



The Presiding Officer
The Royal Court
St Peter Port
Guernsey
GY1 2PB

5th December 2024

Dear Sir,

Letter of Comment - The Government Reform (2024) Requête, P.2024/95

I refer to the above Requête which is scheduled for debate by the States of Deliberation at their meeting commencing 11th December 2024.

In accordance with Rule 28(2)(b) of the Rules of Procedure of the States of Deliberation and their Committees, the Policy & Resources Committee ("the Committee") consulted with the States' Assembly & Constitution Committee ("SACC"), and its letter dated 1st November is appended to this Letter of Comment. Deputy Murray, as a signatory to the Requête, has recused himself from Committee discussions on this matter.

The Committee is minded to agree with SACC that the difficulties in progressing the work of government this term have their origins in behaviours rather than the structure of government and number of States' Members.

Moreover, whilst the Committee shares the Requête's wish to see government operating more effectively and is not opposed in principle to a reduction in the number of States' Members, it considers that the proposed approach of an arbitrary reduction of ten members within months of the General Election would not represent good governance. The Committee has an interest and role in advising on the allocation of policy responsibilities to committees which would need to be carefully developed in the wider consideration of the machinery of government triggered by a reduction of ten States' Members. It is of the view that neither the States nor its Civil Service has the capacity at this stage in the current term to conclude that work by April 2025 for consideration by this term of the States.

Notwithstanding, and in providing its views on the Proposition to reduce the number of States' Members by ten, the Committee reserves its right to consider on their merit any other proposals brought forward in debate.

Alderney Representation

One of the consequences in a reduction of the number of Deputies by ten is whether consideration should be given to the appropriateness of the resultant ratio of Deputies to Alderney Representatives to better reflect the current day relative sizes of population.

In 1949 the States of Deliberation were constituted by 12 Conseillers, 33 People's Deputies, ten Douzaine Representatives and two Alderney Representatives so that the ratio of Guernsey Deputies and other Guernsey representatives to the Alderney Representatives was 55:2. The current ratio is 38:2 and, should the States agree to the reduction in Deputies proposed in the Requête, the ratio would drop to 28:2; almost exactly half of the 1949 ratio.

The current membership of the States of Deliberation is set out in Article 1 of the Reform (Guernsey) Law, 1948 and the entitlement of the people of Alderney to be represented in the States of Deliberation by two Alderney Representatives was established by the States of Guernsey (Representation of Alderney) Law, 1949, which was repealed and replaced by the States of Guernsey (Representation of Alderney) Law, 1978. The latter two Laws were approved by both the States of Deliberation and the States of Alderney.

Any proposals to amend the legislative framework which provides for the Alderney Representatives to be two in number would therefore need to be considered by both legislatures and, even in the event of agreed change, it is highly unlikely that any legislative change could be delivered before the next States' term.

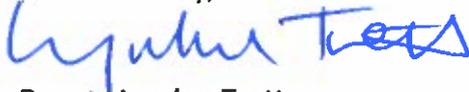
Reshaping Government Sub-Committee

Contrary to the Requête's assertion, the report of the Reshaping Government Sub-Committee has not been shelved and indeed the Sub-Committee did consider a reduction of three or five States' Members in the course of its wide-ranging deliberations. The delay in bringing forward its findings is because in themselves they are not as meaningful as would be hoped given the breadth of its Terms of Reference, leading to the recommendation to establish a States' Investigation & Advisory Committee ("SI&AC").

The Committee supports the Sub-Committee's recommendation to establish a SI&AC to continue the work of reviewing government in the next political term, providing a direct route to report to the Assembly. The Committee had considered bringing the Sub-Committee's report to the States in January 2025 but in light of this Requête considers it appropriate to bring it forward now and I attach the Report for information.

By a majority, the Committee is now considering the merits of lodging an Amendment to the Requête seeking to create a SI&AC.

Yours faithfully,



Deputy Lyndon Trott
President

Enc.

- Rule 28 response – States' Assembly & Constitution Committee
- Report of the Reshaping Government Sub-Committee, May 2024



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1 November 2024

Dear Deputy Trott

THE GOVERNMENT REFORM (2024) REQUÊTE

Thank you for your letter dated 15th October 2024, seeking the Committee's comments on the above Requête.

Before considering the detail of the Requête, the Committee thinks it would be helpful to set out some context regarding Guernsey's current system of government. This was covered in some detail by the States Review Committee in its [second policy letter](#) considered by the States in July 2015¹, and is repeated here by way of background:

"In almost all other parliamentary democracies the functions of government are allocated to representatives of the part or parties who, alone or in coalition, hold the most seats in parliament and they have the necessary authority for the formation of an executive or government. Policy is made by the government within a legislative and budgetary framework set by parliament.

Guernsey, however, does not have an executive or government in the conventional sense – i.e. as something distinct from, although accountable to, parliament. Instead, parliamentary and governing functions are fused in one body, the States of Deliberation. Therefore, Guernsey, almost uniquely, is governed not just through its parliament but by its parliament. This is crucial in understanding Guernsey's political system.

In practice, most day-to-day functions are carried out by committees of the States, each of which is independently responsible to the States of Deliberation. Committees of the States – individually or collectively – are in no way analogous to an executive or government. A committee is in effect an agent of the States of Guernsey exercising functions conferred on it by resolution of, or legislation approved by, the States of Deliberation."

¹ Billet d'Etat XII, 2015

Guernsey's system of government is often referred to as a consensus model, which it is, but this is often interpreted as being an alternative to executive government, whereas executive models of government also rely on the ability to build consensus because proposals still require a majority vote in order to be carried. Therefore, the narrative in the Requête that there is somehow a binary choice between the two is somewhat misleading. True democracy is built on consensus, and consensus building relies on the skills and behaviours of those in the system, rather than the system itself.

As Professor Catherine Staite observed in her 2019 review of governance within the Committee for Home Affairs, *"Good governance is enabled and supported by systems, structures and behaviours."* In other words, there are three complementary aspects to good governance, and the Requête focuses on only one, namely the structure of government, whereas the Committee considers that many of the criticisms made of the current system in the Requête stem from behaviours, rather than from the structure of government.

For example, the ability to revisit decisions, heavily criticised by the Requéranants, is a product of a democratic political system which exists to ensure all voices can be heard. Virtually every Member in the current Assembly, if not all of them, will have taken advantage of this during the current term, with one of the current Requéranants having voted in favour of the Requête to save Herm School. The Committee believes that it is proper that mechanisms exist in order to revisit decisions, but that careful judgment needs to be exercised regarding whether it is good governance to do so in any given instance.

In general terms, the Committee would observe that the Requête does not fully articulate the problem it is seeking to solve, and neither does it explain why the answer to that problem is to introduce a form of executive government and also to reduce the number of Deputies by 10. Assuming that any reduction is justified, which the Committee does not accept on the basis of this Requête, there is no justification given for that reduction being 10 Deputies, as opposed to a different number.

As stated above, the Committee is unclear as to why the Requéranants believe that the size of the Assembly should be reduced in the absence of any evidence for such a step. In its [Review of Island-Wide Voting](#), the Scrutiny Management Committee touched on the number of Deputies in the Assembly, whilst acknowledging that it was a topic more related to discussion on the machinery of government. The relevant section of the report reads as follows:

"Contrary to popular opinion, it was felt that the number was too low, partly because all the same functions and departments of a larger jurisdiction are still present in a smaller one, and partly because there was too small a pool from which to draw sufficient skilled people in order to adequately populate committees."

The Committee believes that these are very pertinent points, particularly in respect of the breadth of functions that must be covered by a self-governing jurisdiction, which include, but are not limited to:

- Health and Social Care
- Social Security
- Justice
- Law enforcement
- Border control

Education
Infrastructure
Fiscal matters
Primary Legislation
Overseas relations
International Trade

Whilst there is scope to redistribute responsibilities, given the overarching responsibilities of government, it is difficult to see how the existing number of Committees could be reduced. Even with smaller Committees, it would be challenging to populate all the Committees necessary to develop policy and oversee the provision of essential services with only 28 Deputies in the States, as well as to populate the Parliamentary Committees. It must also be borne in mind that the absence of an “opposition” means that Parliamentary scrutiny is of great importance and a “critical mass” in the Assembly is necessary to achieve this.

