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31 January 2020

Dear Sir

Proposition 2019/144: Towards a more effective Structure of Government

In accordance with its responsibilities set out in Rule 28 of the States' Rules of Procedure, the Policy & Resources Committee has consulted with all Committees "appearing to have a particular interest in the subject matter of the [above] requête". Given the wide range of issues touched on in the requête, the Committee consulted all Committees of the States, and their responses are appended to this letter. For ease of reference, a summary table is also attached but it should be noted that this is only a high-level summary and therefore does not include all of the details of the original responses. The Committee's own detailed response is also attached.

It can be seen that, whilst one or two areas have been highlighted as potentially warranting attention, overall there seems to be little appetite from Committees to pursue the matters set out in the requête, nor is there any consensus regarding matters that might be taken further. For its part, whilst the Committee concurs with the requerants that any structure of government benefits from regular reviews, it does not support the requête, as it feels the timing is not right for a review of the structure of government.

The Committee also believes that the requête covers such a wide range of issues that it lacks cohesion. Furthermore, there is considerable attention given to detailed issues such as Committee membership and nomenclatures, with the resultant risk that the debate will end up being largely introspective. This Assembly has already attracted criticism for spending too much time looking inwards during debate rather than outwards. The Committee is keen to avoid this possibility and, as such believes that debate on the requête needs to focus on matters which will resonate as much with the electorate as with the Assembly.

In the absence of any major structural weaknesses, which the requête has not identified, the Committee agrees with those who have expressed a view that the Assembly needs to allow at least two political terms before undertaking a fundamental review.

Furthermore, it cannot be ignored that the outcome of the first ever General Election on the basis of island-wide voting could provide a trigger for change. For example, if political parties emerge then it remains to be seen whether a government structure based upon consensus government will work effectively in this new context. Should this prove to be the case, then it would be clear justification for a review.

Rather than determine now that such a review should take place, the Committee believes it would be more prudent for a small working group, including political representatives from SACC and the Policy & Resources Committee, to be established after the election to consider whether the structure of government remains fit for purpose in light of any changes that may occur. For the avoidance of doubt, the Committee's intention is not that any such working group should carry out the review, but rather that it should seek to establish whether a fundamental review might be required.

Given that it is likely that any changes will take time to be felt, the Committee would not anticipate this work starting before 2021. Consequently, there would be no immediate resource implications arising from this approach. If additional resources were required to carry out a full review in due course, then a request would need to be included in a future Budget.

As Committees have pointed out in their responses, mechanisms already exist for addressing many of the issues set out in the requête. Therefore they do not need to be referred to a States' Investigation & Advisory Committee, and to do so would divert resources away from core government functions and priorities during the next term. The very broad range of issues covered, from the titles of individual Committees to the composition of the civil service policy profession, mean that it would prove difficult for a States' Investigation & Advisory Committee to consider them all in a meaningful and effective way, and the Committee does not believe it would be possible for results to be delivered within the time frame specified in the requête. The resources needed to complete the work within that time frame are also likely to exceed considerably the forecasts set out therein.

In light of all the above, the Committee commends the pragmatic approaches of the majority of Committees, which are, on the whole, not looking to commence the work recommended by the requête. The Committee is firmly of the opinion that the Assembly should reject the requête in order to focus on more pressing issues that have already been agreed as priorities by the States.

Yours sincerely

Deputy Gavin St Pier
President

For the sake of completeness, the Committee has commented separately on many areas touched on by the requête, as follows.

Policy and Resources

Proposition **1a** concerns the alleged dominance of resources over policy within the Policy & Resources Committee, and suggests potential solutions. There is however little evidence offered to support this view.

The Committee understands why there could be a perception that resources dominate over policy but it is an inescapable truth that policies cannot be implemented without the necessary resources. This was summed up very well by the SRC as follows:¹

“Policy which is agreed should be implemented and policy which cannot be implemented – typically because of resource constraints – should not be agreed. This is not always the case at present: sometimes the enthusiasm of the States and their committees to make new policy exceeds the capacity to execute it.”

That enthusiasm has not waned during the current political term and it is acknowledged that there are many pressing policy priorities but there has been a tendency for individual Committees to champion their own priorities, rather than taking a wider view, with the almost inevitable result that ambition and enthusiasm exceeds capacity.

The Committee considers that the problem is more one of a collective difficulty in prioritising effectively rather than a dominance of resources over policy, and, as such, it does not believe that the creation of a separate Treasury Committee would address the problem. In fact, the opposite is likely to be the case, as this would simply serve to reinforce separation between policy and resources.

In its first policy letter, the SRC pointed out that: *“In a committee system of administration the complex task of planning and co-ordinating policy and resources is especially formidable when responsibility for policy co-ordination rests with one committee (Policy Council) and responsibility for resources, especially finance, rests with another committee (Treasury & Resources).”*

The States agreed with this observation and approved the creation of *“a single senior committee with responsibility for the States-wide planning and co-ordination of resources.”* The Committee is firmly of the opinion that the bringing together of policy and resources is one of the strengths of the current system and would strongly oppose any attempt to revert to the previous arrangement whereby the two were separate.

Proposition **1b** concerns the effectiveness of channels of communication between the Policy & Resources Committee and other Committees.

¹ Billet d’Etat XXI, 2015

The Committee is very keen to ensure that communication with other Committees is effective. The establishment of Oversight Groups during this political term is an example of its commitment to establishing and maintaining political dialogue.

However, the Committee would contend that the problem is not necessarily structural and, as such, the solution is unlikely to lie in structural changes.

Professor Catherine Staite touched on this in her governance review of the Policy & Resources Committee.² Whilst her recommendations did not dismiss the possibility of changing the structure of government, she also pointed out that: *"...it may well be more useful initially to challenge a culture in which collaborative approaches, which are essential to delivering good governance and better services, have been put in the "too difficult" box."* She also observed that: *"It is never easy to challenge unhelpful aspects of organisational culture but unless the current culture is challenged any new structure is likely to experience similar problems to those faced under the current Committee system."*

The Committee has already committed to acting upon Professor Staite's recommendations and therefore considers it premature to consider structural changes at this point. Rather, it would prefer to try to address the cultural and behavioural barriers to effective governance, as it is clear that with the right culture and behaviour any structure of government can work.

Proposition **1c** raises two matters, namely; political oversight of the civil service; and the role of the States as Employer.

These issues have been debated previously and the latter is the subject of an extant States' Resolution from 2015³, as follows:

"To agree that, as set out in section 7.6 of that Policy Letter, the Policy & Resources Committee, once constituted in May, 2016, shall, following examination of the issues, lay recommendations before the States to reform the political arrangements in connection with the States' role as an employer."

To date, the Committee has not prioritised this work but it believes it should now do so if that is the will of the States. It is clear that there is no need to set up a States' Investigation & Advisory Committee in order to consider this matter, and so the Committee has laid an amendment to the requête asking the States to confirm that the necessary work should be prioritised.

The other aspect of proposition 1c is also subject to an extant Resolution. In June 2019⁴ the States agreed *"To direct the Policy & Resources Committee, in consultation with all States Committees, to develop a framework governing the relationship between the elected States of Guernsey and the civil service By no later than the end of 2019."*

² <https://gov.gg/CHttpHandler.ashx?id=122332&p=0>

³ Billet d'Etat XII, 2015

⁴ Billet d'Etat IX, 2019

This work has been progressed as far as practicable and responsibility to complete it will rest with a successor Policy & Resources Committee. Again, this is not something that requires the establishment of a States' Investigation & Advisory Committee.

