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STATES OF JERSEY MACHINERY OF GOVERNMENT REVIEW

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Introduction

1. The States of Jersey Privileges and Procedures Committee has established a sub-committee to review the island's machinery of government. The sub-committee has published a very helpful discussion paper setting out the issues and is seeking views.

2. This is a personal submission by someone who has experience of the Jersey political system (as author of a number of reports for the States, Chairman of the Jersey Competition Regulatory Authority and Chairman of the States of Jersey Development Company) and relevant experience in another jurisdiction as Chairman of the City of London Policy and Resources Committee.

Summary

3. The effectiveness of any structure depends more on the people running it than on the structure itself, but the right structure helps. Jersey has made only a partial move towards effective ministerial government. The Chief Minister should be able to appoint and remove ministers on his or her own volition, the doctrine of collective responsibility should apply and all chief officers should report to the Chief Executive of the States.

4. Ministerial advisory and oversight groups and scrutiny panels are a useful part of any political process and contribute to more effective decision taking. The system should be able to accommodate assistant ministers serving on specific scrutiny panels where this would not breach collective responsibility.

5. There is no shortage of information on policy making, but on the part of some members a reluctance to use the information that is available.

General points

6. The machinery of government review is welcome and generally seems to be asking the right questions. However, there are some general points –

- The effectiveness of any system of government depends more on the people than on the structure. If politicians are acting in the interest of the Island as a whole then almost any structure can be made to work. There is a consensus that the present States is working rather better than its predecessor, but all that has changed is some of the people not the structure. However, the right structure undoubtedly helps.
- There is not a choice between two extremes of committee government and ministerial government; there is a continuous spectrum. On a 1-10 scale (1 = entirely independent committees, ten = strong ministerial government) the reforms in Jersey simply moved from point 4 to point 5. In practice Jersey still has many of the characteristics of a committee system of government, except

that the committees now consist of one person. The City of London operates a committee system. I currently chair the senior committee – the Policy and Resources Committee. Even though I have no power to appoint committee chairmen or even my deputy, the City, in the way it operates, is nearer a strong ministerial system than Jersey, say at point 7 of the scale. This is partly because there is a single executive team, all chief officers reporting to the Chief Executive, and partly because the members behave in a collegiate way.

Answers to specific questions

1. To what extent, if any, do you believe that ministerial government is more effective than the committee system that preceded it?

The effectiveness of government depends more on the people than the structure. An appropriate structure helps but no more than that. Jersey needs an effective system of ministerial government given the nature of the island, the relationship it has with the UK and international bodies and key decisions that need to be taken about the future of the Island. Such issues cannot be properly addressed by a system in which big issues are considered in silos, a system that inevitably requires protracted debate on issues that cut across departments – as all big issues do. The current ministerial system is only marginally better than the committee system because in practice it is a hybrid with strong elements of the old committee system remaining.

2. Should Ministers continue to have sole responsibility or should they be required to consult a ministerial board of other States Members before taking significant decisions?

This is the wrong question. A ministerial board would be a move back towards the old committee system. Significant decisions all cut across the committee boundaries, particularly because most have significant financial implications. It follows that they cannot be taken by a single minister and need to be taken by ministers collectively, with the lead being taken by the Chief Minister. For example, decisions of the education system cannot be taken in isolation of decisions on economic development. (“Digital Jersey” needs to embrace schools if it is to be effective) and planning policy must be in line with the economic growth strategy.

3. Should the Council of Ministers be bound by collective responsibility?

The only answer to this question is “of course”. The spectre of ministers fighting each other through the columns of the *Jersey Evening Post* is degrading to the political system and inevitably leads to a dumbing down of the quality of political debate. A strong Chief Minister could enforce collective responsibility by nominating only ministers who agree to abide by collective responsibility and who submit undated letters of resignation on their appointment.

4. Should the Chief Minister have the power to dismiss an underperforming Minister?

Again, this is the wrong question. Underperforming is a very subjective judgment. Who is to be judge of “underperforming” – the Chief Minister or the States? In other jurisdictions the prime minister (or leader in the case of UK local authorities) can appoint or dismiss at any time for any reason – although in practice all are constrained by normal political considerations (better in the tent than out etc). The ministerial team needs to be precisely that, people who can work with each other and

who have broadly similar views. A minister may be performing well in terms of his objectives and policies but performing badly in terms of the Council of Ministers. The Chief Minister should have a free hand in appointing and removing ministers. In the normal course of events this would lead to ministers choosing to resign when asked to do so by the Chief Minister.

5. Should the Executive continue to be forced to seek consensus by being outnumbered in the States?

Yes; this is a normal part of the democratic process, but it does require collective responsibility to operate, otherwise there is a danger of paralysis.

6. Who should departmental chief officers be reporting to?

Only in Jersey could this question even be asked. Effective joined-up government is not possible when departments operate independently and chief officers report only to their ministers. All chief officers should report directly to the Chief Executive of the States. The current system also means there is ineffective management of senior officers hence the necessity to make external appointments to a greater extent than is desirable. A proper performance management system would involve high fliers moving between departments, and preferably given some experience off the Island or in the private sector, and generally given the training and experience necessary to enable them to take on chief officer roles. It may be argued that ministers' responsibilities would be blurred if their chief officers did not report to them. This would be the case only if the wrong people were in office. Even before cabinet government was introduced in UK local authorities most had all officers reporting to the chief executive. The City of London retains a committee system but all officers, including the Police Commissioner, report to the chief executive. This has enabled departmental restructuring, departments that cover more than one committee and committees covering more than one department, something which is very difficult if not impossible in Jersey.

7. What role are ministerial advisory and oversight groups playing in government?

These would seem to be a sensible development that should increase the quality of decision-taking. There are many people who can contribute to the effective governing of Jersey but who do not want to be elected politicians. Advisory and oversight groups are just that. They do not have decision-taking responsibility and ministers remain responsible for decisions that are finally taken.

8. How well is Scrutiny working?

The comments made in the discussion paper are recognised. Scrutiny seems to be working better with the new States than the old one – presumably a reflection of the people involved. However, some members seem to use scrutiny to conduct private battles and there has been too much attention on holding inquests into past decisions that cannot be altered rather than considering major issues. The decision of the States to refer the appointment of the Chairman of the Jersey Development Company (a position I now hold) to scrutiny and the subsequent scrutiny review did considerable damage to the island – and at some expense, but no one has been held responsible for this. Similarly, the “Lime Grove fiasco”, which in other jurisdictions would be regarded as the normal sort of risk that a government takes, has been subject to quite undue scrutiny, which has achieved little. Generally however, the sorts of subjects that Scrutiny panels are now considering seem appropriate and

some of the reports have made a useful contribution to the quality of decision making.

9. Should Assistant Ministers be able to serve on Scrutiny?

This is a difficult one. At first sight a minister serving on a scrutiny Panel is a conflict of interest if the doctrine of collective responsibility applies. However, where a scrutiny panel is looking at a subject that is not politically controversial in an objective way the machinery of government in Jersey should be flexible enough to allow assistant ministers, with the agreement of the Chief Minister, to serve, but on that issue only.

10. To what extent is poor communication affecting ministerial government?

My own observation, as Chairman of the Jersey Development Company and generally, is that there is plenty of available information and that ministers are generally ready to discuss issues and to provide whatever information is needed. However, as in any elected assembly, there are always some members who want more information – often on process (eg a demand for an email string) rather than substance – but who seldom study the information that is available.