

STATES OF JERSEY



RÔLE OF THE UNELECTED MEMBERS OF THE STATES: REVIEW – APPOINTMENT OF CHAIRMAN AND MEMBERS

**Lodged au Greffe on 23rd July 2009
by the Deputy of St. Martin**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to refer to their Act dated 4th February 2009 in which they agreed that an independent review be conducted into the current roles of the following unelected members of the States, namely the Bailiff, the Attorney General and the Solicitor General; and that the Council of Ministers, after consultation with the Privileges and Procedures Committee, be requested to submit to the States for approval no later than 31st March 2009, *inter alia*, the names of the proposed Chairman and members of the Panel to conduct the review; and

to request the Council of Ministers within seven days to advertise for a chairman and panel members to conduct the said review, and within six weeks submit the names of the proposed chairman and members of the panel to the States for approval.

DEPUTY OF ST. MARTIN

REPORT

On 4th January 2009, P.5/2009 was lodged. The Proposition was to request the States to agree that –

- (a) an independent review be conducted into the current roles of the unelected members of the States, namely the Bailiff, the Lieutenant-Governor, the Attorney General, the Solicitor General and the Dean;
- (b) to request the Council of Ministers, after consultation with the Privileges and Procedures Committee, to submit to the States for approval no later than 31st March 2009 –
 - (i) the names of the proposed Chairman and members of the Panel to conduct the review;
 - (ii) the terms of reference of the Panel and the proposed target dates for the start of the review and the publication of the Panel's subsequent report and recommendations;
- (c) to request the Minister for Treasury and Resources to assess whether the review can be funded from within existing resources and, if not, to bring forward for approval a request under Article 11(8) of the Public Finances (Jersey) Law 2005 for the necessary additional funding to cover the cost of the review.

Prior to the debate on 4th February, the Privileges and Procedures Committee lodged an amendment seeking to remove the Lieutenant-Governor and the Dean from the Review. The two elements of the amendment were approved by 32 votes to 19 and 31 votes to 20 respectively.

Deputy Trevor Pitman of St. Helier lodged an amendment requesting the States to agree that the subsequent report and recommendations would be published not later than one year after the appointment of the Chairman and members of the Panel. That amendment was approved by 36 votes to 3.

The Proposition as amended was approved by 37 votes to 12.

On 31st March the Council of Ministers lodged a proposition (P.44/2009) in which it sought States' approval for the Review's Terms of Reference. In addition, it also sought approval to appoint the Chairman and members of the Panel as set out in its report. It was apparent that the Council of Ministers was seeking more time, and did not include the name of the proposed Chairman or Panel members. The reason for their exclusion was because the Council of Ministers was of the view that the prospective Chairman would wish to know the final approved terms of reference before agreeing to be considered to conduct the review.

It was also of the view that the Chairman would wish to have some input in the selection of the potential members for the Panel.

The States approved my amendment to increase the size of the Panel from 2 to 4 members. The proposition was debated on 12th May and approved as amended by 37 votes to 4.

Members may well have their own views as to the selection and recruitment of the Chairman and Panel. I would have thought that the most appropriate and transparent manner would have been to advertise for prospective candidates, however that was not the preferred option for the Council of Ministers.

On 16th June, during the questions without notice session, I asked the Chief Minister if he would give an update on the progress being made into the selection of the Chairman and Panel and were the positions being advertised?

The Chief Minister stated that he had approached 4 people but all had turned down the offer, and he was casting the net wider and would hope to make an announcement as soon as possible.

I further asked the Chief Minister whether he had given consideration to advertising for the position. The Chief Minister stated that the Chairman of the Panel needed some significant expertise, and whilst one could advertise, it was a question of trying to ascertain where the most appropriate place would be, recognising that the Chairman would probably come from outside the Island. On that basis, if all else failed he accepted that advertising would be an alternative solution.

On 13th July during the questions without notice session, I again asked the Chief Minister for an update. This time the Chief Minister stated that in order to have the best possible chairman he had to look high and low, but was still looking. He was confident that someone would be found in the near future, but at this time he did not have a name.

I again pressed the Chief Minister regarding advertising for the position. The Chief Minister stated that the difficulty with advertising is that one tends to get a very mixed response, which requires a significant amount of weeding-out to do. He would prefer avoiding advertising but if he could not find a way of finding a chairman, then certainly he would have to advertise.

It should be recalled that P.5/2009 was lodged in early January and received welcoming support from the public, media and the vast majority of the States Members. It must have been obvious to the Council of Ministers that there was a public expectation that a Chairman and Panel would have been appointed in an orderly fashion and the review being under way in early summer.

However, the Council of Ministers has been oblivious to the States' decision to submit the names of the proposed Chairman and Panel members by 31st March. In an attempt to "hand-pick the right person" it has unsuccessfully looked "high and low", but has hopelessly failed; it still does not even have a name of a Chairman, let alone names of candidates who could be considered for the Panel.

As mentioned above, in the interests of transparency, publicly advertising for a Chairman and Panel members would seem to be the most appropriate way to go about seeking candidates. It would be hoped that there would be "a very mixed response."

It is now almost 7 months since P.5/2009 was lodged. The Panel is already 4 months late in commencing its review. Even if the Chairman is found in the near future, considerable time will be required to appoint a Panel for both to be submitted, firstly

to the Privileges and Procedures Committee, and then secondly to the States for approval. Therefore it could be months before the Review gets under way.

However, I have no confidence in the Council of Ministers coming forward with the name of a Chairman without advertising for the position, and the sooner that option is undertaken the better.

As can be seen, the Chief Minister has been reticent in advertising for a Chairman and Panel, but has stated that if a Chairman could not be found, then advertising will have to be the way forward. I am of the view that enough time has been lost already by the Council of Ministers, and it should be formally requested to advertise for both a Chairman and Panel.

Financial and manpower implications

The above implications should be minimal and should also be already accounted for, as in most cases advertising for the Chairman and Panel members is the normal practice.