

REQUÊTE

GOVERNANCE IN THE STATES OF GUERNSEY:

PROPOSAL FOR A COMPREHENSIVE REVIEW OF THE STRUCTURE AND FUNCTIONS OF THE LEGISLATURE AND THE GOVERNMENT IN GUERNSEY

THE HUMBLE PETITION of the undersigned Members of the States of Deliberation
SHEWETH THAT:

1. The term 'governance' has its origin in the Greek verb *kubernân*, which means 'to pilot or steer'. It is an ancient concept stretching back well over two thousand years.
2. Governance describes the way in which organisations are directed, controlled and led. It defines relationships and the distribution of rights and responsibilities among those who work with and in the organisation, determines the rules and procedures through which the organisation's objectives are set, and provides the means of attaining those objectives and monitoring performance; importantly, it defines where accountability lies throughout the organisation¹.
3. Aspiring to, and ultimately delivering, good governance is paramount if government is to retain credibility, legitimacy and authority in arranging economic and social affairs².
4. Matters relating to governance have received considerable attention – at both a political and operational level – during the present States term. In 2009, an external audit of governance was commissioned with emphasis on examining the extent to which the activities of the States of Guernsey were obtaining value for money. At around the same time the States were developing initiatives such as the capital prioritisation process, rules for financial management and the States Strategic Plan, all of which have since evolved and made a contribution to the on-going pursuit of good governance. In 2011, the States of Deliberation committed to six core principles of good governance³. In 2012, three Parliamentary Committees (Public Accounts Committee, Scrutiny Committee and States Assembly and Constitution Committee – “the Joint Committees”) will set out proposals on how in practical terms the six core principles of good governance could be applied strictly within Guernsey's system of government by committees and consensus.
5. The scope of the work undertaken by the Joint Committees has been necessarily limited – first by the time available, and second by their terms of reference. Consequently their States Report will need to focus primarily on the operation and procedures, rather than the structure and functions, of the legislature and the government in Guernsey.
6. In the opinion of your Petitioners, it would be expedient in the next term of the States to examine without constraint whether there are any options for reform of the structure and

¹ Cabinet Office and H M Treasury, 2011

² Governance, Politics and the States; Pierre and Peters; 2000

³ CP1 – Focusing on the organisation's purpose and on outcomes for citizens and service users;

CP2 – Performing effectively in clearly defined functions and roles;

CP3 – Promoting values for the whole organisation and demonstrating good governance through behaviour;

CP4 – Taking informed, transparent decisions and managing risk;

CP5 – Developing the capacity and capability of the governing body to be effective;

CP6 – Engaging stakeholders and making accountability real.

functions of the legislature and the government in Guernsey which might enable the progress made already in respect of good governance to be advanced further.

7. In some respects that process of structural review has started already with the commissioning late in 2011 by the Policy Council of “a review of scrutiny in the States in order to re-examine the constitution, powers, resources and mandates of the Public Accounts, Legislation Select and Scrutiny Committees and make recommendations for improving the formal scrutiny processes available to the States of Deliberation to hold its departments, committees and other government service providers to account for their performance in providing effective legislation, value for money, service delivery, policy formulation and implementation”.

8. Your Petitioners welcome that review. However, they submit that any fundamental changes to the scrutiny function of the States cannot reasonably be pursued in isolation without also examining the many other functions of the legislature and the government. Rather, they should be considered holistically as part of a broad examination of the overall structure of the States of Guernsey.

9. During this term of the States there has been a re-emergence of debate about the case for re-examining, inter alia, the number and mandates of States Departments and Committees, the number of members sitting on Department Boards and Committees, the wisdom of permitting members to hold seats on Department Boards and scrutiny committees at the same time, the role and authority of the Chief Minister and Ministers, the organisation of the States’ corporate policy planning process and the relationship between the States of Deliberation as legislature and the States of Deliberation as government.

10. In any event, by the end of the next term, it will be 12-14 years since the States last undertook a thorough review of their structure and functions. Your Petitioners believe that is quite long enough for a matter which should be reviewed periodically in view of the States’ commitment to good governance.

11. In addition, it should be noted that implementing change inevitably takes quite a period of time. Failure to commence a review early in the life of the next States term would almost certainly mean that the implementation of any reforms which were considered desirable would be delayed until the States term commencing in 2020, a period approaching two decades since the most-recent changes of 2004.