Financial Scrutiny

The Policy & Resources Committee is in favour of the principle of creating a separate body for the purpose of providing political scrutiny of States' finances and fiscal strategy (**Proposition 1e**) but only if this does not result in additional resources being needed to support such a function.

Subject to the caveat about resources, the Committee would therefore wish to see this work taken forward, although there is no requirement for a States' Investigation & Advisory Committee to be set up for this purpose.

Committee Responsibilities and Membership

Proposition **1f** asks *"whether the current dispersed political responsibility for air and sea connectivity should be addressed, by the creation of a single Committee responsible for air and sea links and tourism or by another solution."*

In this respect the Committee strongly endorses the views of the Committees *for* Economic Development and Environment & Infrastructure and, like them, does not believe there is any merit in pursuing this proposal.

Changing the name of the Committee *for the* Environment & Infrastructure, as per **Proposition 1g**, is, in the Committee's opinion, an example of the inward-looking debate that the Assembly needs to avoid.

If such a change were to be considered desirable or necessary – which the Committee does not believe to be the case – then proposals could be brought to the States without the need for any consideration by a States' Investigation & Advisory Committee.

The Committee has a similar view on **Propositions 1i and 1j**, which, in any event, are matters for the States' Assembly & Constitution Committee (SACC) to consider. The Committee does not consider a case has been made for change and would not be in favour of allocating resources to this work at this time. The same is true of **propositions 1n and 1o**.

Policy and Legislative Development

With regard to **proposition 1k**, the Committee is aware of the need to strike a balance between over-reliance on consultants to provide subject matter expertise and over-staffing by employing experts in niche areas where the skills in question are not required on an ongoing or regular basis.

In general terms, the Committee considers that the organisation has the balance about right, and it should be acknowledged that the quality of policy advice available to elected members is of a high quality. If a Committee believes that it is not receiving the standard of policy advice it requires, then in the first instance it should raise the matter with its Committee Secretary or the relevant Strategic Lead.

The views set out in the Requête are couched in black and white terms, whereas it is fair to say that the reality is somewhat different. Subject matter experts are routinely involved in the development of policy, as good policy professionals fully understand that this is necessary.

It is nevertheless acknowledged that there are few individuals who have both subject-specific knowledge and policy-making skills and experience. This is not a new situation, nor is it related to the “centralisation” of policy resources. It is perhaps more a reflection of greater recognition of the skills needed by policy professionals.

In this respect, the Committee is pleased to note that the civil service Strategic Leadership Team (SLT) has already identified the need to consider how to embed more subject-specific knowledge in the policy function.

The SLT has acknowledged that in order to create a strong policy function across the organisation, consideration must be given to the skill sets needed to drive the public policy agenda and the extent to which those skills already exist in the organisation. The objective should be to ensure that the policy community encompasses the right proportions of both policy development skills and subject matter expertise. Potential approaches to ensure this mix have already been identified as follows:

- Recruiting individuals with the skills and knowledge required to develop policy in specific areas
- Supporting individuals with policy-making skills to acquire formal qualifications in a specific subject area
- Recruiting graduates with relevant degrees and supporting them to become skilled policy makers
- Training subject matter experts to become policy makers
- Supplementing internal capability with external resource as required

The Committee is therefore confident that this matter is in hand and that the Assembly does not need to spend valuable time debating it.

It is acknowledged that the States have been well served for many years by the Law Officers and other legal advisers and, as set out in the requête, the range of services they are required to provide to a modern public sector is increasingly diverse.

The legal workload is also heavy, which is attributable to many factors, including the pace of change in the modern world; national and international events such as Brexit; and the States’ appetite to introduce new policies, which often require legislative changes.

Recognition of all of these factors led to a review being carried out into the relationship between the States of Guernsey and St James Chambers. The review panel, which was led by retired Advocate and former Chief Minister, Peter Harwood, delivered its recommendations in July 2017. The panel *“found that at this stage there is no strong or clear case for significant change to the structure of the way that SJC works with the States of Guernsey”* but it did recommend that a Memorandum of Understanding (MoU) be put in place incorporating the panel’s findings, to be reviewed regularly.

The MoU is now in place and is subject to periodic reviews. The Committee is therefore satisfied that an appropriate mechanism already exists for addressing any matters that might arise in respect of the relationship between the States and St James Chambers.

Community and Parish Democracy

The Committee concurs with the requerants that there is a perception that the States do not listen to the public. It would dispute this, given some of the excellent communication and engagement work that has taken place and continues to take place. Nevertheless, it also accepts that perception is reality.

Therefore it is open to considering ways in which the States might engage more effectively with the community, although it would caution against any solution being constituted in law, like the Irish example cited in the requête.

The Committee considers that the establishment of a group comprising a cross-section of the community could potentially work well to improve engagement at the early stages of specific policy initiatives but does not think that a permanent body of people drawn from the community is necessary to fulfil this purpose.

With regard to the Douzaines, as per **proposition 1q** their role has been changing over the years and may well change again with the introduction of island-wide voting later this year. However, it appears that generally the Douzaines find ways to adapt to different circumstances and, although they may operate differently to each other, they are all making a valuable contribution both in their own Parishes and also more widely. None of them has, to the Committee's knowledge, raised any concerns about current ways of working, and the Committee can see no justification for a review. Any review would inevitably be complex and time-consuming and divert resources from agreed priorities.

REQUÊTE – ‘TOWARDS A MORE EFFECTIVE STRUCTURE OF GOVERNMENT’ – HIGH-LEVEL SUMMARY OF CONSULTATION RESPONSES

Note 1: The Committee *for* Employment & Social Security and the Committee *for* Health & Social Care were also invited to comment but have not provided responses (the majority of their Members were also signatories to the Requête).

Note 2: The following initials are used: Development & Planning Authority (“**DPA**”); Committee *for* Economic Development (“**ED**”); Committee for Education, Sport & Culture (“**ESC**”); Committee *for the* Environment & Infrastructure (“**E&I**”); Committee *for* Home Affairs (“**HA**”); Law Officers’ Chambers (“**LOC**”); Policy & Resources Committee (“**P&RC**”); States’ Assembly & Constitution Committee (“**SACC**”); States’ Investigation & Advisory Committee (“**SIAC**”); States’ Trading Supervisory Board (“**STSB**”); the Transport Licensing Authority (“**TLA**”); and the Scrutiny Management Committee (“**SMC**”).

PROPOSITION		HIGH-LEVEL SUMMARY OF RESPONSE FROM STATES’ COMMITTEES								
No.	Subject matter	DPA	ED	ESC	E&I	HA	SACC	STSB	TLA	SMC
1 (a)	Addressing the dominance of resources over policy (e.g. by establishing Treasury Committee or Chancellor role).					Conditionally supportive of Treasury Committee or role of Chancellor.				Potential merit in role of Chancellor; suggests more detail.
1 (b)	Improving communications between the Policy & Resources Committee and other States’ Committees (e.g. by establishing a Strategic Forum).					Supportive of Strategic Forum; suggests alternative membership.				
1 (c)	Political arrangements for oversight of the civil service/States as employer					Potential merit in re-establishing Civil Service Board or similar.				