[The Report of the Panel on the Machinery of Government in Jersey](#) (generally known as the Clothier Report) published in December 2000 pointed out that: “[a]n effective democracy requires not just an executive but the balance of a strong assembly which holds the executive to account and scrutinises its actions as well as contributing to the formation of policy.

It also recommended an assembly comprising between 42 and 44 members, and commented that “*there is no optimum number of members for any assembly. We do not consider that the present 53 Members is too many in absolute terms, if that were the number required to perform the legislative and executive functions of the States*”, thereby emphasising that the starting point for determining the numbers of Members in an assembly is the functions of the assembly rather than the number of members thereof. In contrast, this Requête has taken the number of Deputies as its starting point.

If the number of Members on Committees were reduced to three, this would almost inevitably result in problems maintaining a quorum for Committee meetings, which could have the effect of slowing down decision-making, the opposite of what is intended. It would also mean that just two Members would be able to make significant decisions, potentially with little or no challenge from within the Committee. This would include executive-style decisions such as signing off Regulations. It would also increase the likelihood of policy letters being heavily amended or rejected when they arrived in the Assembly owing to the reduced diversity of thought that had gone into them.

The Committee notes a false equivalence between the executive board of a business and the States of Deliberation as Guernsey’s parliament. The rationale for a smaller number of Deputies seems to be based largely on evidence from business sources but running a government is not the same as running a business. Whilst many of the skills needed to succeed in business are useful and welcome within government, there needs to be an understanding of the differences that exist too. Businesses are free to take decisions without the intense scrutiny to which government is subjected including from the media and the public. Business leaders are not required to take into account the breadth of factors that politicians must in their decision-making. Trying to run government exactly like a business does not work, and therefore conclusions of research carried out within the commercial world will not necessarily translate into success in a political arena, where debate is welcomed.

Some decisions that would make sense in a business context do not translate well to government. In particular, the concept of an outsourced Scrutiny function is of significant concern to the Committee. The act of scrutinising government proposals is one of the central roles of a parliament and contributes significantly to transparency and accountability in a way that could not be achieved through an external body.

If the Requête is approved by the Assembly, that will necessitate an amendment to the Reform Law, assuming the necessary two-thirds majority is achieved. The time scale envisaged for this would mean that the Reform Law would be amended within months of a General Election, which is not in line with good practice.

If Proposition one is approved, the Committee will be directed: *“to return to the States as soon as possible, and in any event not later than April 2025, with a policy letter containing such consequential and other recommendations as to committee memberships, representative numbers, rule changes and other considerations as it may consider necessary.”*

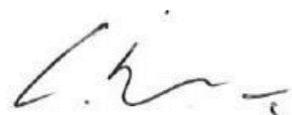
This would mean that the Committee would need to submit its proposals by 24th March in order for them to be considered by the States at their meeting commencing on 30th April 2025, the last of the current States’ term.

The Committee is currently preparing for the forthcoming General Election and also working on a programme of induction and ongoing development for the new cohort of States’ Members. Therefore, without significant additional and suitably qualified resourcing. The Committee are unable to carry out the detailed work required within the time frame given.

It should also be noted that if the Assembly decides to make any changes to the structure of government in April 2025, there will remain approximately two months for such changes to be effected in time for the new political term, which commences on 1st July 2025. Previous experience of Committee reorganisations suggests that this is unlikely to be sufficient time but, of course, the time required depends on the extent of any changes agreed.

To conclude, while the Committee respects the aspirations behind the Requéran’s suggestions, it believes that a matter as fundamental as the way in which Guernsey is governed merits proper discussion over a longer time period and is not something that could or indeed should be considered at pace by the Assembly a mere six months before the end of the political term.

Yours sincerely



Deputy C P Meerveld
President

REPORT OF THE POLICY & RESOURCES RESHAPING GOVERNMENT SUB-COMMITTEE

Executive Summary

Following the resolution of the States on 23rd July 2021¹ that “Reshaping Government” should be a priority, the Policy & Resources Committee established a sub-committee – the Reshaping Government Sub-Committee – to review how government works and how its operations might be enhanced for the benefit of the community.

Having carried out extensive research in tandem with some stakeholder engagement, the sub-committee concluded that it was not resourced or constituted appropriately to deal with the issues it was charged with examining.

Consequently, the Sub-Committee has set out for the consideration of the Policy & Resources Committee the questions it believes lie at the heart of this work stream, together with suggested solutions.

It has not made any firm recommendations in respect of those solutions, as it believes that its report should form the basis of the next phase of work, which it recommends should be undertaken by a Special Investigation Committee of the States. It further recommends that such a Committee should be established before the end of the current political term but it strongly believes that this recommendation should be pursued only if a Special Investigation Committee can be appropriately resourced to carry out the work in question.

Background

At their meeting held on 23rd July 2021² the States agreed that “Reshaping Government” should form priority four of the GWP. This was defined as *“prioritising those actions which will make the greatest contribution towards a more effective and affordable form of government and a more community focused public service.”*

Priority four included a number of actions organised into eight separate areas of focus. Reviewing how government works falls into the area of focus designated “Enhance the operation of Government”. Other work streams in this area of focus included the introduction of simultaneous electronic voting in the Assembly, which has been delivered.

¹ Billet d’Etat XV, 2021

² Billet d’Etat XV, 2021

The Policy & Resources Committee undertook to work with SACC and States' Members in reviewing how government works – i.e. the machinery of government - confirming that it was *“not seeking revolution but instead looking to evolve the operation of the legislature and government to work better for Islanders.”*

In order to discharge this responsibility, the Committee established a sub-committee known as the Reshaping Government Sub-Committee in October 2021, working to the terms of reference attached as Appendix One.

The sub-committee considers it important to highlight that its work began one year after the General Election, whereas previous reviews have commenced at the beginning of political terms. In this instance this was not possible, owing to the fact that the Assembly did not agree that the work should be included in the GWP until July 2021.

It is also worthy of note that during both 2020 and 2021 the business of government was severely disrupted by a global pandemic and the priority was on recovering service delivery whilst simultaneously addressing other matters that had had to be deprioritised during Covid lockdowns.

The sub-committee recognises that the review of the machinery of government is only one strand in a suite of separate issues that are being considered in a similar time frame by different bodies. These are:

- Island-wide voting;
- The role of the parishes in democracy;
- Procedural and organisational issues; and
- The review of the machinery of government

The sub-committee's terms of reference do not encompass other work streams on the above separate, but related, subjects. The review of island-wide voting undertaken by the Scrutiny Management Committee (SMC), with SACC as a significant stakeholder, has now concluded and the findings have been reported³. The Policy & Resources Committee has a working group dedicated to working with the parish administrations, although no fundamental changes are expected in this respect.

Clearly the sub-committee has an interest in the first two topics listed above but its involvement is limited to that of a stakeholder rather than a driver of the work in

³ <https://www.gov.gg/CHttpHandler.ashx?id=173086&p=0>

question.

The sub-committee was advised by senior civil servants and a Law Officer (HM Procurer and in her absence HM Comptroller) and originally comprised the following members:

Deputy Heidi Soulsby, MBE	Vice-President of the Policy & Resources Committee and Chair of the sub-committee
Deputy Jonathan Le Tocq	Policy & Resources Committee
Deputy Carl Meerveld	President, States' Assembly & Constitution Committee
Deputy Liam McKenna	States Assembly & Constitution Committee
Advocate Tom Carey	Voting lay member

Following Deputy Soulsby's resignation from the Policy & Resources Committee, Deputy Le Tocq assumed chairmanship of the sub-committee and Deputy Bob Murray became the second Policy & Resources representative.

When a new Policy & Resources Committee was elected in December 2023, Deputy Murray stood down from the sub-committee and was replaced by Deputy Gollop.

In February 2024 Deputy McKenna resigned from the sub-committee and Deputy Fairclough took his place as the second representative of SACC.

The sub-committee first met on 14th December 2021 and since then, in summary, has carried out the following activities:

- Review of extensive background information
- Consideration of parliamentary systems elsewhere
- Stakeholder workshops (with States' Members, the public and senior civil servants)
- Questionnaires to States' Members and the Parish Douzaines
- Opportunities for Members to feed in their views and suggestions

While the sub-committee was progressing its work, it became evident that it was going to prove challenging to deliver the GWP in its entirety with the resources currently available. In early 2023 the then President of the Policy & Resources Committee wrote to all Principal Committees advising that *"We need to move from 'nice to have' to 'need*

to have’.”

