

The Machinery of Government

Analysis and Information from GPEG



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GPEG: REVIEW OF THE MACHINERY OF GOVERNMENT

Executive summary

The effectiveness of any government is driven by two main things. The structure of government and the quality of politicians and civil servants.

Our recent survey of States' Members shows they do not think the system of government is working – but they cannot agree on how to fix it. Recent events particularly on the Tax Debate and Education clearly illustrate an ineffective States Assembly. There are also comments in our survey that the system results in an impossible workload for Deputies. Streamlining the size of Government and the Civil Service would much improve their ability to manage.

Concerns expressed over the last twenty or more years that government by consensus is not working are becoming a clamour. Our government should be able to make increasingly difficult and important decisions readily. No system of government is perfect, but we should be doing better.

The current system means that Deputies have to persuade a great number of their colleagues to vote with them in order to get their policies adopted. We have a chairman of the Policy & Resources Committee (“P&R”) (the so called senior or top committee tasked with the responsibility and leadership of other committees) who is called the Chief Minister. But he has only the same powers as any other Deputy and his committee is powerless to make responsible decisions due to the ability of a Deputy to bring an amendment to undermine any proposal made by that top committee. This results in accusations of no leadership – but this is the result of a system which clearly isn't working.

This structure is disingenuous to the island population in other ways. Once a Deputy has been voted into the States Assembly he/she has the power to vote in accordance with his/her own views. He/she has no requirement to adhere to the promises in his/her manifesto upon which he/she was chosen by the public. Many don't adhere to that manifesto either. As things currently stand the public has no reliable representation. The public should be able to vote for an individual who they know will be able to carry out his or her promises once voted in. This is what democracy is all about.

We believe that Guernsey is ready for a change!

Perhaps we should limit the extent of government to reflect our population size. We lack economies of scale.

Our first step to test the appetite for change was to produce a survey which was recently circulated to all Deputies. 20 Deputies responded and, tellingly, 63% of respondents agreed that consensus government doesn't work, while only 16% thought that it did.

Our view is that Guernsey is ready for a different style of government – with a Chief Minister with authority and the power to appoint their own Cabinet of Ministers. Not the current position, where all Deputies are equal. The task of determining policy and resource proposals would be the responsibility of the Chief Minister and the Cabinet. Such a system should introduce collective responsibility and accountability.

What is currently lacking is a strategic vision that everyone buys in to. We need a structure that will enable this, instead of 38 individual manifestos.

We think the elected Deputies should agree on, say, 3 candidates for Chief Minister. The Island should then be asked to vote for their preferred choice of Chief Minister from those candidates. The Chief Minister would then select their own Cabinet of 10 ministers from the elected Deputies. Appropriate ministerial responsibilities and departments would be decided on by the Chief Minister, who would have the power to fire as well as select new members.

The Cabinet should also have the power to formulate policy which would then be voted on by the Assembly, a top down approach as opposed to the bottom up one that exists now.

We suggest that the Chief Minister is elected for a four-year term. However, during the term, if 75% of Deputies agree, the Chief Minister could be replaced by the Assembly.

In order to make the body of Deputies more manageable, we recommend that the number is reduced to 20. Cabinet ministers would be supported by other Deputies. Improvements are needed to the selection of candidates for election, with more focus on required specific skill sets. Voters need more information on individual capabilities, perhaps having curriculum vitae information.

Embracing more devolution of power to the parish douzeniers and constables, who could deal with parish issues and the electorate more directly, would further improve local decision-making at a higher level. We recommend that, alongside the 20 Deputies, 10 douzeniers (and/or constables) attend the States, but with no vote. This would bring parish views to the States' meetings. They should be paid for their attendance. To improve the quality of the Deputies, and provide a period of familiarisation, we suggest that the douzaine council role should be a necessary qualification for standing for election as a Deputy.