No.	Subject matter	DPA	ED	ESC	E&I	HA	SACC	STSB	TLA	SMC
1 (e)	Political arrangements for oversight of the civil service/States as employer									Supports suggestion of a PAC under SMC structure, feels Office of Auditor General should be explored.
1 (f)	Addressing dispersed political responsibility for air and sea links (e.g. by creating new Committee for air and sea links and tourism).		Does not support removing air, sea and tourism from the ED mandate.		Does not support proposal for single policy-making Committee for air and sea connectivity.			It is clear from its mandate that ED is responsible for air and sea links. The current arrangement (i.e. ED responsible for air and sea link policy) is adequate so long as this policy is actually developed and agreed thereafter by the States.		

No.	Subject matter	DPA	ED	ESC	E&I	HA	SACC	STSB	TLA	SMC
1 (g)	Reflecting political commitment to addressing climate change by changing the name of the Committee <i>for the</i> Environment & Infrastructure.				Climate change an Area of Focus for whole States, and responsibility of all areas of government, not just E&I.					

No.	Subject matter	DPA	ED	ESC	E&I	HA	SACC	STSB	TLA	SMC
1 (h)	Addressing membership and clarifying function of the States' Trading Supervisory Board.							There is no requirement to change STSB's constitution or mandate.		
1 (i)	Revisiting the question of Committee size.	Membership of fewer than five would make it harder to ensure quorum, presenting practical difficulties.				Membership of five is sufficient and ensures reasonable diversity of views.		Current number of (political and non-States) Members of STSB is adequate and should not be changed.		
1 (j)	Exploring whether Committee Members should be elected and resign alongside their Committee President.						The States debated this matter in 2018; the relevant was proposition defeated.			
1 (k)	Addressing lack of subject matter expertise within the policy-making function.				Would welcome availability of skilled policy-makers with subject matter expertise.	Needs access to good quality advisers with relevant subject knowledge.		STSB needs support from trained and experienced civil servants.		

No.	Subject matter	DPA	ED	ESC	E&I	HA	SACC	STSB	TLA	SMC
1 (l)	The relationship between the States and the Law Officers' Chambers.				Supportive of actions to assist LOC to deal with its heavy workload.					
1 (m)	Better integration of States' Members' Corporate Parenting responsibilities.						SACC already considering this matter.			
1 (n)	Reintroducing the title of 'Minister' in place of 'President'.						SACC has not considered the matter this term.			
1 (o)	Developing alternative, or clarifying use of existing titles relating to the States and Committees.						SACC has not considered the matter this term.			
2. (a); and (b)	Directions to the Policy & Resources Committee concerning the submission of a policy letter by the end of February 2021.		Does not support re-styling titles of ED or ESC.	Does not support re-styling titles of ED or ESC.				Points in the Requête could be addressed in Committee handover reports (in the Policy & Resource Plan End of Term policy letter).		

No.	Subject matter	DPA	ED	ESC	E&I	HA	SACC	STSB	TLA	SMC
3.	Establishment of States' Investigation & Advisory Committee	The States has resolved to review the DPA; that review should be integrated into the work of the SIAC.					It would be appropriate for a SIAC to undertake this work (if the States agrees to consider these matters).		The States has resolved to review the TLA. Decision would be needed on whether or not to incorporate TLA review into the wider review proposed in the Requête.	Believes that its successor should fully engage with any process followed to set up a States' Investigation and Advisory Committee.
4 to 6	Membership of the States' Investigation & Advisory Committee						One of the five other States' Members of the SIAC should be the President or a Member of SACC.			



Committee for
Home Affairs

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9th January 2020

Dear Deputy St Pier

gavin

Requête – P.2019/144 - Towards a more effective structure of government

I refer to your letter dated 18th December 2019 seeking views of the Committee for Home Affairs on the Requête entitled 'Towards a more effective structure of government'.

Clearly many aspects of the Requête are not specific to the mandate of Home Affairs but would impact on the way the States operates more generally and as such individual Members will express their views during the debate as they see appropriate.

The Committee did however wish to offer the following comments and observations -

1. Treasury Committee/Chancellor - If there can be confidence that the creation of a Treasury Committee or Chancellor role would improve matters and lead to a streamlined and more proportionate process for financial approvals then it is to be welcomed.
2. Communications with Policy and Resources Committee (P&R) - Increasing the effectiveness of communication between P&R and Committees would be positive. A monthly 'Strategic Forum' as proposed is one option but rather than it be the heads of Committees meeting with all the Members of P&R, the Committee for Home Affairs believes it would be better for it simply to be a meeting of all Committee heads/Presidents including President P&R. Alternatively the membership for the Strategic Forum might be the Presidents and Vice Presidents of all Committees.
3. Oversight of the Civil Service - Under any system the Committee needs to be assured of access to suitable staff of the right calibre, with relevant experience and with the right level of accountability. It also considers there could be merit in the re-establishment of something akin to the former Civil Service Board.

4. Committee size and cohesion - While not directly affecting its mandate the Committee's view is that a membership of five is small enough to be efficient and yet large enough to provide cover where a member or two may be conflicted or otherwise unable to attend. Five also ensures a reasonable diversity of views.
5. Resources for policy and legislative development – To deliver its mandate effectively and the priorities it has set and incorporated into the Policy and Resource Plan the Committee needs timely access to good quality policy advisers with relevant subject knowledge.

Yours sincerely

Deputy Mary Lowe

President

Committee *for* Home Affairs

The President
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Sir Charles Frossard House
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13 January 2020

Dear Deputy St Pier,

Requête – P.2019/144
Towards a more effective structure of Government

Thank you for your letter of 18 December 2019 requesting the views of the Development & Planning Authority (D&PA) on the above Requête (“the Governance Requête”).

The D&PA’s comments which follow relate primarily to the following three matters in the Governance Requête:

- Paragraph 4.4.29
- Proposition 1(i)
- Proposition 3.

Paragraph 4.4.29 of the Governance Requête

The D&PA feel that it is extremely important for the States of Deliberation to fully appreciate the present role of both the Committee and the Office of the D&PA in order to consider the effect of the suggested changes. In this regard, the Governance Requête continues to contribute to the misunderstandings which the Committee has been fighting since the inception of the D&PA and we wish to take this opportunity to set out the present position for clarity.

At paragraph 4.4.27 of the Governance Requête, it refers to “The Authorities: DPA and TLA”. Paragraph 4.4.29 of the Governance Requête then states as follows:

“Both Authorities were created at arm's length from a policy-making Committee (E&I in the case of the DPA; Economic Development in the case of the TLA), in

order to make 'quasi-judicial' – that is, inherently *non-political* – decisions on matters that are prescribed by policies of those Committees. Both Authorities are populated by five States Members. The fact that the States has already accepted the need to review the role of both Authorities indicates that this element of the new structure of government is not working as effectively as might have been hoped.”

Unfortunately, this paragraph misrepresents the position and role of the D&PA in a number of important respects and appears to reflect the position set out in the States Review Committee’s First Policy Letter¹ which states:

“7.11.6 The Committee is minded to recommend that policy responsibility for land planning should sit with a Principal Committee but the determination of individual planning applications should be delegated to a planning authority.”

This position was not the final outcome as the revised recommendation of the States Review Committee was accepted by the States. Their Second Policy Letter² states

“8.8.25 On balance the Committee sees merit in co-locating land use policy and development control under the leadership of a single States’ committee. Therefore, the Committee recommends that the proposed Development & Planning Authority should be responsible for both development control (e.g. determining planning applications) and land use policy through the production of the Island Development Plan.”

