

**MACHINERY OF GOVERNMENT: ELECTION AND REMOVAL OF MINISTERS AND VOTES OF NO  
CONFIDENCE IN MINISTERS (P.149/2002) - COMMENTS**

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**Presented to the States on 8th October 2002  
by the Policy and Resources Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

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## Comments

While wholeheartedly acknowledging any Member's right to bring forward proposals for debate by the States Assembly on any matters of importance, all members are fully aware that the Policy and Resources Committee has been fulfilling its undertaking to the States to return with detailed proposals as to how the Executive will function. Copies of a draft report and proposition on the structure of the executive were circulated to States members on 13th June 2002, and the draft document was the subject of detailed consultation with the Privileges and Procedures Committee before being lodged 'au Greffe' on 24th September 2002 (*'Machinery of Government: Structure of the Executive'* - P.171/2002). The Committee strongly contends that to seek to tie the hands of the States now, by forcing earlier piecemeal decisions to be taken, may not only lead to such decisions being taken out of full context, but is an inappropriate way for the States to proceed on such important matters.

The Policy and Resources Committee believes that the proposals by Senator Syvret are ill-timed and appear, yet again, to illustrate a fundamental misunderstanding of the changes that are required, and have been agreed by the States, to the ways they do their business following the move to a ministerial system. Moreover, they seek to replicate many of the current practices which are at the root of why the States have found it difficult to adapt to the need to provide modern, progressive, accountable government. In particular, he does not appear to have acknowledged that the Council of Ministers will have to work collectively in all matters as a team. The Council is not to be a 'Committee' in the traditional sense, nor can it simply be a grouping of individual ministers who speak and act as they might please. This collective approach to decision making is one of the fundamental strengths of the new system, enabling the new government system to act in the balanced, decisive and consistent way expected of it.

It is of vital importance, therefore, that the Council of Ministers should work well together, and it is for this reason that the Committee proposed in its report and proposition on 'Machinery of Government: Proposed Reforms' (P.122/2001) that the team of ministers should be nominated by the Chief Minister.

Taking each of the proposals in turn, the Committee would comment as follows -

### ***Paragraph (a)(i)***

***“the States Assembly shall have the power to elect from amongst its members individual Ministers as alternatives to those initially proposed by the Chief Minister, with such power able to be exercised in respect of each individual Ministerial post”.***

In this paragraph Senator Syvret is seeking to vary the States decision of 28th September 2001 by proposing that the States Assembly should have the power to elect individual Ministers, as alternatives to those initially proposed by the Chief Minister.

The major difficulty with this proposal is that the minister(s) nominated by the States may not be compatible with the team that has been nominated by the Chief Minister. This could result in the appointment of a Council that is unable to work together and this would have far-reaching consequences, with the Council being unable to carry out its work properly and, worse still, confidence in the government being eroded. To use again the sporting analogy so often used recently, the 'team manager' must be able to select his or her team members if the team is to play well together and the 'game plan' is to be adhered to. In the new system of government the Chief Minister will be taking on very major responsibilities, and it would be unreasonable to expect him or her to take on these responsibilities with a team that was not of his or her choosing, and which might include persons who were incompatible with the other team members.

Contrary to the view expressed by Senator Syvret, the Policy and Resources Committee does not consider that its proposals will result in the dilution of the authority of the States. Indeed, the Chief Minister will need to select his or her proposed team of ministers very carefully, and one of his or her primary considerations will be the extent to which this team will be acceptable to the States. The States remains the final arbiter on the team and the balance it contains.

There are of course other factors that the Chief Minister will take into account when considering who to nominate for the Council of Ministers. In forming a real team, he or she will need to ensure that there is a good cross-section of interests and abilities on the Council, with individuals bringing their strengths to particular areas of government. Different areas of government will make different demands on ministers, and the Chief Minister will undoubtedly consider this when bringing forward nominations. To assist the States in making their decision, it is being proposed that candidates should be nominated for specific ministries.

For the reasons given above, the Committee opposes paragraph (a)(i) of the proposition.

***Paragraph (a)(ii)***

***“no proposition seeking the removal of a minister shall be brought to the States for approval by the Chief Minister unless the minister concerned has been given the opportunity to speak on the matter of his or her proposed removal at a properly constituted meeting of the Council of Ministers”.***

The Policy and Resources Committee did originally propose in paragraph 6.17 of P.122/2001 that the States Assembly should have the power to both appoint and dismiss ministers. However, having taken into account views expressed after the States debate on P.122/2001, as well as having considered examples in other jurisdictions, the Committee altered its view and outlined a revised proposal in section 6.5 of its Implementation Plan, namely that the States should appoint ministers, and that the Council of Ministers should have the power to dismiss a minister upon the request of the Chief Minister. This revised proposal is maintained in Section 5 of the report and proposition on the ‘Machinery of Government: Structure of the Executive’.

