

**STATEMENT TO BE MADE BY THE
CHAIRMAN OF THE PRIVILEGES AND PROCEDURES COMMITTEE
ON MONDAY 11TH DECEMBER 2017**

Referendum Commission

I would like to update members on the appointment and work of the Referendum Commission.

Members will recall that, earlier this year, the Assembly adopted the Referendum (Jersey) Law 2017. The Law is intended to ensure that referendums in the Island are held in line with international best practice, as set out in the Council of Europe's Venice Commission code of good practice on referendums.

One of the code's main recommendations is that referendums should be overseen by a permanent impartial body tasked with ensuring that referendums are fair and objective. One of the key provisions of our Referendum Law is therefore the establishment of the Referendum Commission. The Commission has two key functions. First, to advise the Assembly on the proposed wording of a referendum question. Indeed, a proposition for a referendum Act cannot be lodged unless the Commission has published its opinion on the suitability of the proposed wording. And, secondly, the Commission designates the lead campaign groups campaigning for each side in a referendum.

PPC presented a report nearly two weeks ago to indicate its intended appointees to the Commission. Those appointments will take formal effect on Wednesday, 13th December 2017. Nevertheless, the Commissioners have already met; a meeting they felt was vital in order to discuss the implications of the Assembly's recent decision that there should be a referendum on the role of the Bailiff as President of the States.

The Assembly has not yet made an explicit decision on when that referendum should take place; the question of timing was not addressed in the wording of the Chief Minister's proposition, as amended and approved. Nevertheless, it was apparent from the debate that members have different views on the timing of the referendum; and that some members felt quite strongly it should take place at the same time as the elections in May 2018.

The prospect of a referendum in May 2018 has been considered by the Commission. It has set out its views in a letter to me, which I am circulating alongside this statement.

Members will note the Commission's view that it is unlikely the Commission could do a thorough job in meeting its responsibilities under the Referendum Law, if the referendum were held at the same time as the elections in May 2018.

The Commission has explained its reasons for this view. Put simply, the relevant Referendum Act must be adopted by 16th February 2018 for the referendum to be held at the time of the May elections. Given the Assembly's current meeting schedule and the provisions of Standing Orders in relation to lodging periods, this would require the Commission to have reported on the wording of the question by 2nd January 2018. That timetable is impractical.

The Commission has highlighted measures that we could take as members to address this situation: the Assembly could agree to reduce the lodging period for the Referendum Act and a special meeting could be requisitioned for mid-February. The Commission has noted that such

action would help the situation but that it would not, from the Commission's perspective, resolve the challenges entirely. Understandably, the Commission takes its responsibilities under the Law seriously and wishes to do a thorough job in advising the Assembly on the proposed wording of the question. To do so would still be difficult in the Commission's view, even with reduced lodging periods and a requisitioned meeting. The Commission has therefore explained that it cannot guarantee the timetable for a referendum in May and that it is not confident it can be achieved.

Members will note that the Commission has nevertheless anticipated members may wish to have the option of a referendum in May 2018. The Commission is therefore exploring the practical feasibility of a referendum at that time (for example, by arranging focus groups) but it has stated that it can only endeavour to meet this timetable.

There is evidently other work to be done in respect of the referendum and the proposal that the Bailiff cease to be President of the Assembly, aside from what the Commission is doing. Members should be aware that PPC will itself be undertaking work. There are prospective legislative changes to consider and prepare to the States of Jersey Law and to Standing Orders. And the Referendum Act itself needs to be drafted.

PPC will be undertaking this work to ensure that, from the Committee's perspective, members have the various options available to them in terms of the referendum's timing. However, in light of the views expressed by the Commission, I think members may need to prepare themselves for the fact that a referendum in May 2018 may not be practical.

I understand the Commission is meeting again later this week to continue its work and discussions. I will ask the Commission to keep PPC apprised of what is happening and I undertake to update members as and when further information and advice from the Commission is forthcoming.