Paragraph 4.4.29 of the Governance Requête, therefore, fails to recognise that the D&PA has an important policy-making role through its responsibility for the Island Development Plan (IDP) and for the Building Regulations. The functions of the D&PA are certainly not limited to making quasi-judicial planning decisions, and where such decisions are made they are based on the policies of the IDP.

In fact, the duties and powers of the D&PA as approved by the States are:

- To advise the States on land use policy and to develop and implement land use policies through development plans and any other relevant instruments.
- To determine development applications of all kinds, including planning, building control, protected buildings and scheduled sites.
- To maintain and keep under review schemes of delegation in order that only the most contentious or high profile or atypical development control applications are

¹ Billet D’État XIV 2014

² Billet D’État XII 2015

referred to the elected members of the D&PA, and when they are so referred, to ensure that they are heard at open planning meetings held in public.

- To exercise powers and perform duties conferred on the D&PA by extant States' resolutions, including those resolutions or parts of resolutions which relate to matters for the time being within the mandate of the D&PA and which conferred functions on the former Environment Department.
- To fulfil the operational responsibilities set out below:
 1. Planning legislation (except those that relate to planning inquiry administration), including:
 - Enforcing planning legislation
 - Operational functions relating to preparing development plans, subject plans, local planning briefs, guidance notes, development frameworks
 - Administering planning applications and pre-application advice requests
 - Making building regulations and Guernsey technical standards
 - Administering building regulation applications and pre-application advice requests
 - Conservation and design advice
 - Administering the statutory lists of protected buildings and protected monuments
 - Administering tree protection orders and functions in relation to sites of special significance and conservation areas
 - Immunity certificates and property searches
 2. The High Hedges (Guernsey) Law, 2016
 3. Loi ayant rapport aux Licences pour les Salles Publiques, 1914, public building and entertainment inspection and licensing
 4. Providing advice and administrative support relating to land planning
 5. Clearance of ruins

Secondly, the Governance Requête, therefore, does not acknowledge that the presence of politicians on the D&PA reflects the democratic nature of the land use planning function, both in terms of setting planning policy and in relation to making decisions on the more contentious, high-profile or atypical planning applications in accordance with the functions conferred by the States.

Finally, the fact that the States has previously made a resolution to review the role and function of the D&PA does not automatically lead to the conclusion that this element of the new structure of government is “not working as effectively as might have been hoped.” The D&PA is set up in accordance with the recommendations of the States

Review Committee based on the reasoning set out in their Policy Letters. It may be that, upon review, the role and function of the D&PA is considered to be working as envisaged but that the reasoning as set out in the Policy Letters was flawed.

Proposition 1(i) of the Governance Requête

This proposition refers to the question of revisiting the issue of Committee size. The D&PA's position on this issue is purely a practical one, relating to the potential difficulties of achieving a quorum when members might be indisposed or have a conflict of interest requiring them to recuse themselves from consideration of matters relating to certain sites, etc. With less than five members this could cause significant challenges for the effective operation of the D&PA, as was a possibility last year when the D&PA was reduced to three available members.

Proposition 3 of the Governance Requête

In July 2019, as part of the IDP Requête³ the States resolved as follows:

3. To direct the Policy & Resources Committee to coordinate a review of the role and function of the Development & Planning Authority, as described in Recital 18 to this Petition, to be brought to the States no later than April 2020, including the constraints placed on its political and democratically-accountable character as a result of planning legislation, planning policy and other law, and how these might best be resolved; and whether or not the planning legislation should be amended to give the Development & Planning Authority discretion to make more than minor departures from a development plan where other material planning considerations weigh in favour of such a departure.

In fact, from reviewing the IDP Requête and Hansard, neither the basis for the previous States' decision in this respect, nor the intended terms of reference of the review, are entirely clear. It is also understood that work in relation to this Resolution has not to date been prioritised by P&R.

The D&PA has no objection whatsoever to there being an objective review of its role and function, however, it is considered that there would be benefit for the States, and the D&PA, in being clearer at the outset on how a review would be undertaken and what its terms of reference would be likely to look like.

In terms of precedent, a review of the planning function in the States of Guernsey was carried out in 2008 by Mr Chris Shepley⁴ which greatly benefitted the then Environment

³ Billet D'État XIII 2019

⁴ The Shepley Report 2008 (<https://gov.gg/CHttpHandler.ashx?id=6016&p=0>)

Department and along with the introduction of the 2005 Land Planning and Development Law in 2009 was a significant milestone in the modernisation of Guernsey's planning system. The terms of reference for the Shepley review were as follows:

"This review is intended to take all aspects of the planning service into account but to focus in particular in answering the following key questions:

- How effective are current organisational arrangements in setting strategic policy objectives for the planning system and ensuring that they are fulfilled?
- By what means can the planning system be made more responsive to the reasonable expectations of its many different customer groups and how might this approach be carried forward into a service level agreement?
- What are the specific, practical measures that would need to be taken to enable the Development Control system to make legally robust and timely decisions on planning applications without a significant increase in planning posts and what are the likely costs and benefits of such an approach?

It is expected that the reviewer will examine the following matters and comment on them in the report:-

- The degree to which the planning system is understood and supported by the general public, States Members and States Departments and, in particular, whether their respective expectations of the system can realistically be met.
- The boundary between the responsibilities of the Strategic Land Planning Group and the Environment Department
- The way in which the planning service is managed as a division within the Environment Department and issues arising from this arrangement including, for example, the Environment Department's responsibility for administering Crown land.
- The rigidity/flexibility of the planning system both in terms of Development Plan policies and the way these are interpreted in dealing with individual planning applications.
- The handling of consultations on planning applications with official consultees, other stakeholders and the general public bearing in mind the arrangements to be brought in under the new planning law.
- The efficiency of the Development Control process including levels and standards of control, checking and reporting procedures, use of exemptions and use of delegation. Particular consideration should be given to the proportionality of exercising detailed control of small scale development
- The organisational structure and respective workloads of staff in different planning sections and whether staff are deployed where they can best contribute to the overall effectiveness of the planning service.
- The relationship between planning and building control and the costs and benefits of a 'one stop shop' approach.

- Where is the demarcation line or lines between the responsibilities of politicians and civil servants? On what basis are decisions referred to politicians and why, and on what basis are they dealt with by civil servants? Should those demarcation lines be published?
- Should an applicant, or any third party who is likely to be affected by any decision, be able to enquire whether an application is being dealt with by a civil servant or politicians, and what stage the application has reached?
- Should the planning authority view planning applications on the basis that planning permission will be granted unless there are written policy reasons, in the Detailed Development Plans, that they should be refused?
- Such other matters as the reviewer may consider relevant.”

It will be seen from the above that some of these issues no longer exist. Some however remain as matters of contention, for example: “The degree to which the planning system is understood and supported by the general public, States Members and States Departments and, in particular, whether their respective expectations of the system can realistically be met”, and: “The rigidity/flexibility of the planning system both in terms of Development Plan policies and the way these are interpreted in dealing with individual planning applications.”

Given that proposition 3 of the Governance Requête seeks the establishment of a States’ Investigation & Advisory Committee to consider matters relating to the current structure of Government, there is merit in aligning with this the previous States’ resolution concerning a review of the D&PA. Particular benefits would be to ensure clarity on the purpose and consequent terms of reference of such a review and to consider this in the context of the Government as a whole, not just a limited part thereof. The D&PA is therefore considering laying an amendment to the Governance Requête which would seek to integrate the review of the D&PA as part of the work of a States’ Investigation & Advisory Committee, if agreed by the States, and thus allow the previous resolution to be rescinded.