12. Therefore, your Petitioners are of the opinion that there is a compelling case to undertake early in the next States term a comprehensive review of the structure and functions of all aspects of the legislature and government in Guernsey.

13. The subject matter of the review proposed by your Petitioners engages the mandates of the Policy Council and the States Assembly and Constitution Committee.

14. The Policy Council is responsible for “the allocation of responsibilities and functions to departments and committees...” and has the authority “to examine and report to the States... on any matter which falls outside the mandate of any Department and Committee”.

15. The States Assembly and Constitution Committee is required “to review and bring forward proposals for the States of Deliberation of the Island of Guernsey to consider in connection with: the constitution of the States of Deliberation... the Rules of Procedure of the States of Deliberation, the constitution and operation of States Departments and Committees, the system of election of Ministers and Members of States Departments and States Committees, matters

relating to the practical functioning of the States of Deliberation...[and] elections to the office of People's Deputy”.

16. However, your Petitioners note that a committee combining the Policy Council and the States Assembly Constitution Committee would consist of up to 16 members and would not be conducive to undertaking the detailed review proposed in this Requête. Your Petitioners also note that the subject matter of such a review, while comprehensive and significant, is discrete and should have a definitive ‘start’ and ‘end’.

17. Therefore, it is recommended that the review proposed by your Petitioners should be undertaken by a ‘task and finish’ Special States Committee established in accordance with Rule 18 of the Rules relating to the Constitution and Operation of States Departments and Committees. The Special States Committee should be entitled the ‘States Review Committee’ and it should consist of seven voting members.

18. In recognition of the importance of the review and in view of the link between the subject matter of the review and the Policy Council and the States Assembly and Constitution Committee, your Petitioners propose that the membership of the States Review Committee should include the Chief Minister (as its chairman), one other member of the Policy Council and the Chairman of the States Assembly and Constitution Committee. Your Petitioners propose that in addition the States of Deliberation should elect to the States Review Committee: two sitting members of the States and two persons independent of the States with relevant skills and experience of the structure and functions of legislatures and governments.

19. It is the opinion of your Petitioners that the two other potential models for determining the membership of the body established to undertake the review – requiring it to consist solely of politicians or solely of persons independent of the States – both contain material disadvantages. Requiring it to consist solely of politicians would not necessarily provide for a breadth of skills and knowledge and could result in a membership which had never experienced or studied any government other than Guernsey’s. Requiring it to consist solely of persons independent of the States would represent a failure to recognise that the structure and functions of the legislature and the government are inherently political matters and could well result, arguably as on the last occasion that such a review was undertaken, in the presentation of a report which from the outset is without any political ‘buy-in’ and therefore ultimately less likely to be considered satisfactory by the States of Deliberation. Combining political members and independent members in a Special States Committee overcomes such disadvantages.

20. For clarification, in the context of this Requête and in order to provide for a genuinely independent perspective in the work of the States Review Committee, it is proposed that the ‘persons independent of the States’ referred to in paragraph 18 above shall be interpreted as meaning persons who are not, and never have been, members or employees of the States or Non-States Members of States Departments and Committees.

21. The Rules for Payments to States Members, Former States Members and Non-States Members of States Departments and Committees provide for the remuneration of members of Special States Committees constituted under Rule 18 of the Rules relating to the Constitution and Operation of States Departments and Committees. At the time of the submission of this Requête, the costs of remunerating the members of the States Review Committee proposed herein would normally total several thousand pounds per annum. However, in view of the pressure on public finances, your Petitioners submit that that the entitlement to remuneration which would

normally attach to membership of a Special States Committee should not be applied to membership of the States Review Committee.

22. The States Review Committee should be directed to report to the States of Deliberation in two stages.

23. In 2013, and in accordance with the provisions of Rule 12 (4) of the Rules of Procedure of the States of Deliberation, it should present a States Report setting out its examination of the extent to which the structure and functions of the legislature and the government are capable of fulfilling expectations of good governance and the general principles of any policy reforms of the structure and functions of the legislature and the government which it considers necessary to provide for the highest possible standards of good governance.

24. Then, in 2014 it should present a States Report containing in detail any firm recommendations for reform of the structure and functions of the legislature and the government which it considers necessary to provide for the highest possible standards of good governance.

25. Political and public engagement must form an essential component of the work of the States Review Committee. Your Petitioners are of the opinion that during both stages of its work (i.e. the stage referred to in paragraph 23 above and the stage referred to in paragraph 24 above) the States Review Committee should be required to consult with, and take evidence from, the widest possible range of persons from among the membership of the States and the general public.

