



## Privileges and Procedures Committee

### Machinery of Government Sub-Committee

#### Timeline of Key Events: Briefing Paper

##### Introduction

The Island's system of government has been a topic of conversation for many years. The move from the committee arrangement into ministerial government in 2005 was a major change for the Island's political system. The call for change started in January 1998 when a workshop of States members and Chief Officers considered the role and responsibilities of the Policy and Resources Committee, as well as the more general question of the strategic and corporate management of the States<sup>1</sup>.

As a result of these discussions, in July 1998 the Policy and Resources Committee lodged a proposition ("Strategic and corporate management of the States" [P.164/1998](#)) which stated that there was a need for a general review of the machinery of government, and that this review should be carried out by a body independent of the States.

The States adopted the Committee's proposition on 1st September 1998 and agreed in principle to appoint an independent body to undertake a review of all aspects of the machinery of government in Jersey. The Committee was asked to bring back terms of reference, together with nominations for the chair and membership of the review body (later known as the "Clothier Panel").

These decisions were the very start of the process for changing Jersey's system of government. Since the move from the committee arrangement into ministerial government, numerous conversations have taken place within the Assembly and amongst members about the changes and whether they could be improved or amended.

The following section firstly provides an overview of the key propositions made which initiated the process of change. It also includes a number of propositions made after the new system was implemented which called for changes and/or amendments to Jersey's system of government.

##### Decisions by the Assembly which initiated change

##### [P.13/1999](#) – Review of the Machinery of Government: Terms of Reference and Membership (lodged by the Policy and Resources Committee on 19th January 1999)

This proposition followed P.164/1998 which was approved by the States in September 1998 to appoint a body to undertake a review of all aspects of the machinery of government in Jersey. P.13/1999 details the terms of reference and the composition of the Review Panel.

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<sup>1</sup> [P.122/2001](#) Machinery of Government: Proposed Reforms

Over the next two years the Review Panel, chaired by Sir Cecil Clothier KCB, QC, considered a large body of evidence relating to the Island's machinery of government.

**Clothier Report – Report of the Review Panel on the Machinery of Government in Jersey (published by the Review Body on 15th January 2001)**

The findings and recommendations of the Clothier report effectively abolished the Committee system and created the ministerial government including a scrutiny function. Some of the more relevant recommendations which initiated change were:

- There must be a majority of Members of the States not in executive office to provide scrutiny of those who are, by means of 3 or 4 Scrutiny Committees
- Seven departments should be substituted for the 24 Committees
- Each Department to have one Minister and two members
- Ministers from each Department to form the Council of Ministers
- There should be a Chairman of the Council who would be the Chief Minister of the Island
- The States to have the right to approve the appointment of Ministers and substitute Ministers nominated by the Chief Minister
- The Council of Ministers to be subject to careful scrutiny by the balance of Members of the States
- A small number of Scrutiny Committees to be formed from among non-executive Members of the States and elected by the States as a whole
- The Chairmen of the Scrutiny Committees with one other Member of the States to form a Public Accounts Committee to examine and control expenditure
- There should be created the post of "Auditor General" to assist the Public Accounts Committee
- The Chief Minister and Council of Ministers should have a Chief Secretary who would be Head of the Civil Service
- The proceedings of Scrutiny Committees should normally be in public
- There should be regular opportunities for members to question the Chief Minister

The Clothier Report provoked a considerable degree of public comment. The Policy and Resources Committee wanted to ensure that the public had full opportunity to comment on the report and its recommendations. Therefore, it established a Steering Group to recommend a way forward on the reform of the machinery of government after a consultation exercise had

taken place. It was agreed that the Steering Group should consider six different options for government reform:

1. Continuing with the present system of government
2. Reducing the number of States Committees
3. Having a modified committee system with more co-ordination and scrutiny
4. Moving to a ministerial system/system of scrutiny
5. A modified Committee system with more co-ordination, but without Scrutiny Committees
6. A Combined Committee/Ministerial Option

The system that scored most highly was the Ministerial/Clothier option and this was followed by the Combined Committee/Ministerial option. The lowest-scoring option was the existing system of government, with a total score that was well under half of that received for each of the two highest-scoring alternatives.

The Policy and Resources Committee considered the two options that had scored most highly in the Steering Group's evaluation exercise and brought forward proposals (P.122/2001) for the Ministerial/Clothier option.

#### **P.122/2001 – Machinery of Government – proposed reforms (lodged by the Policy and Resources Committee on 7th August 2001)**

The Policy and Resources Committee brought forward its proposals to reform the machinery of government following the publication of the Clothier report. In essence, it recommended that the machinery of government should move from the committee arrangement to a ministerial system, including a system of scrutiny. In the Committee's accompanying report to the proposition, it explained that the proposals flow from those which were set out in the Clothier Report, but the Committee had taken the view on which aspects of the report were taken forward immediately, and those which required more thought or should be taken separately as issues in their own right.