Yours sincerely

Deputy Dawn Tindall
President, Development & Planning Authority



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15 January 2020

Dear Deputy St Pier

Thank you for your letter of 18 December seeking the comments of the States' Trading Supervisory Board (STSB) on a Requête entitled '*Towards a More Effective Structure of Government*' which is understood to be scheduled for debate by the States at the meeting on 5 February, 2020. This matter was considered by the STSB at its meeting on 9 January 2020 and the STSB offers the following comments relating to the propositions that directly affect the STSB.

In respect of proposition f, the States Rules of Procedure state that, under its mandate, the Committee *for* Economic Development is responsible for securing the provision of, and promoting, air and sea links to and from the Bailiwick. The STSB believe that it is clear from its mandate that the Committee *for* Economic Development is responsible for air and sea link policy.

The Transport Licensing Authority is responsible for licensing air routes under its mandate. Now that the quasi open skies policy is in place it appears there is a lesser role for that Authority.

The STSB is responsible for operating Guernsey (and Alderney) Airport, Guernsey Harbours and for setting shareholder objectives for Aurigny within a policy framework(s). In order to discharge its mandate and provide the necessary direction, a clear air and sea links policy would be welcomed.

However, it is the view of the STSB that the current arrangements whereby the Committee *for* Economic Development is responsible for developing air and sea links policy under its mandate are adequate as long as that policy is actually developed and thereafter agreed by the States, so that the STSB may be able to operate within it and set appropriate shareholder objectives for Aurigny and give appropriate direction to Guernsey Ports.

In respect of proposition h, the STSB is more than a 'policy taking' committee. The STSB operates businesses within policy context, policy framework and/or policy direction, whether those be the incorporated or unincorporated businesses. The STSB regularly advises on policy development, often in a role of subject matter expert. This happens now, and examples include solid waste, energy and water. In addition, with waste and water also as examples, STSB officers lead in advising the Committee *for the* Environment & Infrastructure on the development of policy.

The STSB is of the view that with, in particular, energy policy and air and sea links policy, clearer policy direction is required so that it may update the shareholder objectives established for (for example) Guernsey Electricity and Aurigny and ensure these are appropriately aligned with the States' agenda. It is clear from existing mandates which of the Principal Committees has responsibility for advising the States on such matters and the STSB does engage with them to assist them in doing so.

The STSB also agreed that in the absence of a detailed air and sea links policy (or even if there was such a policy), there is no requirement for STSB's constitution or mandate to be changed.

The STSB considered other propositions put forward in the Requête. It is of the view that whatever the structure of the civil service is at any point in time, the STSB (and other Committees or Boards) needs to be supported by appropriately trained and experienced civil servants and that there are sufficient resources available to do so.

Proposition i asks whether the size of Committees should be revisited. The STSB is constituted differently to other Committees of the States. The STSB is made up of three political members and two non-States members. The non-States members on the STSB are full voting members of the Board, unlike other non-States members on some other Committees. The constitution requires at least three political members or at least two political members and one non States member to be in attendance at a meeting for it to be quorate. On occasion, had the Board been constituted differently, with for example only three political members, it would not have been quorate. Additionally, a Board or Committee of five, generates sufficient challenge and discussion to ensure good governance and decision making. The STSB's view is that the current number of members, political or otherwise, is adequate and should not be changed.

The STSB suggests that the points raised in the Requête could be adequately addressed in the 'handover' report being developed by the current Committees and/or Board for the new ones following the next election.

Yours sincerely

Deputy Peter Ferbrache
President
States' Trading Supervisory Board



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15 January 2020

Dear Deputy St.Pier,

Requête – P.2019/144

Towards a more effective structure of government

On 4 May 2018, I wrote to you regarding the concerns that Members of the Authority had regarding the constitution of the Authority, a copy of the letter is attached and we met to discuss this matter.

The States subsequently accepted proposals from the Committee for Economic Development for the introduction of a quasi-open skies licensing regime. The proposals included a recommendation that the role of the Authority should be reviewed by the States' Assembly and Constitution Committee and that was also approved by the States.

In January of 2019, SACC sought the views of the Authority on the review and it responded by letter dated 18 February 2019. I also attached a copy of that letter as it sets out the views of the Authority at that time. It has not developed its position further as it anticipated that SACC would ultimately come forward with proposals and that there would be a further period of consultation to allow the Authority to respond to those proposals.

The Requête includes a reference to the fact that the States has agreed that the role and constitution of the Authority should be reviewed (see paragraph 4.4.28). Should it be successful, a decision will have to be made as to whether the SACC review should continue or whether it should be rolled up into the wider review proposed by the signatories.

Yours sincerely,

B.J.E.Paint
President.

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18 February 2019

Dear Deputy Inder,

REVIEW OF THE TRANSPORT LICENSING AUTHORITY

I refer to your e-mail of 25th January 2019 regarding the instruction to your Committee regarding the Transport Licensing Authority.

When the Transport Licensing Authority first met in 2016, Members were provided with advice on the quasi-judicial nature of the role and the conduct of their regulatory functions. That advice included a recommendation that members refrain from conduct that could be construed as bias in favour of, or against, any particular airline that provided services to Guernsey.

Given that, at the time, it was anticipated that the Authority would have its regulatory function extended to include ro-ro ferry services in the near future, that advice extended to ferry operations and operators.

Once Members became accustomed to their role it became clear that in order to follow the advice given to them, it would be necessary to avoid virtually any public statements about transport services and operations.

This meant that they were "excluded" from a number of important debates in the States Assembly, could not participate in presentations and briefings given by airlines and that it was difficult to deal with constituency matters relating to air transport, for example, complaints about the service that had been provided by a particular airline to a particular constituent.

The role of the Authority in granting air transport licences involves deciding whether applications comply with the law and policy. A decision must not be based on irrelevant considerations and certainly not whether a particular airline is desirable or not. It is not always easy to separate the "politician" from the "regulator", particularly as Members were more than aware of policy developments and issues relating to air transport services.

As a consequence of the constraints that came with a position on the Authority, Members reached the general conclusion that a constitution of five political representatives was, perhaps, not ideal.

Various alternative arrangements for political membership discussed, including:

- no political membership (regulation by a non-political group or body),
- a reduction in the number of political representatives to 3 (the Scrutiny Management Committee approach),
- a reduction in the number of political representatives to 2 (the STSB approach at the time),
- a reduction in the number of political representatives to 1 (the Overseas Aid and Development Commission approach).

The creation of a statutory official role was also considered.

Although a definitive conclusion was not reached, there was a general leaning towards favouring the Overseas Aid approach.

Subsequent events overtook any further consideration of this matter.

In 2016 the Policy & Resource Plan identified transport links as a top priority for the Bailiwick of Guernsey and the Committee *for* Economic Development published its Economic Vision which contained initial proposals on the future of air transport licensing. Those proposals were further developed into a recommendation for a quasi-open skies policy that was agreed by the States of Deliberation.

The outcome is that the air transport licensing role of the Authority is much diminished as it is now only required to consider applications for air route licences on lifeline routes between Alderney and Guernsey and between Guernsey and Gatwick.

As indicated above, it had been envisaged that the Authority would also have a licensing function in relation to ro-ro ferry services. The necessary legislation was drafted, but not brought into effect as the result of ongoing discussions with Condor Ferries. However, even if the Authority had taken on that role, it is unlikely that it would have created a lot of work, given that the pool of potential operators is not huge and that there has been a tendency to enter into agreement with a preferred operator for a number of years.