Set against this backdrop, the sub-committee decided to take stock and consider whether it could justify the ongoing use of resources in the pursuit of this work.

After reflecting on the current situation, the sub-committee decided that fundamental and costly changes were not appropriate in the prevailing financial climate but that potentially it was possible to effect some simple changes at minimum cost that could significantly improve the effectiveness of government during the next political term. For example, potentially some amendments to the States’ Rules of Procedure could support change, and this is a matter that SACC is able to address outside of any reshaping government work.

A further consideration for the sub-committee was that the changes implemented with effect from 1st May 2016 had been in place for only one full political term, which had been severely disrupted by the Covid-19 pandemic, meaning that the new system was not tried and tested and therefore it was too soon to consider wholesale or fundamental changes. Therefore, there was never an intention to undertake a wholesale review of the machinery of government.

The sub-committee nevertheless recognised that the system would benefit from some amendments, and therefore agreed that it would focus its report on issues that would merit further consideration and development by a future Assembly in due course when time and resources allow.

Review of Background Information

Before commencing its work, the sub-committee reviewed a suite of background documents, as follows:

- A report dated November 2000 entitled “Review of the Machinery of Government in Guernsey”, known as the Harwood Report as it was chaired by Advocate Peter Harwood. A copy is attached as Appendix Two.
- The policy letters of the States’ Review Committee considered by the States between July 2014 and November 2015⁴;
- A [Requete](#) entitled “Towards a more effective Structure of Government” laid by Deputy Soulsby and six fellow Deputies in December 2019. The Requête

⁴ Billet d’Etat XIV, 2014; Billet d’Etat XII, 2015; Billet d’Etat XXI, 2015

was subsequently withdrawn and therefore never debated by the Assembly. A copy is attached as Appendix Three.

- Governance reviews of the Committees *for* Health & Social Care; Home Affairs; Education, Sport & Culture and the Policy & Resources Committee that were carried out by Professor Catherine Staite during the 2016-2020 political term. Copies are attached as Appendices Four to Seven respectively.

The sub-committee believes that the reports referenced above, particularly the “Harwood Report”, highlighted the challenges associated with conducting a review of the machinery of government. Whilst such challenges tend to shift in the face of societal changes, many of those outlined in the report remain relevant over 20 years from its publication, despite the fact that new systems of government were put in place in 2004 and again in 2016, thereby reinforcing the sub-committee’s view that the issues are not primarily structural.

The reviews carried out by Professor Staite also emphasise the importance of organisational culture, individual values and beliefs and trust as crucial components of good governance.

A Vision for the Future

The sub-committee was firmly of the opinion that it was crucial to set out a vision for the future of government in the longer term, in order to guide and inform any interim steps that might be agreed.

Stakeholder engagement supported the sub-committee’s initial view that the main issue needing to be addressed is the inability of government to set and deliver strategy. As the Wales Audit Office observed in its 2009 review of good governance,⁵ “*lack of clear strategic direction has a cost*”. The sub-committee’s vision for the future is therefore a slimmed-down executive government that focuses on strategic matters, with robust scrutiny measures in place.

It considers that there are a number of different models that could potentially deliver this vision, but it would strongly caution that no system of government can solve issues that have their roots in societal changes beyond the remit of any government.

The sub-committee recognises that there may not be sufficient political appetite for a

⁵ Billet d’Etat IV, 2011

move to executive government at this time but believes that there are steps that can be taken which would improve the current situation and could also potentially feature in an executive system, albeit they are by no means unique to such a system.

Questions and Issues

How can we improve the ability of government to set and deliver strategy?

Facilitating joint working at a strategic level was seen as crucial in responding to a key question at the heart of this work stream, namely, how to improve government's ability to carry out strategic planning, scheduling and delivery.

In this respect, the sub-committee saw many advantages in the bringing together of the Treasury and Policy functions that occurred in 2016 with the creation of the Policy & Resources Committee. Consequently, it was keen to build on this success with further refinements to the constitution of the Policy & Resources Committee.

Whilst the creation of the Policy & Resources Committee has been a success in a number of ways, feedback pointed to a desire from Members for a forum that facilitates collaborative discussion and strategic decision-making at the highest level, something that generally is not afforded by the current system. This is not the fault of the Policy & Resources Committee but rather a product of the system of government.

This was flagged up in Professor Staite's governance report into the Committee for Home Affairs, which points out that "[t]he siloed nature of the principal Committees militates against effective strategic responses to cross-cutting issues".

This issue is not new. The Harwood report included the following observation:

"Perhaps the most remarkable feature of the present machinery of government is the near absolute autonomy that each Committee possesses. That autonomy often leads to conflicts between Committees and the perhaps unedifying spectacle of such conflicts being aired in open debate. The other remarkable feature is the lack of collective responsibility at all political levels. The Panel has concluded that the combination of both features at political level is conducive to a lack of coordination of policy which must be potentially damaging to the Island and does not assist the development of a co-ordinated policy of a long-term or

strategic nature.”

The sub-committee considers that a sense of disconnect between Policy & Resources and the Principal Committees may have developed during the 2016-2020 political term, resulting in the creation of “oversight boards”, which involved Presidents of Principal Committees meeting with the President of the Policy & Resources Committee on a regular basis to facilitate scrutiny and dialogue.

This was largely felt to be an exercise in the Policy & Resources Committee holding other Committees to account, rather than true collaborative working, and during the current political term this has evolved into a forum where the Presidents of Principal Committees collectively meet regularly with the Policy & Resources Committee.

However, the group in its existing format has no formal standing or terms of reference and, therefore, no authority or accountability. Consequently, whilst the forum improves communication and collaborative working, it does not help to address speed of decision-making, nor does it contribute to the formulation and delivery of strategic priorities.

After much deliberation, the sub-committee came to the opinion that the issue is very difficult to resolve fully without moving to a more executive style of government. However, as it seems that such a system of government may be considered a step too far, then a workable solution would be to restructure the Policy & Resources Committee to include representation from all the Principal Committees. This would mean that strategic planning, scheduling and delivery, including, crucially, the resource allocation necessary to deliver government’s strategic plans, would be discussed with all key political stakeholders participating on an equal footing.

For the avoidance of doubt, the sub-committee is not suggesting any changes to the Policy & Resources Committee’s mandate at this time.

In terms of its constitution, the sub-committee considers that there are two essential roles in addition to the President and Vice-President. The first of these is a Treasury Lead, which could be undertaken by the President or another Member but the constitution should preclude the Treasury lead from being the President of any other Committee.

It will also be necessary to designate a Member to have responsibility for external relations, as happens now. The sub-committee is keen to build as much flexibility as possible into the system and therefore does not believe it necessary to be prescriptive

about which Member should take this on; rather it should be determined by whomever has the best skill set for the role, which could be a President of a Principal Committee.

This means there would be a President and a Treasury lead on the senior Committee who would not be able to be a President or Member of any other Committee. The sub-committee believes that there should be a third Member on the senior Committee who does not have a seat on any other Committee.

This third Member might be voted Vice-President, although the sub-committee does not consider that Presidents of other Committees should be precluded from becoming Vice-President of the Policy & Resources Committee. Another possibility would be for this Member to take on the role of external relations lead. A third option is for him/her effectively to be “without portfolio”, as the mandate of the senior Committee is sufficiently broad for the Deputy in question to have considerable duties and responsibilities; for example, representing the States as employer, or taking on a role as champion for public sector transformation.

Other members of the Committee would be the Presidents of the Principal Committees, giving a total membership of nine, which is considered small enough to facilitate robust debate without being so large as to impede swift decision-making.

The Committee will need to be able to maintain focus on strategic matters and, at times, will have to engage in very nuanced political debate. Consequently, the sub-committee considers that only experienced Deputies, who have served at least one political term, should be eligible to hold a seat on the senior Committee.

It is recognised that this would preclude new Deputies from taking up positions as Presidents of Principal Committees but, in practice, it is rare for first-time Deputies to be appointed to such roles. Furthermore, in the absence of the support that could be afforded by a mature political party structure, there is much more need to learn “on the job” in Guernsey.

Therefore, the sub-committee does not think it appropriate that wholly inexperienced politicians should be able to be appointed straight onto the senior Committee of the States, given the breadth and gravity of matters that reside there.

In order to ensure continuity of discussion and also to make sure that only experienced Deputies are part of the most senior Committee, the sub-committee believes that Committee Presidents should not be able to nominate alternative nominees in the event

that they are unable to attend a meeting. The only exception should be in the event of the prolonged absence of a Committee President, in which case the Vice-President would be permitted to attend in his/her stead.