Currently, elections are held every four years. Rather than have all Deputies elected at the same time, staggered elections could be considered. With a staggered election, we could have elections every two years for one-third of the Deputies. It would alleviate decision-making stalemate from mid-term onwards. It would also prevent having too

many newly elected Deputies going through the learning curve at the same time. Public support has more than doubled for two-year, rolling island-wide voting, supported by the survey organised by the Scrutiny Management Committee which was published on 17 November 2023. Deputy Roffey's suggestions in his Press article of 23 November 2023 on Island Wide Voting also make sense. Whilst we defend the process of island wide voting, we agree that it should be amended so that voters don't have to choose 38 candidates. We believe that there should be a cap of no more than ten individuals a voter can vote for. Deputy Roffey made one more interesting recommendation: he stated that; "Many people think there are too many candidates for the Deputy role. A simple expedient is to copy the UK and have a deposit (say £500) which is not refunded if some level of votes is not achieved". GPEG endorses this proposal.

There was also fairly strong support in our survey results to suggest that the Scrutiny function should be strengthened (for the avoidance of doubt, the Scrutiny function in the States Assembly is tasked with the job of making sure that each committee is acting in accordance with its mandate). We recommend, however, that the Scrutiny function should be wholly independent of the States. We are in favour of a Public Accounts Committee being reintroduced. In the past the scrutiny function was undertaken by a Public Accounts Committee which included members of the public deemed to be helpful in overseeing certain aspects of the States function and acting as advisers to the Deputies.

Alongside the reforms to appoint a Chief Minister, reform of the Civil Service, much needed anyway, would definitely be required with an amended elected structure. We call for a Committee to investigate and to urgently make proposals covering every aspect of the Civil Service and to report by May 2024.

In summary, we are recommending:

- A Chief Minister with power to make decisions and hire and fire
- Term of 4 years for the Chief Minister
- A Cabinet of 10 Ministers chosen by the Chief Minister
- Policy and strategy formulation at cabinet level
- Smaller number of Deputies, having the right skill sets
- 10 non-voting douzeniers to attend the States meetings
- Devolve more responsibilities to the parishes
- Rolling island-wide voting every two years
- A more independent Scrutiny function
- Civil Service structure and scale reform
- Reform of Island wide voting

The key issue is how to make any change happen. We call on the P&R Committee in the first instance to consider our proposals with regard to changes in the structure of the elected Assembly.

Basically, the States of Deliberation as a whole has to agree and implement any proposed changes, which means that it will likely require determined public opinion to prevent them from ignoring the issue. Even then, can we rely on them to vote for change? Delay will be a tempting option – especially for those that enjoy the Deputies pay but contribute little.

We believe that radical change is way overdue and that the public should definitely have more of a say in the way they are governed going forward.

Analysis of the issues

The States of Guernsey is losing out on the advantages of its size because of the institutional design of its government.

The States of Guernsey is an unicameral government (i.e. one legislative chamber), functioning as both a local and national government with a political structure in which the legislature is also the executive. This gives rise to a number of difficulties. These include the inability of the States of Deliberation to hold itself to account for its own actions. It cannot successfully and simultaneously perform an executive and scrutiny role. Although a Scrutiny Management Committee has been established to try and rectify that problem, there are some real doubts about its effectiveness to provide the necessary degree of objective challenge, with comments that it lacks teeth.

Power in the States of Guernsey is highly dispersed because of the committee system, and this compounds the problems generated by an executive legislature which is not subject to effective scrutiny. There is very little centralised power, so P&R although nominally the “senior committee”, has no levers or sanctions at its disposal to deal with issues of incompetence or bad behaviour or to lead on policy co-ordination effectively. There is no power to hire or fire deputies or civil servants!

The frustration with the current system has been very apparent in the less moderate recent writings of Deputy Ferbrache, our former Chief Minister.

To be effective the States of Guernsey committee structure needs to be underpinned by strong relationships of trust between other committees and the top Committee; effective collaboration, strong leadership and good communications; but above all, a shared main purpose of effective government to which all are firmly committed. This is not currently the case.

The Assembly’s deliberations and decisions should, in theory, provide that shared purpose, expressed through The Government Work Plan, but they do not currently do so. Recent debates clearly demonstrate that the Assembly is more focused on challenging the role of the P&R Committee rather than government policy direction and prioritisation.

The inherent weakness of the current system means that the civil service is unusually powerful and disobedient – a decade of asking for proper accounts failed to get this simple task done even though the States Assembly of 2012 set aside the money to do this! Projects fail and few heads roll. Deputies regularly complain to us that they cannot get things done as over-elaboration is the norm and delay is incurred. Change is slowed to a crawl, often to nowhere in the next States.