The Authority was also going to take on various vehicle transport licensing functions. Those functions are contained in a large body of legislation, often mixed together with policy-related functions, and it has proven complex to satisfactorily separate one from the other.

Vehicle licensing encompasses a range of routine functions that are currently carried out under delegated authority. If the Authority had, in fact, been given responsibility for such licensing, there seems little reason to change an arrangement that serves the public well. That being so, the workload of the Authority in relation to vehicle licensing would have been limited to dealing with the exceptional cases that fell outside of a delegation of authority.

Yours sincerely,

B.J.E.Paint.
President.

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4 May 2018

Dear Deputy St.Pier,

CONSTITUTION OF THE TRANSPORT LICENSING AUTHORITY

The Authority was constituted as a Committee of the States to determine applications for air route licences and to carry out any other transport licensing and regulatory functions which the States might confer on it from time to time. The Authority solely makes quasi-judicial decisions and has no policy making responsibility.

The quasi-judicial and policy functions had previously been the responsibility of the Commerce and Employment Department and it was considered appropriate to separate those functions in 2016 in order to avoid any perception of partiality or conflicts of interest that arose when the functions were the responsibility of the same government body.

Transport links continue to be a significant issue for the Island and they are of considerable interest to the public.

In the performance of their role as Members of the Authority, Members have been advised to avoid any conduct that might be perceived as bias in favour of, or against, any particular airline. That restricts them from any meaningful participation any matters relating air transport and the ability of the five political members to represent the electorate on such matters.

The involvement of politicians in transport licence decisions may be seen as important to ensure that, on a small Island, there is political responsibility for such decisions. However, politicians are not specifically trained to make quasi-judicial decisions in any area of law and, as such, decisions will be at risk of appeal or judicial review.

Taken together the Authority considers the limitations on its five political members are disproportionate to the benefit of politicians being involved in transport licensing decisions and it believes that there is merit in reviewing the Constitution of the Authority.

Furthermore, the Authority believes that the Committee for Economic Development will submit a review on air transport licensing to the States in the near future. If the proposals are accepted, the air transport licensing role will be significantly reduced.

I would welcome the opportunity to discuss this issue with you.

Yours sincerely,

B.J.E.Paint
President.



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16th January, 2020

Dear Deputy St Pier,

Requête – P.2019/144

Towards a more effective structure of government

Thank you for your letter dated 18th December, 2019 consulting with the Committee on the above Requête and requesting the Committee to give particular consideration to the Propositions which relate directly or indirectly to matters which lie within its mandate. The matter was considered by the Committee on 9th January, 2020.

Please note that Deputies Inder and McSwiggan chose to recuse themselves for this item given they are signatories to the Requête.

The Committee has carefully considered the proposals under Proposition 1 and identified the following as pertinent to the mandate of the Committee.

- j Whether the question of Committee Members being elected together with, and/or resigning alongside, their Committee President should be explored;
- m Whether there may be opportunities to better integrate States Members' Corporate Parenting responsibilities within their Committee and States' work;
- n Whether to reintroduce the title of 'Minister' in place of 'President'; and
- o Whether to develop alternative titles, or clarify the use of existing titles, in respect of the States and its Committees;

Proposition 1(j) squarely falls within the Committee's mandate and as identified in the Requête, was a matter touched upon in the "Amendments to the Rules of Procedure of the States of Deliberation and their Committees" propositions and policy letter considered by the States at the October, 2018 Meeting. The relevant proposition was defeated with 14 Members in favour and 25 Members against.

Proposition 1(m) is a matter under active consideration by the Committee as it develops the on boarding and ongoing development programme for States' Members. Staff across the organisation are working together to assess how Members can best be informed of their Corporate Parenting responsibilities when acting as Parliamentarians, Committee Members or independently.

Propositions 1(n) and (o) are matters which the Committee has not considered during this political term.

If the States agrees that this States and its immediate successor should consider the matters listed under Proposition 1a to q (as may be amended), the Committee agrees that it would be appropriate for a States' Investigation & Advisory Committee to be established to undertake this workstream.

It notes that Proposition 5 suggests that the Chair of the Committee shall be the President or a Member of the Policy & Resources Committee and five other States' Members. The Committee suggests that one of the five other States' Members on the Committee should be the President or a Member of the States' Assembly & Constitution Committee, given that the review will touch upon matters directly under the duties and powers of the Committee.

Yours sincerely,

J.S. Merrett
Vice-President



President
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16 January 2020

Dear Deputy St Pier

Requête – P.2019/144
Towards a more effective structure of government

Thank you for your letter dated 18 December 2019 concerning the above.

The Committee considered the matter at its meeting of 9 January 2020 and focussed predominantly on the issues raised by the Requête specific to this Committee and any far-reaching recommendations which, if approved, would affect every Committee, either directly or indirectly.

The Committee felt that whilst some of the points raised in the Requête were worthy of further discussion, it would be premature to contemplate fundamental changes to the new structure of government after less than one electoral term. The next Assembly is likely to face different issues and the Committee considers that the structure of government should not be redesigned based on short-term performance. The Committee did not believe that some of the challenges faced by government resulted from by its current structure. On the contrary, it considers that behavioural issues account for some, but not all, of those challenges and, as such, structural changes will be unlikely to resolve the problem.

Turning now to matters most relevant to the Committee, the Requête highlights that several States' bodies have responsibility for the Bailiwick's air and sea connectivity, with the Committee *for the* Environment & Infrastructure mandated to advise the States on infrastructure, including the Island's ports, and on climate change. The Committee does not support the proposal that there should be a single, policy-making Committee with primary responsibility for the Bailiwick's air and sea connectivity.

The creation of additional Committees is not in keeping with the intention to limit the number of Principal Committees to allow the States of Guernsey to operate in a more efficient manner. In July 2014¹, following consideration of the States Review Committee's policy letter on the reorganisation of States' affairs, the States resolved:

¹ Billet d'État XIV, 2014

“To agree that most of the policy-making, regulatory and public service functions of the States shall be delegated to no more than nine Principal Committees, but when considering the precise allocation of such functions there shall be a general presumption in favour of rationalisation of committees where practicable.”

Seeking to create additional Committees would run contrary to this presumption.

In addition, the creation of committees to manage the issues that are most exercising any existing Assembly sets an ill-advised precedent. It may encourage silo-working which the States of Guernsey looks to avoid in order to ensure it serves the public in as effectively as possible. If cross-cutting issues are suitably co-ordinated, and enough time is devoted to their consideration then there will be no need for the creation of a new Committee or the amendment of existing mandates.

In paragraph 4.4.20 it is recommended that the States rename the Committee *for the Environment & Infrastructure* as the Committee *for Climate Resilience, Environment & Infrastructure*. This is intended to recognise the importance of the issue of climate change and giving responsibility for it to the Committee.

Should the States support this suggestion, there is an easier method to achieve this than through a Requête. In addition, the policy area of climate change is an ‘Area of Focus’ for the whole States rather than a policy area solely for the Committee *for the Environment & Infrastructure*. The proposed name change would see responsibility lie with one Committee in the eyes of many, including the public and media. However, responsibility is wider than that with its importance meaning that it should be incumbent on all areas of government to act to address climate change.