The sub-committee also considered the method of election to the senior Committee. One of the objectives of the proposed changes is to strengthen accountability for strategic decision-making and, as part of that, the sub-committee believed it could be helpful to turn previously established procedure on its head and, rather than populating the senior Committee with *ex officio* members, who might have a tendency to focus on their individual Committees' needs, rather than the overall strategic priorities of the States, and to find a way of making Members feel that their primary accountability was to the Policy & Resources Committee.

Consideration was given to the possibility of a new method of election whereby the States would, as now, elect the President and Members of the Policy & Resources Committee but, following the election of a Vice-President and selection of a Treasury Lead, the President would allocate each of the remaining six members a "portfolio" aligned to the mandates of the Principal Committees. This would allow him or her effectively to select the Presidents of the Principal Committees, who would have been voted onto the senior Committee by the Assembly, with the remaining Members of the Principal Committees being elected by the Assembly, as is the case at present.

This would serve to reinforce the concept of the senior Committee as strategic decision-maker and would mean that Principal Committee Presidents should feel a responsibility for taking forward ideas and direction from the senior Committee into their individual Committees, rather than the other way round.

The sub-committee recognised that this was likely to be difficult to "sell" to States' Members, who may consider it a step towards executive government, something that did not emerge from feedback as a favoured option at this time.

Consequently, the sub-committee is not promoting this approach at this stage but nevertheless considers there is merit in looking at it more closely in the fullness of time.

If agreed, the amended constitution of the Policy & Resources Committee would have the added advantage of providing an opportunity to revert to previous procedures for submitting policy letters to the States.

This political term has seen the Assembly grapple, perhaps more than any other, with

highly complex issues that require decisions to be made with far-reaching consequences. In some instances, policy letters have been subject to a large number of amendments, perhaps born of a lack of engagement with and by Committees and a rise in personality and populist politics fuelled by societal changes. This has resulted in long debates and important matters remaining unresolved.

Prior to 2016, all policy letters had to be shared with the Policy Council and the Treasury & Resources Committee for comment before they could be submitted to the States. The Policy Council also acted as a “gatekeeper”, with policy letters having to be approved by it before being published in a Billet d’Etat.

The introduction of a similar practice would help to bring about a more co-ordinated approach to policy letters, particularly as consensus building would need to start within the senior Committee rather than at the point of publication, as can happen now because Committees can, if they wish, publish policy letters without any engagement with the Policy & Resources Committee and/or other relevant Committees.

The sub-committee accepts that, at present, this is rare, but, on balance, considers that the quality of policy letters would be improved by a requirement that they be shared with the senior Committee for comment, as they were for many years prior to 2016.

For the avoidance of doubt, the sub-committee is not proposing that, as in the past, the senior Committee is responsible for preparing the Billets. It considers that this should, as now, rest with the States’ Greffier but that there should be a requirement for policy letters to have appended a formal letter of comment from the Policy & Resources Committee before they are submitted for consideration by the States.

A further option for improving the ability to set and deliver strategy would be to consider extending political terms from four to five years.

When compared to other comparable jurisdictions, Guernsey’s political structure is very “flat” and has been so ever since the abolition of the role of Conseiller in 2000. Conseillers were the senior Members of the Assembly, until 1994 elected by the States of Election to serve six-year terms. In 1994 these roles were elected for the first time via an island-wide election, and this was repeated in 1997 for what proved to be the final time.

By way of background, as explained in the report of the Constitution of the States Review

Committee in 1991⁶:

“... Conseillers were to exercise a stabilising influence, to ensure continuity, to provide a nucleus of experienced persons, and to provide a ‘second’ chamber within a unicameral system.”

The continuity referred to was achieved by Conseillers serving six-year terms, while Deputies’ terms at that time spanned only three years. When the role of Conseiller was abolished in 2000, political terms became four years long.

The sub-committee’s view is that the four-year term is insufficient to enable the States to operate as effectively as possible, particularly in light of the turnover that has been seen in recent elections, with 50% of the Assembly being replaced in one fell swoop.

There is a great deal of information for new Deputies to assimilate at the start of a new political term, meaning that, through no fault of their own, they are not fully effective in their roles for about 18 months, leaving a period of approximately two years during which they are more able to achieve their aims before the business of government starts slowing down prior to the next election.

Given that it can take several years for policy implementation and other projects to be completed or at least substantially advanced, the four-year term is, in the sub-committee’s opinion, hindering the ability of government to deliver against its identified strategic priorities. This is compounded by a lack of continuity of elected Members.

Consequently, the sub-committee believes that consideration should be given to extending political terms to five years’ duration. It considers that this will provide sufficient time for priorities to be identified and delivered to a point that would discourage new Assemblies from overturning previous decisions.

Of course, the sub-committee recognises that a degree of revisiting policies is a feature of democratic government and should not be outlawed. However, the concern it is trying to address is the frequency with which this takes place in Guernsey.

There are various examples of recent decisions of previous Assemblies being overturned by new Committees or via Requête, often leading to significant expenditure as well as potential reputational damage both in Guernsey and further afield. Longer political

⁶ Billet d’Etat I, 1991

terms are seen as a way of mitigating this risk and improving the chances of government strategy being delivered.

How can we improve the speed and certainty of decision-making?

Feedback from the community workshop focused on a desire for greater transparency and more evidence-based decision-making, combined with less bureaucracy. It was felt that the Civil Contingencies Authority (CCA) had been proven to work well during the Covid-19 pandemic and this was generally considered to be because there had been minimum “red tape” surrounding its work.

Brexit was also cited as an example of the States demonstrating decisiveness and speed of response, largely because of the necessity of keeping pace with and responding to developments elsewhere which lent a focus to discussion.

The sub-committee agreed that too many policies and procedures could hinder progress. However, it also accepted that it was challenging to balance all the risks appropriately, as government has to mitigate risks that might be considered acceptable in the private sector although it was possible that some checks and balances were disproportionate and should be reviewed.

In the absence of more fundamental changes to government, the sub-committee considers that the restructuring of the Policy & Resources Committee as outlined above represents the best option at this time for improving the pace of decision-making because it will bring together senior political decision-makers with one common agenda.

Do we need to change Committee mandates?

Regardless of the structure or type of government that is in place, across most jurisdictions there is broad consensus in respect of the services that must be provided by government; for example, education, health and social security. Before considering new Committee structure or mandates, it is helpful to reflect on the current position in this respect.

There are some major services in which government will always need to be involved, whether at a strategic or operational level, or both. These are:

- Health and Social Care
- Social Security
- Justice and Home Affairs
- Education
- Infrastructure
- Fiscal matters

The functions of government have been divided into different categories, as set out in Appendix Eight, which also shows how those functions are currently distributed across Committee mandates.

The list is very similar to the last time this exercise was carried out, over 20 years ago, which is not surprising as the essential core services provided/funded by government are unlikely to change significantly with the passage of time. It is notable that no core responsibilities have been removed and that any changes are additions to activities carried out by the States; again, this is not surprising given the greater need for regulation in response to national and global events, combined with higher expectations of government from the public.

The States currently have very wide-ranging responsibilities. This has always been the case, and in the past, this was dealt with by having 52 Committees of the States, populated by 57 States' Members. It has long been recognised that this is not an efficient way to conduct government business, which leaves two options for any streamlining of the structure: one of which is for government to do less, whilst the other is to give larger mandates to a smaller number of Committees.

Based on feedback received, the sub-committee does not consider there is any desire significantly to reduce the services delivered and functions carried out by government but that there is appetite to explore how some might be delivered by others, with government involvement limited to setting strategy, defining outcomes and providing funding in whole or in part.

Essential services and regulatory functions are the least likely to be easily outsourced. Areas that lend themselves more readily to being carried out at arm's length are promotional activity and services run on a commercial or semi-commercial footing.

Feedback showed that opinions varied regarding which other Committees should comprise the Principal Committees of the States but those that have been identified consistently as core to any revised system are:

- Education (a dedicated Committee for Education rather than including the current Sport and Culture elements);
- Social Security;
- Home Affairs; and
- Health & Social Care.