Can we continue with a committee style system and achieve any progress?

One of the reasons given by the public in the consultations over the years was a preference for the committee system to continue, citing the situation that “no change, no decision” equals a “stable” government and not wanting to face a radical change. In days gone by, before we had paid representatives, the role of Deputy was largely undertaken by people with private means. They were mostly business people giving their time back to their “island” for little remuneration, or people with an interest in politics who had other means of support. They generally had a similar political outlook and so a consensus government by and large worked well.

However, times have changed, our elected representatives are now paid for their role and over the past twenty or so years a noticeably political divide has emerged among Deputies. A government requiring consensus to operate effectively today is clearly not happening. So can the island afford to continue down this road of indecision? Deputies are expected to produce a manifesto before standing for election and the public vote for individuals largely on the basis of what those individuals profess to support. However, these individuals are unable to follow through with these manifesto promises because they very quickly learn that they have to persuade a great number of their colleagues to vote with them to get their policies through. Island wide voting tends to mean that alienating part of the population is a risk that some Deputies are not prepared to take. It is a common occurrence that Deputies tell us one thing and vote the other way. This was very noticeable with the antidiscrimination legislation and the lack of recent budgetary decisions.

Clarity of functions and roles & responsibilities in the current consensus government structure

It is apparent that the fusing of governmental and parliamentary functions into the States of Deliberation, which is the body responsible for making all decisions, is the stumbling block on which an executive government structure might fall and any future change will need to take this into consideration. It was considered by some in answer to public consultations over the years that the States of Deliberation, with its unicameral structure provided a more democratic control of the machinery of government in the island as everyone had the same power and nobody could dominate.

It is becoming increasingly clearer that, if this situation is allowed to continue without an effective change, the island will continue to decline.

The electorate are in fact remote from the machinery of government. The only opportunity a member of the public has to vote in a representative is once every four years. We vote for candidates who promise the earth and cannot follow through. We cannot vote our civil servants in or out of office! However, neither can the Deputies!

Accountability

Under Guernsey's current system of consensus government, the committees' range of powers are limited by their mandate or terms of reference determined by the States (The States Rule Book). Members of the committees are independent and not bound by collective responsibility and all major policy proposals are laid before the members of the States of Deliberation.

The current governance structure of the States of Guernsey, as a whole, presents significant challenges to P&R's ability in its mandated leadership role as well as making the establishment and maintenance of good governance challenging for all committees.

P&R is different from all other committees of the States. Its mandate is to provide leadership and co-ordination of the work of the States, including developing and promoting the States' overall policy and economic affairs, as well as external relations and international and constitutional affairs. One of its key tasks is to align available resources and policy by enabling the delivery of the strategic priorities set out in the Policy and Resources Plan, known as The Government Work Plan ("the Plan"). Whilst the other Principal Committees of the States continue to have power to develop and implement policy and the States Assembly as a whole continues to hold such overall power to pass policy, or not, P&R's responsibility can be undermined. In practice, a long term plan is set but implementation is slow and the plan regularly changed and disregarded. No single person is accountable for this – it is the responsibility of all the Deputies.

Under the current structure, the P&R Committee cannot deliver its mandate and operate effectively without the support and co-operation of the other committees and boards, through whom the Plan is delivered. Therefore, the fragmented structure of the States of Guernsey presents challenges to the effectiveness of P&R and the Assembly as a whole.

P&R's ability to be effective in its leadership function is also compromised by conflicting expectations. There are expectations that P&R will intervene to resolve conflict and "rescue" other committees from difficult situations, although P&R does not actually have any power, and may not have the knowledge or capability, to do so.

What other government structures could the island adopt?

Is a Party System viable in Guernsey?

Although Guernsey does not have a party system it certainly has left and right political leanings which are apparent from the behaviour of its elected representatives. However, is a party system viable in a small community such as Guernsey? In order to run a successful party system a stable party-political infrastructure is required to vet candidates and a whip system imposed to ensure that elected candidates toe the party line. Is this a bridge too far for Guernsey?