Following approval of P.122/2001, the Committee developed draft proposals for inclusion in its Implementation Plan for "Machinery of Government: Proposed Reforms" [unpublished].

#### **P.70/2002 – Machinery of Government: Proposed Departmental Structure and Transitional Arrangements (lodged by the Policy and Resources Committee on 30th April 2002)**

Following a period of consultation on its Implementation Plan, the Committee put forward proposals for a ten-department structure, each headed by a minister and the transitional arrangements required to enact the new system.

**[P.79/2003](#) – Machinery of Government – establishment of Scrutiny Panel and Public Accounts Committee (lodged by the Privileges and Procedures Committee on 10th June 2003)**

Following approval of P.122/2001 the Privileges and Procedures Committee was established on 26th March 2002. In addition to other terms of reference, the Committee was charged with bringing forward detailed proposals on scrutiny and the Public Accounts Committee. This proposition included the establishment of four permanent scrutiny panels and the PAC including terms of reference for each.

**[P.124/2004](#) – Draft States of Jersey Law 200- (lodged by the Privileges and Procedures Committee on 29th June 2004)**

This Law was as a key piece of legislation which enabled the move to a new system of government after the 2005 elections. The Law was approved by the States and replaced the States of Jersey Law 1966.

**[P.26/2005](#) – Draft States of Jersey (Amendment) Law 200- (lodged by the Policy and Resources Committee on 8th February 2005)**

This proposition was lodged following the debate on the States of Jersey Law (P.124/2004) when the President of the Policy and Resources Committee was asked to report back to the Assembly on the following:

- the eligibility for election of public sector employees; and
- the arrangements for the appointment of ministers.

In relation to the eligibility for election of public sector employees, the Policy and Resources Committee published [R.18/2005](#) “States Employees Engaging in Political Activities: draft proposals” which set out proposals for employees wishing to stand for membership of the States.

P.26/2005 was later revised and lodged as [P.83/2005](#) on 26th April 2005. The purpose of the draft Law (and its later revision) was to make certain changes to the arrangements for the appointment of ministers, including the nomination of ministers for appointment on an individual basis (rather than *en bloc* as originally detailed in P.26/2005).

**[P.55/2005](#) – Draft States of Jersey (Transfer of Function from Committees to Ministers) (Jersey) Regulations 200 (lodged by the Policy and Resources Committee on 22nd March 2005)**

The purpose of these Regulations transferred the functions of committees to ministers which took effect at the time of the introduction of the ministerial system of government.

Following P.55/2005 came a number of consequential amendments. The principle behind these changes was that the Island’s legislation, where appropriate, needed to be amended to be compatible with the new system of government.

**[P.99/2005](#) – Draft Employment of States of Jersey Employees (Jersey) Law 200- (lodged by the Policy and Resources Committee on 24th May 2005)**

This Law represented one of the final significant elements of the consequential adjustments following the move to ministerial government. The law introduced new arrangements which established how public service employees are treated. It also placed the Jersey Appointments Commission on a formal legal basis.

Following approval of the Law, public sector employees (with some exceptions) became employees of the States Employment Board (SEB). The SEB was constituted as a legal entity and was created to act as the employer.

**P.15/2006 - Draft States of Jersey (Powers, Privileges and Immunities) (Scrutiny panels, PAC and PPC) (Jersey) Regulations 200- (lodged by the Privileges and Procedures Committee on 21st February 2006)**

The regulations provided the scrutiny panels and Public Accounts Committee with the power to call for any papers or records relevant to their work and the power to require any person to attend before them. The regulations also provide for parliamentary privilege so that no civil or criminal proceedings could be instituted against members, officers or person giving evidence.

### **Decisions relating to calls for change/reviews of the ministerial system**

**P.70/2010 – Machinery of Government: Amended Structure (lodged by Senator Alan Breckon on 3rd June 2010) (WITHDRAWN)**

Although this proposition was withdrawn, it provides an indication that there were different perceptions about how successful the machinery of government changes had been. The States were asked to agree that the ministerial system of government was amended in order to establish a more inclusive system with the aim of giving all members greater opportunities to participate in executive decision making.

On 26th August 2010, Senator Breckon lodged **P.120/2010 – Machinery of Government: Establishment of Ministerial Boards and Revised System of Scrutiny** which included a report by a working party, established following the debate on P.70/2010, to review its proposals in greater detail. The working party concluded that there was a significant dissatisfaction among members in relation to the operation of the ministerial system. It believed that the people of Jersey would be better served by a revised system which was more inclusive. As a result of the working party's findings, Senator Breckon lodged P.120/2010 which was effectively a revised version of his original proposition (P.70/2010). The proposition was defeated 28 against and 21 for (3 absent and 1 abstention).