Although the functions of the Committee *for* Economic Development do not feature in this list, the sub-committee considered that not having a Committee with such a mandate could result in the business community interpreting this as disinterest on the part of government in making Guernsey an attractive place for investors and in prioritising Guernsey's competitiveness. If there were no such Committee, Guernsey would be unique as a developed economy in not having clear political leadership combined with the requisite resource to enable economic wellbeing and competitiveness.

Consideration was given to moving responsibility for economic development to the Policy & Resources Committee, but this would conflict with that Committee's responsibility for setting the policy framework for the regulation of financial services and competition and would not therefore be appropriate nor would it be compliant with membership of trade organisations such as the World Trade Organisation.

This would leave the Committee *for the* Environment & Infrastructure as the only existing Principal Committee not to reappear under this structure. Clearly, the States need to develop and implement environmental policy and it is therefore inconceivable that this should be omitted from the suite of policy development that needs to be represented around the senior Committee table. Likewise, strategic planning needs to take account of the island's future infrastructure needs. The question is whether these functions require a separate Principal Committee or whether they could be subsumed into another Committee's mandate.

If the latter, one option would be to allocate strategic infrastructure planning to the Policy & Resources Committee, given its responsibility for developing strategic plans. Provided it was conducted at a high level, this could potentially work but it is important to avoid the Policy & Resources Committee becoming a "dumping ground" for aspects of committee mandates that prove hard to allocate.

In order to avoid this, another option would be to create a Committee for Housing, Infrastructure and Transport, which would have the added advantage of responding to feedback to the effect that there should be a Committee with explicit responsibility for housing. If responsibility for social housing stock were to be passed to the Guernsey Housing Association, then the Committee would be responsible for managing the resultant SLA, as well as for ensuring that, for example, the island's housing stock includes sufficient affordable homes and key worker housing.

It is more problematic to place environmental policy with a different Committee because the States could face criticism if no Committee is seen to be owning the environmental agenda in the face of challenges such as climate change. A possible option would be to add the main principles of environmental policy to the mandate of the economic development committee because there are links between the two.

For example, looking after the environment, both built and natural, has a direct link to economic wellbeing in that it enhances the attractiveness of Guernsey as a place to live and work, and also provides an opportunity more effectively to explore areas of the blue and green economy.

If responsibility for environmental policy is placed, as now, with the Committee responsible for infrastructure, and assuming that housing is added to that Committee's remit, it will potentially lead to that Committee having a mandate that is too broad to discharge effectively.

On the other hand, it is questionable whether environmental policy and economic policy will be perceived as a natural pairing, just as some Deputies have commented that they do not consider environmental policy and infrastructure planning to be the right pairing. However, it is important to differentiate between the long-term strategy for the built and natural environment and the delivery of environmental services, which are often conflated in the current model, the latter being an example of services that could potentially be outsourced.

It is clear that, given the wide range of functions the States need to oversee, it would be difficult to reduce the number of principal Committees. It is also evident that some Committee Presidents and Members are perceived as having much bigger portfolios, and consequently being exposed to more pressure, than their counterparts on other Committees.

This latter issue is hard to address because when the political spotlight is on any particular Committee, the pressures on its President and Members will intensify. However, the sub-committee believes there are potential ways of alleviating, if not eliminating, the problem.

The structure of Committee mandates currently includes significant operational detail, which is perhaps unhelpful as it can divert focus from strategic planning and high-level policy formulation. Ideally, Committees' focus on operational matters should be limited to provision of high-level assurance, which in turn would mean that accountability would sit more firmly with senior officers in the relevant operational areas.

It is easy to see how Committees can be drawn into operational matters when they are very accessible to the electorate, who perceive them as having the power to intervene on their behalf in low-level complaints or perhaps hold them responsible for operational decisions.

Whilst such pressure can be hard to resist, Deputies need to be able to refer such complainants to existing complaints procedures, unless, of course, there is any element of whistleblowing or an indication that serious malpractice may be occurring, in which case political involvement may be warranted.

Distancing themselves from operational matters would ease the load of Presidents and Committee Members, and would also mean that senior civil servants in operational roles would be required to be more visibly accountable for service failings.

Appendix Nine sets out a potential new Committee structure, although the sub-committee realises that there are many ways to configure a new government, which is why it has not made firm recommendations in this respect, preferring instead to set out ideas that can be more fully developed in light of further feedback.

The sub-committee also believes that, if approved, a Policy & Resources Committee comprising largely *ex officio* members would foster more collaborative working, meaning that delineations between Committee mandates become less important in the face of a more collaborative approach generally.

Some feedback suggested reducing the number of Members of Principal Committees. The sub-committee carefully considered this but concluded that their membership should remain at five because dropping to three (to avoid tied votes) could result in

problems maintaining a quorum, which could have the effect of slowing down decision-making.

The sub-committee recommends retaining the ability to co-opt non-voting non-States' Members onto Principal Committees, although it believes that these roles should be better defined in future, so that there is a common understanding of their function.

What about the other Committees of the States?

In addition to examining the mandates of Principal Committees, the sub-committee also considered the way in which other Committees of the States operate, and formulated suggestions for further consideration in the future.

Besides the Principal Committees, there are currently seven other Committees of the States, as follows:

- Civil Contingencies Authority (CCA)
- Development & Planning Authority (DPA)
- Overseas Aid & Development Commission (OADC)
- Scrutiny Management Committee (SMC)
- States' Assembly & Constitution Committee (SACC)
- States' Trading Supervisory Board (STSB)
- Transport Licensing Authority (TLA)

The sub-committee was of the view that there was scope for change in respect of all these Committees. Some of the proposed changes are relatively minor, whilst others are more far-reaching. All are outlined below.

Civil Contingencies Authority

Feedback shows that the CCA works well in emergency situations, as it has the ability to act swiftly and decisively when necessary. The sub-committee recognises that it would not be appropriate for all government decision-making to take place in the context of emergencies which, by their very nature, mean that usual checks and balances cannot always be applied but it considers that the mandate of the CCA is fit for purpose and does not need to be changed.

The sub-committee does, however, think that the constitution of the CCA would benefit from some changes. The current constitution is as follows:

President of the Policy & Resources Committee, who is the Chairman of the Authority;

President of the Committee *for the* Environment & Infrastructure;

President of the Committee *for* Health & Social Care; and

President of the Committee *for* Home Affairs

It is clear that the constitution of the CCA has been designed to comprise those Committee Presidents whose mandates are most likely to be engaged in the event of an emergency. The CCA is free to call upon other political colleagues (or advisers) as necessary, depending on the nature of the emergency but the permanent members are considered those most likely to be required.

The sub-committee considered the possibility that the President of the Committee *for the* Environment & Infrastructure should be replaced by the President of the STSB, as it is the latter whose Committee has political responsibility for key aspects of our infrastructure, including the Ports, which are the island's lifeline in respect of the passage of goods, and which featured prominently as part of the response to the Covid-19 pandemic.

However, the statutory definition of "emergency" in the CCA Law includes serious damage "to the environment" and, consequently, it would be problematic to exclude the President of the Committee with political responsibility for environmental policy from the constitution of the CCA.

There is, however, no reason why there could not be an amendment to the Law to include the President of the STSB as a permanent member, given that the definition of emergency also includes "serious damage to human welfare", which is further defined to include "disruption of facilities for transport", "disruption... of supply and distribution of energy or fuel", etc.

The sub-committee is aware that the CCA has the option to invite the President of the STSB to participate in discussions if required, without making him/her a permanent member of the Committee but it considers that it does not work effectively for a President simply to be invited to attend meetings on this basis. A key consideration is that the statutory obligations of confidentiality to the CCA operate only in the context

of CCA members, and do not extend to other Presidents invited to attend on an ad-hoc basis.

Therefore, the sub-committee believes that consideration should be given to the CCA mandate being amended to include the President of the STSB as a permanent member, which will involve consequential amendments to the Law.

Development & Planning Authority (DPA)

In Guernsey, politicians are closer to some individual planning decisions than would be the case elsewhere for political Members with equivalent status. One of the challenges in Guernsey is that, apart from the Parish Douzaines and Constables, the only democratically elected representatives of the community are the Deputies, who are Members of the Assembly and, therefore, part of the Legislature. In the UK, Members of Parliament would not be involved in determining local planning applications but in Guernsey there is currently no feasible alternative if the island wishes to remain close to the UK system.