The Harwood Report ("the Report"), published in 2002 was the findings of a team of individuals under the Chairmanship of Peter Harwood, tasked with investigating the then machinery of government and making recommendations for change. The Report recognised that the principal objection to the introduction of any form of executive government was that it would ultimately lead to a system of party politics. The Guernsey Electorate appears to have always been against the system of party politics although we saw party politics emerging at the last election and a definite left/right wing approach to policies emerging in the Assembly. It would seem that the current Assembly appear to split 50/50 on whether the introduction of party politics is a good idea as evidenced by the responses to our survey to Deputies.

Increasing the concentration of political power, by whatever means, tends to lead to greater efficiencies but it obviously also has its dangers. The main safeguard in a democracy is ensuring genuine accountability to the electorate. Political parties allow the concentration of power in the form of a cabinet to be balanced by accountability. The parties issue manifestos and the majority party can form a cabinet to fulfil its manifesto promises. The party manifesto is thus a direct link between the electorate and the executive. Should the electorate decide at the following election that the majority party has ignored its manifesto, or finds another party manifesto more attractive, the ruling party can be dismissed.

In Guernsey, any cabinet elected by the Assembly under a ministerial system would simply be a miniature version of the States: that is a coalition of individuals, but with even less accountability to the electorate as a whole. Deputies only have a mandate, based on their individual manifestos. Therefore, the Assembly does not have any kind of mandate from the electorate to pursue a set of policies and neither would any cabinet appointed by a Chief Minister. The important question is whether a satisfactory executive or ministerial system of government, which is properly accountable to the electorate, can be established in the absence of political parties.

Is Guernsey ready for executive style government after 25 years of trying to change the system?

As mentioned earlier, P&R should again review the current structure to consider if it is fit for purpose. Maybe we can help them by making our own recommendations. We are unaware of what recommendations the Committee might make. However, it is becoming increasingly obvious that many sitting Deputies agree that change is required. On 21 August 2023, in the Guernsey Press, Deputy John Gollop commented that “experience tells me that we have the wrong system of government and would benefit from more chief minister control of hiring and firing, a cabinet council ministerial system and no committees running departments. If we had a proper ministerial system this kind of problem wouldn’t exist in its current form”. He was referring to the arguments surrounding Rule 49 which was at the centre of a row between Andrew Cameron and the rest of the Education Committee. This is just one example of how the current system isn’t working. We have noted further evidence of this in our recent survey as the vast majority of respondents agreed that the present system doesn’t work!

Chief Minister style Government – how it could work

The elected Deputies would put forward a short list of three people to be the Chief Minister to lead the island. These three would be put to an Island-wide vote. The person who gained the most votes would then be the leader of the island for a period of 4 years. The Chief Minister would then pick their Cabinet of, say, 10 Ministers. Each Cabinet Minister would represent an area of government. The Chief Minister would decide on appropriate departments and responsibilities. The remaining Deputies would be allocated to support a Minister. This would reduce the overall total of Deputies to around 20. The Chief Minister would have the power to hire and fire the members of their cabinet. The Cabinet would be held accountable to the Assembly as a whole and would have collective responsibility.

More at Parish level - increased subsidiarity in governance

The principle of subsidiarity is that things should be done at the lowest level of government. On this basis, more responsibilities should be delegated to the Parish Constables and/or Douzeniers, in order to reduce and simplify the States’ workload, but also to allow local issues more focus. Our proposals for new areas of authority at parish level would be planning, managing public spaces, highway maintenance, waste disposal and sea defences.

The increase in workload at the parish level is likely to require some roles being paid ones. Reducing the number of Deputies would have the advantage of providing the funding for these newly created roles.

With more responsibility, there is the opportunity to use the douzenier/constable roles as a qualification for the role of Deputy. Local views could be enhanced by having, say, 10 douzeniers/constables attending the States meetings, but without a vote.

Co-ordination of policy

The co-ordination of policy is a key task of any government. In a ministerial system, the States would no longer have the opportunity to arbitrate between departments' competing policy and resource proposals, other than when arising in the course of legislative or budgetary measures submitted for States approval. The primary task of determining policy and resource proposals would be ceded to the Chief Minister and the Cabinet of Ministers. There can be no committee system as at present, independently responsible to the States of Deliberation. The point is that the Chief Minister holds the final responsibility.