**P.17/2011 – Machinery of Government: Review (lodged by the Council of Ministers on 16th May 2011)**

The Council of Ministers proposed that, in parallel with the work of the Electoral Commission which had been established to review a number of issues, there should be a review of the experience of the working of ministerial government in order to identify required improvements and develop proposals to meet them. CoM proposed that this review should be undertaken by a Committee chaired by the Chair of PPC. This proposition was later withdrawn.

**P.187/2011 – Machinery of Government: Review by Privileges and Procedures Committee (lodged by Deputy Gerard Baudains on 29th November 2011)**

This proposition asked members to agree that the Privileges and Procedures Committee undertake a review of the machinery of government in Jersey in order to identify a more inclusive system which enabled greater numbers of elected members to participate in executive decision making. The States agreed to defer the debate on this proposition for three months.

PPC presented a [Comments paper](#) on 6th January 2012 in response to P.187/2011 advising that the Chief Minister had been invited to attend one of its meetings to discuss what plans the Council of Ministers might have with regard to reviewing the machinery of government. PPC also advised that any review of the machinery of government would encompass a broad range of topics including the structure of ministerial government, the “Troy” rule, and the role of Assistant Ministers with regard to scrutiny. PPC had anticipated starting a review as soon as possible.

PPC established the Machinery of Government Review Sub-Committee in February 2012, in which it conducted a diagnostic review of the existing system.

### **R.37/2013 – Machinery of Government Review Sub-Committee: Interim Report April 2013 (presented by the Privileges and Procedures Committee on 30th April 2013)**

The PPC Machinery of Government Sub-Committee presented its initial findings and recommendations following a desktop study, one-to-one interviews with Senators, Connétables, Deputies and members of the Corporate Management Board and, subsequently, a series of meetings with Scrutiny the Public Accounts Committee and the Privileges and Procedures Committee.

The Sub-Committee’s initial recommendations were designed to deliver some initial improvements to accountability in the ministerial system and to promote open and collaborative working. The Sub-Committee advised that it would complete its work and make further recommendations following the referendum held on 24th April 2013.

#### **Referendum**

A referendum on electoral reform was held on 24th April 2013. Voters were offered three choices for a future electoral system, and asked to rank them in order of preference:

Option A:

- parish Constables would no longer have been members of the States.
- there would have been 42 States members, known as Deputies.
- there would have been six large districts, each choosing seven Deputies.

Option B:

- parish Constables continue to be members of the States.
- the number of States members fall from 49 to 42: 30 Deputies and 12 parish Constables.
- six large electoral districts, each choosing five Deputies.

Option C:

- parish Constables continue to be members of the States

- the number of States members fall from 49 to 42: 30 Deputies and 12 parish Constables
- six large electoral districts, each choosing five Deputies

Islanders chose option B. PPC lodged a proposition [P.64/2013](#) on 3rd June 2013 which sought to implement Option B and thereby reduce the number of elected States Members to 42 with effect from November 2014.

On 6th June 2013, a proposition ([P.74/2013](#)) was lodged by a Senator (Ian Le Marquand) which asked the States to:

- a) agree that the outcome of the Referendum on States Reform held on 24th April 2013 does not provide a sufficiently clear mandate for change to Option B (namely a revised structure of 12 Connétables and 30 Deputies elected in 6 new large electoral districts); and;
- b) request the Privileges and Procedures Committee to seek alternatives for reform of the Assembly.

Part a) was rejected by the Assembly whilst part b) was approved. On 25th September 2013, PPC lodged a proposition ([P.116/2013](#)) which proposed a number of options. Only part e) was approved by the Assembly:

- e) to agree that a referendum under the Referendum (Jersey) Law 2002 should be held on the day of the 2014 elections with a single Yes/No question to ask voters whether they agree that the States Assembly should, with effect from the 2018 elections, be comprised of a single category of members elected on a parish basis in accordance with the recommendation of the Report of the Review Panel on the Machinery of Government in Jersey (the 'Clothier' Report) published in December 2000, and to request the Privileges and Procedures Committee to bring forward for approval the necessary Referendum Act to enable the referendum to take place.

A referendum on electoral reform was held on 15 October 2014, alongside general elections. Voters were asked whether elected constables should continue to automatically become members of the States. Their continued automatic membership was approved by 62% of voters.