Notwithstanding this, the sub-committee feels that the current level of political involvement is not necessary and considers that the DPA should, in time, become a statutory body, operating at arm's length from government with no political representation on the Authority. It would have to ensure that decisions were in accordance with relevant legislation and complied with government policy, but the aim would be to remove politicians from determining individual planning applications. The role of the Assembly would remain, as now, to debate and determine the legislative framework for Planning but the proposal is that, unlike now, that is where Members' involvement would end.

It is recognised that this would represent a substantial change and, in particular, would be a departure from the principles enshrined in the UK Planning system, which Guernsey follows closely, and which espouses the involvement of the local community through elected representatives in the form of councillors. As set out above, Guernsey does not have an equivalent and therefore relies on Deputies to represent the community.

Despite the challenges already identified, the sub-committee recommends that the changes outlined above should be investigated, with a view to implementing a new planning system with less involvement of Deputies in the determination of individual planning applications.

Overseas Aid & Development Commission (OADC)

The sub-committee concluded that, as a commissioned function, the OADC does not need a political President. It believes that the role of government should be limited to determining the funding available to the Commissioners, as well as any conditions that might apply to its distribution.

The sub-committee further considers that Overseas Aid should become part of the portfolio covered by the Member of the senior Committee with responsibility for External Relations and that should there be a need for a Member to speak in the Assembly on Overseas Aid matters, such duties would fall to him/her on an *ex officio* basis.

Scrutiny Management Committee (SMC)

Feedback was strongly in favour of the scrutiny function being strengthened at a political level, combined with the reinstatement of a separate Public Accounts Committee (PAC).

The sub-committee agrees that political scrutiny needs to be enhanced. As part of such enhancement, it would be keen to see more focused scrutiny by Members generally. Notwithstanding this, it recognises that there is a delicate balance to be maintained and would not want to recreate the system in Gibraltar where the reliance on Parliamentary Questions as a form of scrutiny can serve to impede the progress of Parliamentary debate.

The sub-committee considers that it is vital to appoint highly skilled Members to perform the scrutiny function, as they will have to perform the difficult job of interrogating Committees about a range of issues. For this reason, the sub-committee believes that they will need a good understanding of the working of government and, consequently, believes that the Scrutiny Management Committee or any successor Committee should include a minimum of two experienced Members (out of the three Deputies on the Committee), which it would define as those who have served at least one prior term as a Deputy.

Furthermore, given the importance that should be attached to scrutiny, the sub-committee recommends that the President of the SMC, or a successor Committee, should be elected by the Assembly at the next opportunity after the election of the President of the senior Committee – i.e. he or she would be the Assembly's second Presidential election.

The sub-committee believes that this will help to change the perception of scrutiny, which currently does not have the prominence or respect that it warrants. For democracy to function well, robust scrutiny is essential and should be welcomed by all Members of the Assembly. The sub-committee feels that holding elections for the President and Members of the SMC towards the end of the process of populating Committees of the States runs the risk of the importance of such roles inadvertently being diminished.

States' Assembly & Constitution Committee (SACC)

The Committee believes that the role of SACC is broadly right but often misunderstood and could benefit from some tweaking to ensure focus on the induction and ongoing support of Members, combined with reviews of the Rules of Procedure as required. With regard to the Rules of Procedure, the sub-committee would be keen to see them simplified where possible, as it is aware that an over-reliance on rules as a proxy for addressing cultural and behavioural issues does not work. Rather, the emphasis should be on providing clarity around the standards of behaviour expected of Deputies.

This was explained by Professor Staite in her governance review of the Committee *for Home Affairs*, where she observes:

“Good governance cannot be imposed by the introduction of standards, rules or protocols. Rather, it is continually co-produced by members of the organisation, in all their diverse roles, by the way in which they learn how to blend rules, processes and controls with strong values and positive behaviours, to achieve a model of good governance that works for their particular purposes and context.”

States' Trading Supervisory Board (STSB)

Differing views were expressed by Members through the workshop and questionnaire concerning the future of the States' Trading Supervisory Board (STSB), with some suggesting that, in future, political direction should come from the senior Committee and the STSB should cease to exist.

Whilst the sub-committee concluded that this would not be its preferred approach, it believes that some changes would be beneficial. It identified that, internally, the structure and governance works well but some of the perceived drawbacks with the

existing structure stem from the fact that it lacks political connection with other Committees, which results in siloed working.

The Committees with which the STSB most needs to connect are the Committee *for the Environment & Infrastructure* and the Committee *for Economic Development*. In addition, there needs to be input from the Senior Committee, specifically the Treasury lead.

Consequently, for the future, the sub-committee suggests that the constitution of the STSB should be: the Treasury lead from the senior Committee; a Member of the Committee *for the Environment & Infrastructure*; a Member of the Committee *for Economic Development*; and, as now, two non-States' Members with voting rights. The sub-committee recommends that the Treasury Lead, as a Member of the senior Committee, ought not to be eligible to become President of the STSB.

This should result in the right balance of strategic policy input and commercial acumen, both of which are essential to ensure optimum outcomes for the States' trading areas.

Transport Licensing Authority (TLA)

The TLA is not convened regularly and has met very infrequently during the current political term. There is an extant States' Resolution from 2018⁷ requiring SACC to consult the Committee *for Economic Development*; the Policy & Resources Committee; and the TLA to review the role and constitution of the TLA and, should any changes be deemed necessary, to return to the States by the end of 2019 with proposals to effect those changes.

Whilst the sub-committee is firmly of the view that the TLA should cease to exist now that what amounts to an open skies regime is in place, it nevertheless believes that there is merit in asking SACC and the other Committees referenced in the Resolution to expedite the work in question, which has been started but not completed. This would ensure that any "loose ends" are dealt with.

Do we have the right number of States' Members?

⁷ Billet d'Etat XIX, 2018

Although this did not come across strongly in stakeholder feedback, the sub-committee was aware that opinion generally is that its work would need to include consideration of the number of States' Members required to ensure a well-functioning parliament and government, with there being a popular desire that the current number should be revised downward.

Interestingly, feedback received by the SMC as part of its review of island-wide voting was that it was felt that the numbers were too low. As explained in the report, this was "partly because all the same functions and departments of a larger jurisdiction are still present in a smaller one, and partly because there was too small a pool from which to draw sufficient skilled people in order to adequately populate committees". This latter point was echoed by other comparable jurisdictions.

The SMC report concludes that "it is hard to argue that having a larger elected pool from which to draw skills and experience would not improve the operation of government", although there is acknowledgement that this comes with a financial cost and is counterintuitive to the public.

The sub-committee was mindful that the role of a States' Member goes beyond Committee membership. Arguably Members' most important role is that of being a parliamentarian, something that is perhaps not always fully understood or appreciated by those standing for office.

Committee powers are derived from the Assembly; everything Committees do is carried out in the name of the Assembly and it is therefore crucial to ensure that the island's parliament is sufficiently large – and, ideally, diverse – to enable democracy to function well. This is particularly important for the island in a wider national and international context.

In addition, there are Members who choose to focus on constituency, rather than Committee, work and the sub-committee was mindful that it did not want to create a situation whereby the number of elected Members would result in such a volume of Committee work that constituency work had to be deprioritised significantly.

It was further recognised that this situation – the tension inherent between parliamentary and governmental duties and responsibilities and the expectation of serving constituents - is exacerbated by a general lack of support for Deputies when they are working outside the Committee structure. This is an issue that has been highlighted in the past and is considered elsewhere in this report.

Notwithstanding the issues identified above, the sub-committee is generally of the view that the number of States' Members could be reduced without affecting parliamentary democracy or Members' ability to serve members of the electorate, particularly if the focus of the Assembly, and the Members thereof, shifts to more strategic matters.

In any given debate in the Assembly, it is commonplace for one or more Deputies to be absent for a number of reasons, including States' business or sickness, sometimes for several consecutive meetings. Therefore, it is clear that numbers could be reduced on a more permanent basis without affecting the resilience of the Assembly.

Members of the sub-committee were keen to ensure that there was an odd number of Members of the Assembly, and therefore considered recommending a reduction of either five or three in total, each scenario including the removal of one Alderney Representative's seat.

Ultimately, the sub-committee was unable to reach a unanimous decision but, by a majority, suggests that consideration be given to reducing the number of Deputies by four, to 34, and also that the number of Alderney Representatives be reduced from two to one, thereby resulting in a parliament of 35 Members.

Alderney Members have seats in the Guernsey States of Deliberation by virtue of the States of Guernsey (Representation of Alderney) Law, 1978. This Law has its origins in a 1949 Law of the same name. It has not been amended for approximately 20 years.