Collective responsibility & accountability - a benefit of a ministerial structure?

Collective responsibility is enforced by the power of the political leader – a Prime Minister, Chief Minister or similar – to dismiss ministers who find themselves unable publicly to support the policies or activities of the executive. Policy conflicts between ministers and departments are therefore resolved in private – in theory at least – and ministers who wish to remain in the executive are bound to a common agenda. The risk of ministers openly opposing each other publicly is thus greatly reduced, which would strengthen the reputation of the States. These concepts are sadly totally lacking from the current structure of government.

A notable practical effect of collective responsibility and accountability is that in the States ministers would be required to vote in favour of policies agreed by the Cabinet of Ministers and in public would be required to support such policies irrespective of their own personal opinions. Ministers would lose the right publicly to vote and speak according to their own political judgement and conscience. They would be required always to preserve the unity of the executive. It is, however, common elsewhere for collective responsibility to be suspended for ministers to be allowed a free vote on moral or ethical matters.

In a ministerial system all but the last of these checks and balances would disappear once the function of government – and in particular the power of policy determination – had been ceded by the parliament to a distinct executive led by a Chief Minister.

Many States Members – perhaps the majority - would have no executive role. One of their key tasks would be to scrutinise and hold to account those members in the executive.

As appropriate, non-ministerial members could participate in helping with particular issues and maintaining the quality of government. Lines of accountability would be clearer in a ministerial system. Certainly, every member would have no doubt whether he or she was part of the executive or part of the rest of the assembly scrutinising the executive.

At an individual level, Ministers would be responsible first not to the States but to the Chief Minister, whose confidence they would need to retain in order to remain in office. The Chief Minister would need to retain the confidence of the Deputies and could be replaced sooner than the 4 year term if more than 75% vote to remove the Chief Minister.

In a ministerial system the concentration of executive authority should be balanced by effective parliamentary scrutiny which is independent of the executive. A Scrutiny Committee with a chairman and 3 non-elected members could perform such a role on an ad-hoc basis, depending on the issue.

Role of the Civil Service

The current role of the civil service includes the following:

- Advising and supporting the Principal Committees on the development of legislation and policy and the production of policy letters to the States, matters of procedure, interaction and other committees.
- Implementing new or replacement policies and programmes agreed by the States and their Principal Committees
- Managing and delivering public service

The line management of senior civil servants is through the Chief Executive. The Chief Executive of the civil service is accountable for the performance of the civil service, including the distribution of its resources in order to serve the elected States and their committees. Only P&R has the mandate to replace the Chief Executive of the civil service.

It is clear from the Deputies' responses to our survey that the civil service needs to change. Improved and strong direction is required for the civil service to align itself with policies.

CONCLUSION

Guernsey has continued to struggle with making important infrastructure decisions for the good of the island population over the last two plus years and GPEG believes that the current structure of government in Guernsey has played a major part in its lack of progress over that period. Currently, the system dictates that only the sitting Deputies are able to make any change to the government structure. We believe that it is time for the general public to get involved to deliver the much-needed changes.

APPENDIX

Brief summary of Reform History over the last 25 years

In December 1998, the States as a whole resolved that a Review of the Machinery of Government should be carried out driven by a need for more efficiency and better leadership for an Island that was increasingly operating on the world stage and for well over two decades various groups have recognised the need and sought to introduce change to the structure of the States of Deliberation but with very little change in the overall fundamental operation of the government of Guernsey actually being achieved!

In 2002 the Harwood Report was published and recommended that an Executive Government be put in place to provide political leadership with a political leader who was accountable to the States of Deliberation for the development and implementation of the policies of the States. The report was progressive but didn't go far enough and its recommendations "cherry picked" by individuals wanting to preserve their own power.