As explained in the Implementation Plan, it is not expected that a situation involving the dismissal of a minister will arise very often, as it should generally be possible to resolve matters, with the Minister in question, around the table at the Council of Ministers. However, if it becomes clear that a minister has lost the confidence of the Council and/or the Assembly, and if it has not been possible for the Council to resolve the situation, then the Council of Ministers will be in the best possible position to decide on whether to dismiss the minister, and on the timing of such dismissal. The Council of Ministers would of course have to have good reasons for dismissal, as any such action would undoubtedly be subject to scrutiny, both within and outside the States Assembly.

The first part of paragraph (a)(ii) of Senator Syvret’s proposition refers to a situation in which a proposition is brought to the States to seek the removal of an individual minister. For the reasons explained above, the Committee does not consider that it would be appropriate for any proposition to apply to an individual minister, and it therefore opposes paragraph (a)(ii) of the proposition.

The second part of paragraph (a)(ii) refers to a minister being given an opportunity to speak on his or her proposed removal at a properly constituted meeting of the Council of Ministers. The Committee has no objection to this proposal, and indeed as it has said, it would expect this to happen as a matter of course.

***Paragraph (a)(iii)***

***“the mechanism for a vote of no confidence in the Chief Minister or an individual Minister shall be that the proposition shall be signed by the member presenting it and at least three other members, and shall contain a statement of the reason for moving the proposition”.***

As indicated in section 6.5 of the Implementation Plan, the Policy and Resources Committee is proposing that the States of Jersey Law should permit a vote of no confidence in the Council of Ministers, but not in individual ministers. This important proposal is maintained in the report and proposition on the ‘Machinery of Government: Structure of the Executive’.

This proposal is based on the fundamental principle that the Council of Ministers will be working as a team, and it will therefore have to work in a co-operative manner to resolve any difficulties arising from the actions of individual ministers. Failure to resolve any such difficulties could become an issue of confidence in the Council, and the States should then have the opportunity to debate a vote of no confidence in the Council as a whole.

The Policy and Resources Committee does not accept Senator Syvret’s claim that this is a ‘nuclear’ option and it would be impractical. Members would be free to bring a vote of no confidence if they so chose, and the Council would remain answerable and accountable for its performance at all times. It is more probable that the deterrent effect of a ‘no confidence vote’ will act as an effective check and balance on the Council, and in these circumstances a vote of no confidence should be an extremely rare event.

It should be borne in mind that a ‘no confidence vote’ is not the only option available to States members. At present members can bring a proposition to the States on any matter, provided of course that it does not conflict with Standing Orders, and this could be a proposition expressing discontent on a particular issue. This option will remain in the new arrangements.

If Senator Syvret’s proposals were to be adopted, this means that a States member would be able to bring a motion of no confidence in an individual minister at any time. He or she would simply need to obtain the signatures of three other States members who disagreed with a particular policy of an individual minister, even though this would ignore the fact that such a policy would be within an overall framework that had been approved by the Council of Ministers and/or the States as a whole.

This could have a potentially destabilising effect on government. The proposed arrangement would be quite different from the present situation, under which a motion of no confidence has to be brought against a committee as a whole rather than an individual.

Under the Committee's proposals, the States Assembly will remain the master of the situation as, should the Council dismiss one of its number, the Chief Minister will still have to go to the States Assembly with a nomination for a replacement minister. At this stage, the States would have the opportunity to question the reasons for the dismissal of the minister and this would lead either to the States Assembly endorsing the reasons for dismissal or refusing the Chief Minister's recommendation. Repeated refusal by the States Assembly to do so would effectively become a vote of no confidence in the Council of Ministers, but it would only be *in extremis* that such a situation could be envisaged.

Paragraph (a)(iii) makes a procedural point in that it proposes that a motion for a vote of no confidence should be signed by the member presenting it and at least three other members. However, the Committee believes that paragraph (a)(iii) as a whole should be rejected on the grounds that it presupposes a mechanism for votes of no confidence in individual ministers.

### **Concluding Remarks**

On a more general level it appears to the Committee that Senator Syvret's proposals have attributed greater importance to the role of the individual member than to the concept of good democratic and corporate government. If the Senator's proposals are adopted, this means that an individual could be appointed to the Council of Ministers even if he or she has views that are totally at odds with the other members of the Council. This surely cannot be in the interests of good government.

It should be remembered that the individual is elected in order to serve as a member of the States Assembly, and the role of the Assembly is to work to the best possible effect in the interests of the Island as a whole. In the ministerial system of government the individual member will be able to work towards this end in a variety of ways, either as a member of the executive or in a non-executive capacity, e.g. as a member of a scrutiny committee.

Last year the States took the historic decision to move to a ministerial system of government, and this decision was taken on the basis that this would provide a more effective and accountable system of government. Senator Syvret's proposals would seriously undermine this decision, and the Committee strongly recommends that they should be rejected.