26. Your Petitioners wish to emphasise that the review they are proposing would be restricted to the structure and functions of the legislature and the government to the extent that they impact upon public administration domestically, i.e. within the island of Guernsey. The review they are proposing would not examine external matters such as the island's constitutional relationship with other Channel Islands, the United Kingdom or Europe or the role of the Privy Council etc.

27. Your Petitioners further wish to emphasise that within their number there is a very diverse range of views with regard to whether the structure and functions of the legislature and the government require no reform, a measure of reform or radical reform. At this stage they are united in one conclusion only: that a comprehensive review of such matters should be commenced early in the life of the next States and undertaken in the manner set out above.

THESE PREMISES CONSIDERED, YOUR PETITIONERS humbly pray that the States may be pleased to resolve:-

1. To direct that at their June, 2012 meeting, and in accordance with the provisions of Rule 18 of the Rules relating to the Constitution and Operation of States Departments and Committees, the States of Deliberation shall form the States Review Committee as a Special States Committee, the membership of which shall be:

i) The Chief Minister (as chairman);

ii) One other member of the Policy Council;

iii) The Chairman of the States Assembly and Constitution Committee;

iv) Two sitting members of the States elected by the States of Deliberation; and

iv) Two persons independent of the States elected by the States of Deliberation.

2. That the mandate of the States Review Committee shall be:

“To examine the extent to which the structure and functions of the legislature and the government in Guernsey are capable of fulfilling expectations of good governance with reference in particular to the processes of developing, determining, co-ordinating, effecting and monitoring States’ policies, which shall include, but not necessarily be restricted to, consideration of:

- a) the membership, operation and effectiveness of the States of Deliberation;
- b) the membership, operation and effectiveness of States Departments and Committees;
- c) the roles and responsibilities of the States of Deliberation and States Departments and Committees in achieving an efficient and effective corporate policy planning and resource allocation process;
- d) the leadership, accountability, transparency and democratic responsiveness of the States of Deliberation and States Departments and Committees;

but which shall explicitly not include consideration of:

- e) the constitutional relationship between Guernsey and other Channel Islands, the United Kingdom, the European Union and other jurisdictions;

and, if considered necessary, to make recommendations on any reforms of the structure and functions of the legislature and the government in Guernsey which would be likely better to provide for the highest possible standards of good governance with reference in particular to the processes of developing, determining, co-ordinating, effecting and monitoring States’ policies.”

3. To direct that in 2013, and in accordance with the provisions of Rule 12 (4) of the Rules of Procedure of the States of Deliberation, the States Review Committee shall present a States Report setting out its examination of the extent to which the structure and functions of the legislature and the government in Guernsey are capable of fulfilling expectations of good governance and the general principles of any policy reforms of the structure and functions of the legislature and the government in Guernsey which it considers necessary to provide for the highest possible standards of good governance.

4. To direct that in 2014 the States Review Committee shall present a States Report containing in detail any firm recommendations for reform of the structure and functions of the legislature and the government in Guernsey which it considers necessary to provide for the highest possible standards of good governance.

5. To direct that both before and after the States Report referred to in Proposition 3 above the States Review Committee shall consult with, and take evidence from, the widest possible range of persons from among the membership of the States and the general public.


6. To agree that the entitlement to remuneration which would normally attach to the chairmanship and membership of a Special States Committee shall not apply in the case of the States Review Committee.

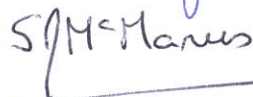
AND YOUR PETITIONERS WILL EVER PRAY

GUERNSEY

This 1st day of December, 2011.



Matt Fallaize



Shane Langlois

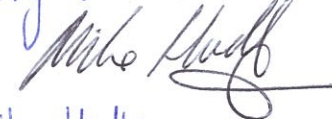

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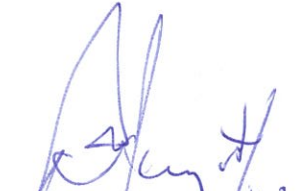

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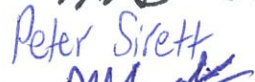


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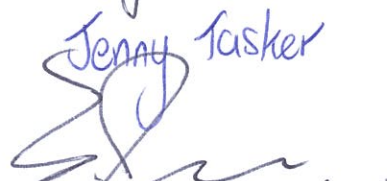

~~John Stephens~~


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