the objective of better co-ordination whereas amalgamating functions and rationalising committees too far would probably create bodies with mandates too broad to manage effectively.

The Committee – on balance – has a general presumption in favour of rationalisation, but it wishes to use the second stage of its review to consider more fully how best to allocate at committee level the myriad functions undertaken by the States. In so doing, the consideration which the Committee wishes to place above all others is how the functions of the States can best be allocated in order to provide as efficiently as possible the services and facilities required by the people of Guernsey: what matters most is what works for the users of services and taxpayers.

Clearly, a most important component of the improved committee system proposed in this report would be the relationship between the Policy & Resources Committee and the Principal Committees. The Policy & Resources Committee would be able to fulfil its primary responsibilities domestically only by working co-operatively and cohesively with the Principal Committees. It would be incumbent upon the President of the Policy & Resources Committee in particular – the holder of the Island's senior political office – to take the initiative in this respect. Effective planning and co-ordination would doubtless require frequent dialogue between the Presidents of the Policy & Resources Committee and the Principal Committees.

The Policy & Resources Committee would lead the States' policy planning process. *Policy planning* is the integration of policies across the States and the reconciliation of policy objectives with the allocation of resources. The Committee envisages a States-wide policy and resource planning process which is reasonably straightforward, flexible and unbureaucratic, which is focused on significant policy matters and which assists Principal Committees in the setting of their priorities within a framework of overall policy assumptions, including financial constraints. Of course, the States would remain preeminent in determining policy.

Key Proposals 5 & 6

- 5. Most of the policy-making, regulatory and public service functions of the States shall be delegated to no more than nine Principal Committees, but when considering the precise allocation of such functions there shall be a general presumption in favour of rationalisation of committees where practicable.
- 6. Each Principal Committee shall be led by a President of the Committee and the number of other members shall be determined with reference to the range of functions, the workload and the likely number of sub-committees, but there shall be a presumption in favour of Principal Committees containing five States' Members unless there is a wide variance in the breadth of mandates among the Principal Committees.

Scrutiny Management Committee and Panels

The proposals make better use of States' members in scrutiny roles and encourage more external challenge of the States by creating a single Scrutiny Management Committee supported by 'task and finish' panels bringing together States' members and people independent of the States.

hold to account Scrutiny public challenge

Many parliamentary democracies allocate responsibility for scrutiny to committees with a membership entirely independent of the executive. In Guernsey, where parliamentary and governing functions are not distinct, it cannot be assumed that a model of standing committees with fixed membership will necessarily best serve the purposes of scrutiny in the local context.

The strength and powers of scrutiny are likely, at least to some extent, to be a function or consequence of the strength and powers of the executive or government under scrutiny. Parliaments elsewhere have developed scrutiny functions to try to keep their governments in check, but in Guernsey there is no separate government for the parliament to keep in check.

Many policy decisions which in other jurisdictions the government would make in

Key Proposals 7 & 8

- There shall be a single Scrutiny Management Committee responsible to the States of Deliberation for the scrutiny of policy, finances and expenditure and legislation.
- The States shall elect to the Scrutiny Management Committee two States' Members and one member independent of the States whose background and expertise is particularly well-suited to the scrutiny of financial affairs.

private are in Guernsey made in public on the floor of the Assembly (the States of Deliberation), often after considerable debate. In many submissions made to the Committee this was held to be the cornerstone of the Island's democracy.

Those governing functions which are delegated by the States in the main fall to be carried out by committees, whose powers are subject to a range of limitations, checks and balances. For example, the sphere of which administration over any committee has influence is limited by the mandate prescribed to it by States' resolution; members of committees are independent and not bound by collective responsibility; there are few restrictions on written and oral questions which may be asked of committees by other States' Members; and in most cases committees lay before the States policy proposals of even moderate significance and the States are free to approve, amend, delay or reject them.

The resources and profile of scrutiny could certainly be improved. Moreover, the arrangements for scrutiny could be made more flexible in order to make the best use of the political and staff resources available, to respond dynamically to events as they emerge, and to facilitate more external challenge.

Key Proposal 9

- The Scrutiny Management Committee shall provide for structured and co-ordinated scrutiny of policy and services, financial affairs and expenditure and legislation by convening Scrutiny Panels along the following lines:
 - When the Scrutiny Management Committee identifies the need to undertake a review or examination of policy or services, it shall appoint a 'task and finish' group comprising in the main States' Members especially suited to the scrutiny of that particular area of policy or service but who have no seats on any of the Principal Committees likely to come under scrutiny, supplemented if felt appropriate by persons independent of the States;
 - When the Scrutiny Management Committee identifies the need to undertake a review or examination of a financial matter, it shall appoint a 'task and finish' group drawn in the main from among a panel of members independent of the States who are especially suited to the scrutiny of financial affairs, supplemented if felt appropriate by States' Members unconnected to the matters under scrutiny;
 - The Scrutiny Management Committee shall appoint a standing Legislation Review Panel to be chaired by the member of the Scrutiny Management Committee who leads in the scrutiny of legislation and with a membership which brings together a number of other States' Members and a number of persons independent of the States with backgrounds and skills especially suited to the scrutiny of legislation.