In 2008 Professor Phillip Morris was invited to undertake a review of Guernsey's government structure and that of the Isle of Man and Jersey. The need for this report was driven by continued outside scrutiny from organisations such as the OECD and the International Monetary Fund. His published report stated that the committee system was institutionally incapable of delivering efficient policy co-ordination, clear and decisive political leadership, and genuine accountability. Furthermore, it found that it seriously handicapped the development of strategic policy and defence of the islands' distinctive political and economic interests. It further stated that proposed changes had been "*sabotaged by political factions keen to preserve their own prerogatives and had been replaced by a refurbished committee system handicapped by the lack of a Chief Minister's Department and a clear executive*". Minor changes were implemented however nothing that fundamentally changed the committee system.

In December 2011 concerns surrounding the committee system and the inability to make progressive decisions continued and certain States' members submitted a Requête to have the system reviewed again. This was approved by 41 votes to 1 and that Assembly established the States Review Committee (responsible for the Organisation of States Affairs).

In July 2014 the proposals entitled "Organisation of States Affairs" were presented by the States Review Committee to the Assembly. This report was an in-depth review of the then current system of government and other alternatives that might be adopted. Based on many submissions received and its own observations, the Committee found that overall the (2014) structure of the States could not consistently provide for

effective leadership, sound co-ordination of policies and resources and proportionate checks and balances, nor was it sufficiently flexible to adapt if and when circumstances changed.

In July 2015 the States Review Committee presented its Second Policy Letter. The Second Policy letter came about as a result of further deliberations obtained from public meetings and a public drop-in session held after the publication of the Committee's initial proposals. Whilst consultation undertaken by the Committee and the debate and resolutions made in its first policy letter of July 2014 indicated considerable support for reform, very little political and public appetite was expressed for discarding Guernsey's committee system of administration altogether.

At that time there were eleven committees including the senior Policy Council. However, In May 2016 the States resolved that from May 2016 most policy making, regulatory and public service functions should be delegated to six *Principal Committees* with a senior top committee renamed Policy & Resources which combined responsibility for Treasury and Policy. Although it was recognised that there was a need for a senior committee with a Chief Minister the political factions continued to be keen to preserve their own prerogatives and their recommendations fell short of supporting any Executive form of government.

In November 2015 the States Review Committee presented the Third Policy Letter. Whilst the States had largely agreed the new structure with the resolutions passed in its first and second proposals which it was to put in place in May 2016, there remained some outstanding business. Most of these issues related to how the Principal Committees would operate and all proposals were passed by the Assembly elected in May 2016.

In 2019 the then Assembly commissioned Professor Catherine Staite to undertake a review of the effectiveness of three of the Principal Committees in order to support its programme of public service reform and transformation. It identified weaknesses in individual Committees as well as drawing conclusions to those weaknesses being partly due to the structure of Guernsey's political system. The reviews concentrated on governance that involved individuals and their interaction with each other, other committees and the civil service and demonstrated the weaknesses in the structure rather than any problems highlighted caused by individuals.

In her Review Professor Catherine Staite noted that the individualistic, non-party nature of Guernsey politics provided both opportunities and challenges. It enabled Deputies to follow their passions and express their own views without the constraints of party discipline and in some cases regardless of the views of the electorate that put them there.

Her governance report on the P&R Committee was particularly helpful in throwing light on the weakness in the current structure. Although the overall structure of the States of Guernsey was not directly within the scope of her review, it was not possible to

review the extent to which P&R demonstrated good governance without touching on the fact that the current structure restricts P&R's ability to operate effectively.

Although the government agreed to follow up the recommendations of Professor Staite's reviews, no changes resulted.

And so, this is where we are to this day. We still have a committee system, a States of Deliberation with combined parliamentary and legislative power, no collective responsibility and effectively 38 elected members who all have exactly the same power as the next! Despite the fact that, increasingly, sitting Deputies are beginning to state publicly that the current system of government is broken.

GLOSSARY

P&R – the policy and resources committee

The Plan – the government work plan approved by the Assembly

The Scrutiny Management Committee – leads and co-ordinates the scrutiny of committees of the States by reviewing and examining legislation, policies, services and resources

The States – the States of Guernsey

The States Assembly – the States Assembly & Constitution Committee which advises the States on constitution, procedures and practices of its Committees

The States of Deliberation – comprises 38 Deputies plus 2 representatives from Alderney's parliament (the States of Alderney). The Bailiff of Guernsey is the ex officio presiding officer