Since the Law was enacted, Guernsey's population has increased and the number of representatives in the Assembly has decreased, whereas Alderney's population has remained relatively static, particularly since the turn of the century, whilst its representation in the States of Guernsey has been unchanged.

In 2004 the Harwood Report considered Alderney representation in the States of Guernsey and concluded that "given the present constitutional relationship between Guernsey and Alderney, the Panel can see no real alternative but to retain that level of representation for Alderney."

The sub-committee recognises that changes to the current arrangement would require agreement with the States of Alderney, but it believes that it would be possible to offset any perceived loss by amending the constitutions of those Committees responsible for overseeing the delivery of transferred services to Alderney (namely the Committees *for*

Home Affairs; Education, Sport & Culture; Health & Social Care; and Employment & Social Security) to include a Member of the States of Alderney.

This would afford the States of Alderney an opportunity to influence policy development in matters that will directly influence service delivery in Alderney. The sub-committee is suggesting that the States of Alderney should be able to nominate candidates for the relevant Committees for appointment by the States of Deliberation in the same way as non-States' Members are elected to the Scrutiny Management Committee and States' Trading Supervisory Board.

It has the added advantage of meaning that four fewer Deputies would be needed to populate the Principal Committees, thereby compensating for the proposed loss of two Deputies. It would be possible to populate the Policy & Resources Committee and all the Principal Committees with 29 Deputies, assuming no-one is a Member of more than one Committee, which is rarely the case.

Currently, the number of Deputies needed to populate the same Committees is 35, three fewer than the number of Deputies in the Assembly, whereas the total of 29 Deputies required in the suggested new structure is five fewer than the proposed number of Deputies in the Assembly. The sub-committee recognises that if this suggestion were to be implemented, it would result in fewer opportunities for Guernsey Deputies to gain a seat on the Committees in question, but it believes that the potential advantages outweigh this consideration. If implemented, such a system might result in keener competition among Guernsey Deputies for seats on those Committees, which could prove to be an advantage.

Whilst the sub-committee has not engaged formally with Alderney on this issue, it considers that, if agreed, this would be a very positive step that would more than compensate for the loss of one representative in the Assembly.

In the event that insufficient Alderney States' Members were put forward for election onto Guernsey Committees, the sub-committee is proposing that the Alderney Representative in the States of Deliberation should be required to fill the role(s) until such time as the post(s) is/are filled by members of the States of Alderney.

How can we attract a range of suitable candidates and ensure that they are well-equipped to enter government?

Feedback indicated that it is necessary to find ways of attracting candidates with the right diversity, skills and experience to form an effective government, thereby echoing the findings in respect of other jurisdictions.

The sub-committee believes that the solution to this lies in improving the information available to would-be election candidates and starting to disseminate useful information well in advance of General Elections so that by the time nominations open, the majority of those seeking election will be well informed about the demands of the role and the skillset needed to fulfil it.

It is important to recognise that the role of a Deputy has changed considerably in the past 20 years or so. The complexity of issues under discussion has increased, as has the public's desire for transparency. In a small community, elected Members are always going to be close to the electorate but social media has intensified the pressures, and increased expectations of an immediate response.

Furthermore, would-be candidates need to understand that a democratic government is not something that can be run like a business. Whilst many of the skills needed to succeed in business are useful and welcome, there needs to be an understanding of the differences that exist too. Businesses are free to take decisions without the intense scrutiny to which government is subjected by both the media and the public. Trying to run government exactly like a business does not work.

All of these factors combined mean that the challenges associated with being a Deputy are considerable and it is therefore important to ensure that these challenges are well understood by anyone considering standing for election. This is particularly important given that some stakeholders (including current Deputies) suggested that not all States' Members took up office in 2020 with a good understanding of what to expect.

SACC is already taking steps to address the matter of information for potential election candidates. The Election 2025 website went live at the beginning of March 2024 and will be updated regularly as the General Election approaches. It is intended to be a one-stop shop for anyone with an interest in government and elections and contains information of use to those interested in becoming Deputies.

SACC has initiated a series of events for potential election candidates, starting with drop-ins for members of the community who may be considering standing for election in 2025. In due course, there will be more formal events involving presentations and speakers.

The success of these initiatives will be measured and used to form the basis of future programmes for successive elections.

How can Deputies be better supported once in office?

The importance of proper support for Deputies in their roles as parliamentarians and constituency Deputies cannot be over-estimated. In the absence of a political party structure that would otherwise provide such support, it can be difficult for Deputies to discharge the full range of their duties without dedicated assistance from another source.

In particular, it is important for an island that functions at an international level to be able to demonstrate that it adheres to the governance and other standards expected of a modern democratic state. Having capable, professional parliamentarians plays a part in this, which is one reason why the support provided to them is crucial.

Members felt strongly that facilities and support for Deputies were inadequate but acknowledged that changing this would involve cost, which would have to be met from making savings elsewhere.

The lack of support for Deputies is not a new issue and is exacerbated by our system of government, as pointed out by Professor Staite in her governance review of the Committee *for* Home Affairs:

“The individualistic, non-party political nature of Guernsey politics provides both opportunities and challenges. It enables Deputies to follow their passions and express their own views without the constraints of party discipline. However, it also means that Deputies do not have the political support structures or development opportunities enjoyed by elected representatives in other parliamentary democracies and UK local authorities.”

Once elected, support is available for Deputies in the form of an induction and ongoing development programme, provided by SACC. Previously, Members’ induction comprised an intense period of two to three weeks post-election. Now there is a more tailored approach, with Deputies being provided with information when it is most needed. For example, they receive an initial briefing about what to expect at their

swearing-in, followed later by further sessions on the States' Rules of Procedure, broken down into manageable units.

This new approach to supporting Members started at the beginning of the 2020 political term but, as noted in the report of the States' Members' Induction Working Group, which was submitted to the States under cover of a policy letter from SACC in 2021,⁸ attendance at development sessions dropped off after a few months, despite the fact the programme was rated as "good" overall.

There are many different skills required by Deputies. Some are generic skills needed for all roles, such as: influencing others; negotiation; corporate parenting; and strategic thinking, whilst others may be more specific to different roles.

Whilst it is accepted that it would not be possible or desirable to make attendance at such sessions compulsory, stakeholders have suggested that they would like an opportunity to hold elected representatives to account in this respect.

It is fair to say that there are few professions in which members would be able to bypass all opportunities for CPD over a four-year period and, as such, the sub-committee felt that this feedback was not unreasonable and therefore thinks that, in future, SACC should be required to publish annually a summary of development sessions that have been held for Members, together with a list of attendees for each one.

This facilitates the holding to account of SACC in providing such development sessions as well as transparency about which Members are engaging with support and assistance that is available. It may also encourage Members to prioritise and attend events relating to their induction and ongoing development.

The sub-committee recognises that resources are a significant factor inhibiting the development of better facilities and support for Deputies but believes that, over time, consideration should be given to achieving the following:

- A dedicated meeting area for the Assembly;
- Dedicated support for Members who are either not on Committees or are working on issues not related to the work of any Committees on which they sit – for example, drafting Requêtees or assisting constituents;
- Dedicated work areas for Members; and

⁸ [States' Members' Induction and Ongoing Development Review Report](#)

- More dedicated administrative assistance for Committee Presidents.

Does the Civil Service need to change?

The sub-committee acknowledges that it is not the role of government to determine the structure of the civil service or the wider public sector, but it has given some consideration to such matters, as its terms of reference touch on them. Given that the sub-committee is not suggesting any fundamental alterations to the machinery of government, it follows that no significant changes to the structure of the civil service are anticipated, although there were views expressed that a review of the structure of the civil service would be helpful.

To this end, the sub-committee believes it would be helpful to outline some relevant feedback received from stakeholders over the course of its work. There was a general view that the removal of Chief Officer/Chief Secretary posts and creation of strategic leads has not proved as helpful as intended because the revised structure is perceived to have resulted in a lack of clarity over accountability and responsibility, particularly for States' Members. In particular, it was suggested by some that changes to the senior civil service during the previous political term do not fully reflect the current structure of government, which is still very much focused on Committee work, whereas many senior civil servants have portfolios that span different Committee accountabilities.