Number of States Members

The improved committee system could operate effectively with at least a measure of reduction in the number of States' Members.

There are 47 voting members of the States of Deliberation: 45 people's deputies elected in seven districts in Guernsey and two Alderney Representatives.

The primary consideration should be the number of members required to fulfil the States' full range of functions in a way which balances democracy and efficiency. The number of members should be determined by the structure of the States and not the other way around.

Key Proposal 10

10 The number of States' Members shall be determined with reference only to the need to fulfil the full range of States' functions in a way which would properly balance democracy and efficiency, but when considering the precise number of States' Members there shall be a general presumption in favour of some reduction.

The Committee is of the view that in the improved committee system it is proposing fewer than 47 Members would be required. Therefore, the potential exists for at least a measure of reduction.

However, before recommending a specific number of members, the Committee would need to examine the issue more closely in the second stage of its review, especially in light of the views expressed in debate on this first report – and in particular in regard to the States' decisions in respect of the constitution of committees - because clearly there is a relationship between the number and size of committees and the total number of States' Members.

Why not executive government?

The Committee does not lightly dismiss the potential advantages of a ministerial system of government, which are outlined in its full report. Indeed, in principle, the majority of the members of the Committee were initially inclined towards a ministerial system and all members of the Committee appreciate that there is a body of opinion inside and outside the States which remains supportive of such a system. Should the States resolve to adopt a ministerial system, the Committee will work diligently to return to the States as expeditiously as possible with the detailed recommendations necessary to establish such a system.

However, following more than 18 months of investigation, the Committee has reached the following conclusions about ministerial government:

- Political parties are likely to be required in order to make a ministerial system effective and accountable and provide for democratic legitimacy;
- It is unlikely that the potential advantages of a ministerial system would be realised in Guernsey;
- While the committee system has disadvantages and faces challenges, a ministerial system would create new disadvantages and challenges which may well be no less significant.

It should be noted, too, that adopting a ministerial system would require a significant and potentially not inexpensive departure from the Island's traditional political system. The Committee believes the States should set off on such a journey only if the benefits are demonstrably apparent, which, in the opinion of the Committee, they are not.

The Committee is unanimous in being unable to recommend the adoption of a ministerial system of government in Guernsey.

Conclusion

The Committee is unanimous in recommending to the States the adoption of the improved committee system based on its 10 Key Proposals

Unanimous improve build strengthen journey

2016

At the start of the Committee's review, none of the members of the Committee anticipated that their proposals would take this shape and form and each member of the Committee had a quite different expectation of the recommendations which might emerge. The unanimous proposals of the Committee emerged only after, and directly in response to, the consideration of the many diverse written and oral submissions made to the Committee.

In no way does the Committee suggest that its proposals are a panacea or are without imperfections and limitations. The Committee is realistic in recognising what can and cannot be achieved through structural and organisational reform alone. The reforms proposed are pragmatic, proportionate and achievable. They respect and seek to build upon existing strengths while addressing the most serious shortcomings identified in the present structure and operation of the States.

The Committee is confident that, if approved by the States, the reforms proposed will provide conditions more conducive to effective leadership, sound co-ordination of policies and resources and proportionate checks and balances as well as ensuring that the structure is sufficiently flexible to adapt if and when circumstances change.

The Committee is confident that the reorganisation it is proposing can be implemented efficiently and in good time to coincide with the 2016 general election.

Next steps

Public Meetings:

Monday 16th June 2014 19.30 Le Murier School

Wednesday 18th June 2014 19.30 Forest School The Committee's proposals were published on the 2nd of June 2014. They will be debated and voted upon at a meeting of the States starting on the 8th of July 2014.

If the States approve structural reforms the Committee will develop its proposals further and report to the States in the early months of 2015 with detailed recommendations for the future organisation of States' affairs in line with the States' resolutions made in respect of this first report.

The continuation of the review process will include further consultation with States' Members, officers and the wider public.

You can obtain a paper copy of the Committee's full report from Sir Charles Frossard House; and it is available to download on our website.

www.gov.gg/statesreview

Email: review@gov.gg