The Committee would welcome the availability of skilled policy makers who also have subject matter expertise, as it considers that such skill sets would have helped it to advance its policy priorities this term in a timelier fashion. It is acknowledged that some expertise can be bought in as needed but this tends to be costly and should be complementary to internal knowledge and skills rather than a substitute for them.

The Committee would be supportive of any actions that might assist the Law Officers’ Chambers to deal with its heavy workload in a more effective way.

Deputy B L Brehaut
President
Committee *for the Environment & Infrastructure*

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17th January, 2020

Dear Gavin,

Requête – P.2019/144 Towards a more effective structure of government

Further to your letter dated 18th December, 2019, I am writing with the Committee *for* Economic Development's views on the elements of the Requête which relate to the Committee's mandate and areas of interest. Please note that Deputy Inder is a signatory to the Requête and is a member of the Committee, so he has recused himself from the discussions and, as a result, the views expressed below are those of the majority of the Committee.

Committee responsibilities – Connectivity: a new Committee *for* Air & Sea Links

The Requête proposes that there should be a single, policy making Committee with primary responsibility for the Bailiwick's air and sea connectivity through the establishment of a new principle Committee *for* Air & Sea Links. The Committee believes there are two key issues with this proposal.

The first issue is that the formation of a Committee *for* Air & Sea Links in the manner suggested would have the unfortunate and undesirable consequence of disconnecting economic development strategy and policy development from the formation of air and sea link policy.

Transport connectivity is a significant and necessary 'open for business' requirement for Guernsey's economy. Guernsey's prosperity is founded on being an open, liberal, free-trading economy: investment can be attracted from Guernsey's world-class finance sector, and investors can be assured by Guernsey's high quality governance standards. Guernsey's message to the global economy is that it is open for business, and this can be evidenced through, amongst other things, secure and established air links to London, Manchester and other UK cities. In developing transport connectivity policy, the Committee leans heavily on its knowledge, contacts and expertise with a wide range of businesses across Guernsey's economic sectors. It ensures that strategy development and implementation across

different sectors takes account of transport connectivity issues and vice-versa. Transport connectivity is essential for almost all sectors of the economy. This is why responsibility for this important task falls within the Committee *for* Economic Development's mandate. If it didn't, then there is the real danger that transport policy will be developed in a vacuum and without the greater understanding of the needs of the wider economy that the Committee's other work areas and holistic understanding can bring.

The second issue is that there would be certain practical and likely insurmountable difficulties in bringing together under one Committee the current functions relating to transport carried out by a number of States Committees. Currently there are a number of Committees and Statutory bodies that have an involvement in aspects of transport connectivity including the Policy & Resources Committee, the States' Trading Supervisory Board and the Committee *for* Economic Development. There will remain good reasons why these functions need to remain separated. Indeed, the requérants touch on this in their prayer when they acknowledge the difficulty in separating, for instance, shareholder functions from transport licencing. It should also be considered that some functions are purely operational in nature (harbours and airports, and medevac), whilst others are strategic and require holistic thinking and interpretation of policy and strategy implementation.

The Committee considers that a better approach will be for the States to continue to pursue an agreed strategy and direction for the provision of air and sea links. In December 2018, the States agreed to the Policy Development and Investment Objectives for Air and Sea Links proposed by the Committee *for* Economic Development. The Committee believes that these should form the basis for a coordinated and coherent framework for air and sea route development and the Committee's view is that the Committee for Economic Development should be the lead Committee tasked with developing and implementing the overall framework for transport connectivity for approval by the States of Deliberation.

Taking the above into consideration, it is the Committee's firm view that the Committee *for* Economic Development will remain the most appropriate, most qualified, and best connected States Committee to continue to formulate and implement transport connectivity policy whilst working collaboratively with other States Committees to deliver the objectives agreed by the States of Deliberation.

Committee responsibilities – Reconfigure the Committee for Economic Development as the Committee for Business, Sport, Culture & Digital

As explained above, the Committee's view is that it should remain the principal committee with responsibility for air and sea link policy. It follows therefore that any reconfiguration of the Committee's responsibilities should not be necessary. In addition, the Committee believes that the title of Committee *for* Economic Development accurately describes the current functions and responsibilities of the Committee. It should be noted that in terms of Digital, the Committee already has responsibility for Digital as follows:

"To advise the States and to develop and implement policies on matters relating to its purpose, including:

1. the promotion and development of all sectors of business, including construction, creative industries, digital, financial services, horticulture, intellectual property, manufacturing, media, retail and tourism;”

The Committee feels that sport and culture are currently served well through the Committee *for* Education, Sport and Culture. Whilst there are some linkages between culture and economic development (for instance in the development of an arts and culture strategy which could drive further economic development opportunities for the island), there is, in the Committee’s view, no compelling imperative to shift existing mandates, unless this made sense through a more general reassignment of responsibilities.

Committee responsibilities – Tourism

Similar arguments exist here as for air and sea links. The Committee’s view is that the tourism sector is an important component of the economy and serves to drive both direct and indirect benefit for other sectors of the economy (for instance retail, transport etc.). There is no compelling argument made for Tourism to be separated from the responsibilities of the Committee *for* Economic Development.

Committee responsibilities – Re-style the Committee for Education, Sport & Culture as the Committee for Education & Skills

The Committee *for* Economic Development’s current responsibilities in relation to skills include:

“the labour skills necessary to sustain economic prosperity”

The Committee believes that there is a distinction to be drawn between the development of strategy on skills and the delivery of skills training. Given its responsibility for the strategic development of Guernsey’s economic sectors, the Committee’s view is that it should continue to retain the specific responsibility for identifying the labour skills necessary to sustain economic prosperity. The Committee views this responsibility as the identification of the skills required by business rather than the delivery of skills training itself. Delivery of training and skills development is something that should firmly remain with providers such as the Guernsey College of Further Education and the Guernsey Training Agency. The Committee’s role in this area is to work with the business community to identify future skills requirements and economic sector growth opportunities, and then feed industry’s skill requirements to the appropriate provider(s).

Yours sincerely,

Deputy Charles Parkinson
President



Scrutiny Management Committee

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17 January 2020

Dear Deputy St Pier

Requête – P.2019/144

Towards a more effective structure of government

Further to your letter dated 18 December 2019, the Scrutiny Management Committee (the Committee) has considered the above mentioned Requête. Whilst the Committee has views on the Requête as a whole, the comments within this letter are restricted to those matters within the Committee's mandate as requested.

The Committee acknowledges the considerable time and effort in producing this Requête and acknowledges that continual improvement is always possible when lessons learnt from the past are captured, reflected upon and then implemented. As such, the Committee generally welcomes the opportunity that this Requête brings for further debate and discussion, to strive towards an improved machinery of government.

The Committee's comments on individual Propositions of the Requête are as follows:

Proposition 1a

The Committee is of the view, based on previous experience that a return to a separate Treasury Committee and an overarching monthly Strategic Forum would not lead to an improvement in the effectiveness of government.

The Committee does believe that the establishment of a distinct Chancellor role has merit. However, more detail would be required than is currently available, for a decision to be made in this regard.

Proposition 1e

The Committee considered this Proposition in detail and the relevant related paragraphs within the Requête, as this is the Proposition most directly concerned with the current scrutiny system in place within the States of Guernsey.

The Committee is not convinced (like the Requêteants), that the restructuring of scrutiny in 2016 has *“addressed the weaknesses of the previous structure”*. Whilst the mandate covering finance and policy has ensured that the current scrutiny function works in a much more collaborative fashion than in previous Terms, the reduction of both political and non-states members has, the Committee believes, understandably diluted the effectiveness and capacity of the scrutiny process as a whole.