Prior to 2014, the constitution of the States Assembly was 51 States Members - 10 senators (originally 12) elected island-wide, 12 constables with one elected from each of the 12 parishes and 29 deputies elected from 17 different constituencies. In the October 2014 elections, the number of Senators was reduced to eight following States approval of ([P.176/2010](#)).

In 2020, the States agreed ([P.139/2020](#)) that an Assembly of 49 Members, 37 Deputies elected from 9 districts, plus the 12 Parish Connétables should be established.

### **[R.105/2013](#) – Machinery of Government Review Sub-Committee: Final Report (presented by the Privileges and Procedures Sub-Committee on 9th September 2013)**

The Sub-Committee's final report presented two options. The States could move closer to the model proposed by the Clothier Panel and give that model sufficient time to demonstrate that it could deliver the remedies envisaged in December 2000. Alternatively, the States could

pursue a ministerial/committee hybrid, like the kind proposed in P.120/2010, or by blending some executive/non-executive roles (as per the system in place in the Isle of Man).

On 9th October 2013, the States held an 'in Committee' debate on the Sub-Committee's recommendations.

Following the debate, a Steering Group chaired by Deputy Jeremy Maçon, with Deputy Montfort Tadier, then Deputy Tracy Vallois and the Chief Minister, as members, was established to take forward consideration of the recommendations. The Steering Group took into account the comments of members during the 'in Committee' debate, and consulted with the Privileges and Procedures Committee, the then Chairmen's Committee, Scrutiny Panels and the Council of Ministers in respect of the recommendations. The Group considered possible amendments to the States of Jersey Law 2005, which were referred back to the Privileges and Procedures Committee for consideration on 6th March 2014<sup>2</sup>.

PPC did not feel that it was in a position to take the proposed changes to the States and the Chief Minister agreed to take the matter forward.

### **P.33/2014 – Draft States of Jersey (Amendment No.8) Law 201- (lodged by the Chief Minister on 18th March 2014)**

The Chief Minister's proposition sought to amend the machinery of government in order to improve its function and implement those recommendations of the Machinery of Government Sub-Committee that gained broad support following the consultation process undertaken by the Steering Group. The proposition was approved by the States, as amended. It introduced collective responsibility for the Council of Ministers and enabled the States to make subsequent decisions regarding arrangements for Scrutiny through Standing Orders. It also ensured that the Chief Minister was responsible for the overall organisation of the Council of Ministers and the allocation of functions to Ministers.

The **Commissioner for Standards** (Jersey) Law 2017 was adopted by the States Assembly on 1st February 2017 and registered in the Royal Court on 21st April 2017. The Law provides for the creation of a Commissioner for Standards, who investigates complaints of alleged breaches of the Codes of Conduct applying to elected States Members and Ministers and reports accordingly to the Privileges and Procedures Committee.

### **P.1/2018 – Draft Machinery of Government (Miscellaneous Amendments) (Jersey) Law 201 – (lodged by the Chief Minister, Senator Ian Gorst, on 8th January 2018)**

The proposition asked members to approve 3 main changes to the machinery of government:

1. the establishment of the Chief Executive Officer as the Principal Accountable Officer for the public administration,
2. making changes to ministerial officers by Orders of the Chief Minister and transfers of budget by a single decision of the Minister for Treasury and Resources,
3. the establishment of a single legal entity for Government.

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<sup>2</sup> P.33/2014 Draft States of Jersey (Amendment No.8) Law 201 – PPC [Comments](#)



The proposition, as amended, was accepted by the States on 20th March 2018.

This followed a new organisational framework and structure for the public service ("[One Gov](#)") which was initiated by the Chief Executive Officer (Charlie Parker) in 2018.

The '**One Government**' [reforms](#) aimed to modernise how the Government is structured and organised, to improve the quality, efficiency, effectiveness and value for money of public services for islanders.

#### **[P.98/2020](#) – Ministerial Government: Review (lodged by Deputy John Young on 28th July 2020)**

The proposition called for an independent, external review of Jersey's system of governance. Although the proposition was defeated, during the [debate](#) Senator Vallois suggested that there should be a standing committee to consider changes to the machinery of government. This suggestion was taken forward by the Committee and the Democratic Accountability and Governance Sub-Committee was formed on 23rd February 2021.

#### **[R.23/2022](#) – Report by the Democratic Accountability and Governance Sub-Committee**

The Sub-Committee's review identified 18 main key findings which included the States Assembly, ministerial government, scrutiny and the civil service in terms of governance and accountability. The Sub-Committee proposed a number of recommendations to Jersey's system of government which were briefly considered by PPC. Due to the timing of the publication of the report, PPC was not able to take forward the recommendations, but noted that the establishment of a machinery of government Sub-Committee was due to be included within its terms of reference in order to carry on the work.