STATES OF JERSEY

STANDING ORDERS: SELECTION AND APPOINTMENT PROCEDURES

STATES GREFFE

PROPOSITION

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

    (a)   to request the Privileges and Procedures Committee –

        (i)   to review the selection process for members of scrutiny panels and the Public Accounts Committee (PAC) and to assess the advantages and disadvantages of these positions being filled by appointment by the relevant Chairman or election by the States Assembly;

        (ii)   to consider whether it is appropriate that Ministers should also be allowed to be appointed as Assistant Ministers (and vice versa);

        (iii)   to review whether the appointment of members of scrutiny panels and the PAC should be made before the appointment of Assistant Ministers;

        (iv)   to review whether Assistant Ministers should be able to serve on Scrutiny Panels;

        (v)   to consider whether the current procedures set out in Standing Orders for questioning candidates standing for Minister and Chairman are sufficient;

        (vi)   to review voting by secret ballot, to include the rationale for holding votes in secret, and whether this should be extended to votes of no confidence;

        (vii)   to review the voting system by which appointments are made when more than 2 candidates are contesting a position;

    (b)   to request the Privileges and Procedures Committee to report back to the States with recommendations following the conclusion of its review of the matters listed in paragraph (a).

DEPUTY M. TADIER OF ST. BRELADE

REPORT

Recent debates have suggested there is a need for further thought to be given to the process for appointing internal States positions. During the debate on P.6/2011 (Assistant Ministers: appointment by the States), concerns were raised, not only to do with the method of appointment of Assistant Ministers, but more generally to do with other internal States appointments/elections.

The Deputy of St. John was quite right, in my opinion, to raise the issue of Assistant Ministers and the way they were elected. One criticism of the proposition, debated on 29th March, was that the proposal was too narrow and too restrictive. It did not seek to look at related issues, which I hope are outlined here.

I have kept this proposition fairly broad, and have deliberately steered clear from drawing conclusions and making recommendations. PPC is a broad church and I am sure they will be able to give all of the above issues due consideration, in a more appropriate forum than the States Chamber.

Rationale

With this in mind, I will not go into great detail on each of the above areas, as most of the points, I believe, are fairly easy to understand.

(i)   There is an apparent anomaly in the way in which Scrutiny Members are chosen, when compared with that of Assistant Ministers. The argument given for the 'selection' of an Assistant Minister by the corresponding Minister is that s/he is the one best placed to choose someone with whom s/he can work. However, this is not the case for membership of the various Scrutiny Panels. Whilst it is recognised that the Chairman will propose his desired membership of the Panel, this is still open to contest and challenge by the Assembly. It appears desirable that the rationale behind this practice should be further scrutinised.

(ii)   This is self-explanatory.

(iii)   During the debate on 29th March, the issue was raised about the fact that Assistant Ministers are appointed before the selection of Scrutiny Members. This sends out a message about the perceived importance of these rôles. This message may not be incorrect, but it does merit consideration by the Committee.

(iv)   During the recent election for President of the Chairmen's Committee, a point was raised that, due to the difficulty that Scrutiny was having in attracting sufficient members to join the function, it might be worthwhile changing the rules to allow Assistant Ministers to join Scrutiny Panels (provided the area of responsibility is different to that of their Ministry). This seems an area worth exploring.

(v)   Currently, we appoint Ministers and Chairmen following a period of questioning. However, there is no possibility for the remaining States members (other than the candidates) to be able to discuss and compare the 2 members openly. Whilst this might be problematic, from a pragmatic point of view (insofar as one not wanting the debate to descend into the realm of the personal), it is desirable in another. We do not have a party system, rather we

rely (at least on the face of it) on consensus. It may be that a debate is a better way, or it may be that a short recess could be had in order for members to discuss and consider the arguments/strengths/weakness of the candidates, some of whom may only have declared on the day.

(vi)   Ministers are elected in secret (insofar as the ballot is secret). This is a concern for some members of the public, especially when it comes to the election for Chief Minister. In the absence of a direct vote, a major consideration when picking one's choice for Deputy, Senator and Constable is who they will vote for to lead the Island and set policy direction. To these, the secret vote means that even that is unverifiable.

However, that is only one part of my argument. There seems to be a slight contradiction in the fact that Elections for Ministers are in secret, whereas votes of no confidence (VoNC) are held in public. Whilst I do not favour secret ballots *per se*, there is an inconsistency that needs to be addressed. The reason put forward for the secret ballot is that it enables the voter (the States Member in this case) to chose the candidate s/he wants, without fear of repercussions, or being sidelined politically(note I say this is the argument used, not that it is a correct one). It seems to me, though, that the time a secret ballot *would* be more justifiable, is during a VoNC, where there is likely to be acrimony, with those who vote against a Minister/Chair.

(vii)   Finally, I would like PPC to consider the benefits of using a Preferential Voting System for ballots which involve 3 or more candidates. Currently, Standing Orders provide that after the initial round of voting, if a clear majority for one candidate is not reached, the candidate with the lowest number of votes will be knocked out. In certain circumstances this can have a perverse effect. Let me give one example –

Three candidates are challenging for the position of Chief Minister: Senator A, Deputy B and Constable C. After the first round of voting, A receives 25 votes; B, 15 votes and C, 13. However, in this scenario, even though A was the most popular in round one, there are more members in the Assembly who dislike A than like him, and so in the final round of voting, B receives 28 votes and A's votes remain constant on 25. Effectively, what has happened here is that the vote in the second round was a 'protest vote' against A. It may well be that, given the choice between B and C, the majority of the Chamber would have preferred to have candidate C. However, as he has already been knocked out, this would not be possible. In other words, the 25 supporters of A, whose second choice might have been C, do not get to show that preference (because of the way the vote is run).

If there were a transferable vote, however, the outcome might have been different, and would certainly have been fairer. Under the new system, all States Members could vote for the candidates they wanted *in order of preference*. In a case where no member is elected with an absolute majority, the second place votes are then taken into account. This has the added advantage of there only needing to be one vote. The only drawback is that the vote takes slightly longer to count. Nonetheless, it does end up with a system that leads to more consensus and avoids the risk of unpopular candidates being chosen, on an initially large minority vote.

Financial and manpower implications

There are no financial or manpower implications for the States arising from this proposition.