It is becoming increasingly apparent that this is causing difficulty for senior officers who provide advice and information to multiple Committees or Members of the States, where those Committees or Members may have political objectives that are not aligned, thereby making it difficult for advisers to work with integrity in a system of government which does not lend itself readily to officers providing advice or information on the same matter to Committees or Members with different views and political objectives.

This is linked to the loss of Chief Officers, who, by virtue of being dedicated to one Committee, were able to give advice in line with each Committee's political priorities, which reflects the current Committee structure of government. Resolving this matter to protect the integrity of civil servants and of the guidance that they provide should be included in the work suggested below. If Committees are to become more focused on strategic matters, with less emphasis on operational minutiae, then it follows that senior civil servants will have to be more visibly accountable for operational issues, which could be difficult to achieve because of a lack of clarity in the current structure.

As set out in the report of the States' Review Committee⁹, “[t]he Chief Executive is accountable for the distribution of [civil service] resources in order to serve the elected States and their committees”. Consequently, if the organisation of such resources is not serving the States and their Committees as required, it would be helpful if the Head of the Public Service and his senior team could be directed to give consideration to ways in which this situation might be improved. It should also be borne in mind that there is an extant Resolution on Billet d’Etat IX, 2019 which states that:

The Policy & Resources Committee, acting in the role of the States as an employer, shall consult with all affected States Committees prior to approving any restructure of the civil service or the wider public sector that would result in the removal or substantive change of any of the senior officer roles set out in subparagraph (e) above.

Some of the specific roles in question no longer exist but, in summary, they comprise all the members of the Strategic Leadership Team, plus the Heads of Operations and Committee Secretaries or Principal Officers.

For the avoidance of doubt, and in keeping with the theme of “evolution not revolution”, the sub-committee is not suggesting any wholesale review of organisational structure at this stage but rather consideration of whether any tweaks might improve clarity regarding accountability and thus result in a better service overall to Members and Committees.

Are there any other matters that should be considered?

The sub-committee has deliberately not been too prescriptive about Committee mandates, as it anticipates more feedback in this respect. However, there are one or two issues that it considers must not be overlooked in any revised structure.

First, there is the matter of delivering General Elections, which has become considerably more complex since the introduction of island-wide voting. SACC is mandated to “advise the States and develop and implement policies in relation to elections to the office of People’s Deputy” but this is not the same as having responsibility for running an entire election, which would be impractical for a Parliamentary Committee with limited

⁹ Billet d’Etat XII, 2015

resources.

The Committee for Home Affairs has a responsibility *“to advise the States and to develop and implement policies on matters relating to its purpose, including ... the electoral roll.”* Again, this does not mean that the Committee has responsibility for delivering elections, and it is difficult to envisage how such a responsibility would sit within its general remit, which is concerned with justice, protection of the community and regulation.

Therefore, while both these Committees are contributors to the preparation for and delivery of an election, it does not sit fully within the mandate of either. This is entirely understandable because, prior to 2020, election administration was parish-based. Parish officials provided the polling stations and their returning officers performed the counts and announced the results. The role of the States was limited to ensuring the correct policy and legal framework was in place and the provision of electoral roll data, including the administration of the postal voting process, the take-up of which was far less than was the case for the 2020 General Election.

With the introduction of island-wide voting, the States of Guernsey became responsible for arranging and resourcing polling stations and also for the logistics of vote counting, which are both considerable undertakings requiring a dedicated team to deliver.

Furthermore, candidates used to be responsible for issuing their own manifestos, whilst the parishes arranged hustings events. The States now produces a manifesto booklet and candidate videos as well as arranging events for the electorate to meet the candidates. It also provides a dedicated website for the use of both candidates and the public.

Elections from 2020 onward look very different from the perspective of the States of Guernsey and when the shift to island-wide voting was made it does not seem as though the huge logistical shift that was necessitated was thoroughly addressed.

In practice, the Registrar-General of Electors has taken ultimate responsibility for overseeing successive elections and has been held accountable for their success. Under the provisions of the Reform (Guernsey) Law, 1948, the functions of the Registrar-General are performed by the Chief Executive of the States of Guernsey, who delegates those functions to a senior civil servant. Delivery of elections would not be possible without the creation of a specific election team comprising both civil servants seconded from their substantive roles and individuals on fixed-term contracts.

The move to island-wide voting means that not only are General Elections more complex to run but any by-elections would be similarly challenging. Consequently, it is not tenable to continue to rely solely on secondees and temporary staff, with political responsibility for different aspects split between two Committees with very different mandates.

There is an extant resolution from 2021 directing the investigation of the creation of an independent body to oversee and advise on (but not necessarily deliver) elections but pursuit of that resolution has not been prioritised during this political term.

Therefore, until this can be addressed, the sub-committee thinks that the delivery of elections, including responsibility for the Electoral Roll, should come under one Committee mandate.

The sub-committee does not wish to increase the number of States' Committees by creating a specific Committee for this purpose but without doing so, it is difficult to find a natural "home" for the election.

As advice also has to be given in respect of parish elections, and also as the parishes have, historically, been crucial to the successful delivery of General Elections and by-elections, potentially the Policy & Resources Committee would seem to be a logical place for such responsibility to reside, but this does not preclude other options from being explored as an interim measure.

A further advantage of this approach is that, because of the breadth of its mandate, the Policy & Resources Committee tends to have more access to the right skill sets needed to lead on election delivery, although it is important to note that this will not mean that temporary staff are not needed for General Elections.

Ideally, it will mean that it will be possible for more continuity between elections, as well as providing an opportunity to create more guidance material to support such continuity.

Another area that would merit consideration is that of the States as employer. The Policy & Resources Committee is under resolution¹⁰ to "*lay recommendations before the States to reform the political arrangements in connection with the States' role as an employer*". Although dating from 2016, this resolution has never been discharged.

¹⁰ Billet d'Etat XII, 2015

In the past, there were dedicated Committees of the States that took on the role of employer – for example, the Civil Service Board and then the Public Sector Remuneration Committee. However, the sub-committee does not think it would be appropriate to start recreating smaller Committees again, having moved away from that model. In other jurisdictions such as Jersey and the Isle of Man, the HR function sits under the Cabinet Office which would be a natural place for it if executive government were to be introduced.

Consequently, the sub-committee is not proposing any changes at present, although it suggests that if a new senior Committee is created along the lines indicated in this report, then it will be important for the members of that Committee not to become too involved in operational matters.

Summary and Conclusions

The sub-committee did not commence its work until a year into the 2020 political term. This somewhat late start, combined with the fact that the sub-committee was not constituted or resourced appropriately, and the need to focus on the “need to haves” mean that it has had to take a pragmatic approach to its work.

Early in its deliberations, it identified that the issues are primarily cultural and behavioural and therefore not likely to be solved through structural change. As Professor Staite has pointed out; *“It can be argued that too much focus on process is a distraction from the real, underlying barriers to good governance”*. Whilst her remarks were made in the context of her governance reviews, the underlying principle is equally applicable to the work of the sub-committee.

The sub-committee is also conscious that its work is only one of a number of ongoing work streams looking at discrete, but related, matters. Other relevant work streams are the SMC’s review of island-wide voting and the Policy & Resource’s Committee’s ongoing work with the Parishes to consider their role post the introduction of island-wide voting.

Conscious that to many members of the community debates on internal structures and rules appear introspective, as they are perceived to make little contribution to the achievement of government priorities, the sub-committee has been conservative in its proposals and is recommending a light touch approach at this time, with the potential for a further tranche of work to take place when resources allow. This approach also has

the advantage of allowing the 2016 changes to bed in fully, it is hoped without the interruption of a national or global crisis.

Recommendations

The sub-committee recommends that the Policy & Resources Committee should seek States' approval for the establishment, during this political term, of a Special Investigation Committee to carry out a review of the machinery of government.

It recognises that should such a Committee be established during this term, it will need to be reconstituted at the start of the 2025 term but it considers that momentum can start to build during the remainder of this term, meaning that it should be possible for a Special Investigation Committee to report back to the States during the first half of the next political term.

However, it would caution that the Policy & Resources Committee should make this approach to the States only if it is prepared to allocate sufficient dedicated resources to the support of the Special Investigation Committee, as is warranted by the complexity and volume of the subject matter.

Deputy J Le Tocq	Chair
Deputy J A B Gollop	Policy & Resources Committee
Deputy C Meerveld	States' Assembly & Constitution Committee
Deputy S Fairclough	States ' Assembly & Constitution Committee
Advocate Tom Carey	Lay Member