The Committee strongly agrees with the Requêteants that scrutiny of government finances is a political task (and duty) (par 4.3.4) and one that is highly valued and seen as an essential function of effective government across the world.

An important aspect of the scrutiny of government finances is the annual external audit process. One of the Resolutions from the Joint Committees Report at the States Meeting on 16th February 2016 was *“To agree that the Scrutiny Management Committee shall have the right to scrutinise actively the annual external audit process as set out in paragraph 3.23 of that Policy Letter.”* Unfortunately, that was not included in the Mandate of the newly formed Scrutiny Management Committee which has limited the Committee’s scrutiny of that process.

The suggestion to consider re-establishing a separate Public Accounts Committee under the Scrutiny Management Committee structure (para 4.3.6) in the form alluded to the Requête, is welcomed by the Committee which believes that when this is considered, the option to establish the office of an Auditor General should also be considered. However, whichever option is ultimately chosen, this structure must be adequately resourced to enable effective financial scrutiny.

In general terms, the effectiveness of any proposed parliamentary scrutiny function is principally reliant on the resources and the powers available to that function. However, those individuals within that structure are also extremely important. The Committee has reflected upon the current structure and is of the view that the limited number of political members has resulted in the Committee’s effectiveness being reduced. Whilst every effort has been made to utilise additional States Members as part of the Committee’s Task and Finish Panels (and the Committee is grateful for those who have engaged and brought their expertise to the process), the take up has been very limited.

The Committee believes that it is vital that lessons learnt from previous terms must be wholly taken into account when the issue of a separate PAC is considered, as the Committee

is aware that the relationship between separate Scrutiny and Public Accounts committees has varied over political terms. A strong working relationship between these two Committees and their Members is essential for effective scrutiny.

The Committee is also conscious of the significant effort that went into the previous joint Policy Letter (Feb 2016) by the former Public Accounts and Scrutiny Committees addressing concerns regarding the powers and resources of the (then) proposed Scrutiny Management Committee. The Committee would like to take this opportunity to remind the Assembly to fully re-consider the content of that Policy Letter before making a decision on the future shape of these structures.

In summary, any consideration of the future scrutiny function must learn from the past to enhance the future, with the co-ordination, resources and powers of scrutiny as a whole, taken fully into consideration.

Propositions 3-8

The Committee is conscious that the issues presented within these Propositions of the Requête are for consideration of a proposed States' Investigation & Advisory Committee (SIAC) which would report back by no later than the end of February 2022. The Committee believes that its successor should engage fully with this process to ensure that any future scrutiny arrangements are likely to work effectively.

The Committee would also suggest that if the proposal to form a SIAC is approved and a detailed analysis of the current system of government is undertaken, there may be merit in that committee reviewing, from first principles, the role and function of scrutiny within a Committee system.

Thought could also be given to whether the scrutiny function may operate better if there is a wider and shared understanding of the types of activities that the Scrutiny Committee (s) perform.

In closing, the Committee would like to highlight a minor point of correction to paragraph 4.2.34. The Committee's elected Non-States Members have voting rights.

Yours sincerely.

Deputy Christopher Green
President of the Scrutiny Management Committee



Committee *for*
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17 January 2020

Dear Deputy St Pier

Requête – P.2019/144 - Towards a more effective structure of government

Thank you for your letter, dated 18th December 2019, via which the views of the Committee *for* Education, Sport & Culture were sought in respect of the above Requête. This matter was considered by the Committee at its meeting on 14th January.

Save for the observation in the following paragraph, the Committee's response focuses on those parts of the Requête that are directly related to its mandate, namely paragraphs 4.4.11 and 4.4.12.

The current committee structure has been in place for a little less than one political term. Generally, the Committee considers there to have been insufficient time to allow the new structure to mature to the extent that it would be appropriate, at this time – or even in 18 months' time, to give serious consideration to the level of changes to the structure and mandates of Committees as those set out in the Requête. The current committee structure should be afforded at least a further four-year term before a true assessment of its efficacy can be made, especially when the extent of the changes introduced in 2016 are considered alongside the pace of change being driven by the various transformation programmes taking place across the public sector at the present time.

The Requête proposes that this States, and its immediate successor, should consider, *inter alia*, a series of changes to the mandates of Committees, the consequence of which would be the carving up of the Committee *for* Education, Sport & Culture. In effect, this would see the "sport & culture" elements of the Committee's mandate transferred to what we today know as the Committee *for* Economic Development, to compensate for a reduction

in the breadth of that Committee's mandate, following the removal from it of air and sea links.

The Committee can find very little to recommend the above course of action.

The Committee is not persuaded by an argument based on the necessity for each committee's mandate to be of equal size. There are a number of ways to ensure equality, many of which appear preferable to the idea of simply ensuring that committees' mandates can each neatly fit into the same size box.

Even if the arguments in favour of committees having mandates of equal size were persuasive, it is important to consider the extent to which the responsibilities attached to this Committee's mandate might alter following the devolution of many aspects of the governance of schools and The Guernsey Institute, and the resultant impact this will have on the Committee's workload.

The Committee does not share the requérants' view that the 'sport and culture' elements of its mandate somehow suffer, or receive less attention, because they are sitting alongside education. In fact, it would argue that such inattention would be more likely under the revised structure proposed in the Requête.

In this regard, the Committee considers it important to refer to its purpose: *To encourage human development by maximising opportunities for participation and excellence through education, learning, sport and culture at every stage of life.* The attributes and ethos of a States Member drawn to serve on a committee with such a mandate are likely to be markedly different to those of a States Member drawn to serve on a committee born out of the Committee for Economic Development, whose purpose is *To secure prosperity through the generation of wealth and the creation of the greatest number and widest range of employment opportunities possible by promoting and developing business, commerce and industry in all sectors of the economy.* That is not to say that one set of attributes is somehow better than the other, or that both can never be found in one individual, but the Committee questions the wisdom of bringing together the oversight of functions which are such unnatural bedfellows, both in terms of their operation and/or the ethos that surrounds them. It appears that such a move would be much more likely to lead to sport and culture being seen as the poor relation, and thus receiving less attention than the wealth-generating functions that would sit alongside them.

The attributes and ethos mentioned above extend beyond the political Committee and are very much shared with the third sector partners that the Committee relies upon to deliver parts of its mandate. The fact that the Committee and its officers are working together regularly with those partners on a wide range of shared objectives, with a shared ethos, has enabled those relationships to be developed - and results to be delivered - in a far more positive way than might otherwise be the case.

The Requête is primarily focussed on the political mandates of committees, but the benefits generated through the operational synergies between education, sport and culture cannot be ignored. For example, all three areas are managing large pieces of real estate used on a daily basis by a large proportion of the community, and with this comes the need for expertise in health and safety, risk management, booking systems, maintenance of facilities and equipment, and so on. While it is true to say that officers could - and no doubt would - continue to work together regardless of which committee held the mandate associated with their role, it is also true to say that much closer collaboration and resource efficiencies have been achieved in the last four years than was evidenced previously.

For the avoidance of any doubt, my Committee is content for this reply to be published in accordance with Rule 28(2) of the Rules of Procedure of the States of Deliberation and their Committees.

Yours sincerely

Deputy Matt Fallaize
President
The Committee *for*
Education, Sport & Culture