

STATES OF JERSEY



MINISTER FOR EXTERNAL RELATIONS (S.R.9/2013) – RESPONSE OF THE COUNCIL OF MINISTERS

Presented to the States on 27th June 2013
by the Council of Ministers

STATES GREFFE

**MINISTER FOR EXTERNAL RELATIONS (S.R.9/2013) – RESPONSE OF
THE COUNCIL OF MINISTERS**

Ministerial Response to: S.R.9/2013

Review title: Minister for External Relations

Scrutiny Panel: Corporate Services

INTRODUCTION

We are grateful to Scrutiny for conducting this review, which has been considered carefully by the Council of Ministers. The Panel suggests a brief pause while the Assembly considers broader changes arising from the referendum. This needs to be balanced by the need, now more than ever, to do all that we can to protect and promote Jersey’s interests abroad. The future structure of the States Assembly is an important issue, but so is the ability to be as effective as possible overseas in order to help safeguard the future economic prosperity of islanders. The Council of Ministers has considered the appropriate balance between these two important objectives in considering the Panel’s recommendations.

FINDINGS

	Findings	Comments
1	The Chief Minister is politically responsible for external relations although other Ministers are involved, particularly the Ministers for Treasury and Resources and for Economic Development.	Agreed.
2	External relations are undertaken in accordance with the common policy of the Council of Ministers. In November 2012, the current Council became the first to publish a discrete policy on external relations. The <i>States of Jersey Law 2005</i> places no obligation on the Council to lodge its common policy for debate by the States Assembly.	Agreed.
3	The establishment of the Financial Services and External Relations Advisory Group (FERAG) in 2011 as a means of ensuring co-ordinated development and delivery of policy is to be welcomed. There needs to be requisite transparency regarding FERAG’s work.	The Financial Services and External Relations Advisory Group (FERAG) was constituted by the Council of Ministers in October 2012. This is consistent with the recommendation within the <i>Machinery of Government Review Sub-Committee: Interim Report April 2013 (R.39/2013)</i> that: “Advisory

	Findings	Comments
		or oversight groups that are intended to progress the development or revision of policy falling within the remit of 2 or more Ministers should be constituted by the Council of Ministers.”
4	The Bailiff and His Excellency the Lieutenant Governor have no political responsibility in respect of external relations but work closely with the Chief Minister in receiving an increasing number of distinguished visitors to the Island. The Bailiff can also offer constitutional advice to Ministers whilst His Excellency deals with Crown appointments and is a point of contact between the Island’s authorities and the UK Government.	Agreed.
5	The Island’s external relations are undertaken within the context of its constitutional position as a Crown Dependency. Jersey is not recognised internationally as a sovereign State but as a territory for which the UK is responsible. However, the UK Government has recognised that the Island has an international identity which is different from that of the UK and has supported the use of entrustments as a means by which the Island might represent its own interests on the international stage.	Agreed.
6	The Minister for External Relations would be subject to the provisions of the <i>States of Jersey Law 2005</i> and the <i>Standing Orders of the States of Jersey</i> like any other Minister. The Minister would be a corporation sole under Article 26 of the Law.	Agreed.
7	A number of reasons have been given for establishing a Minister for External Relations: (i) it is the international norm for external relations to be shared by the ‘head of government’ and a minister for external relations; (ii) it would improve accountability to the Council of Ministers, the States Assembly and provide clarity for islanders; (iii) it would enhance	Agreed.

	Findings	Comments
	delivery of the common policy for external relations; (iv) it would help to co-ordinate assistance for other Ministers with a significant international aspect to their portfolios; and (v) it would offer other jurisdictions a single, recognisable representative at Ministerial level.	
8	Recent years have seen significant developments in Jersey's international identity and there is a need for the Island to be well-represented externally.	Agreed.
9	Given FERAG was created to co-ordinate the Island's external relations, it is difficult to see how the creation of a Minister for External Relations would in itself enhance current co-ordination and delivery of policy.	The reasons for the establishment of a Minister for External Relations, are noted in the Panel's finding number 7, above, namely: (i) it is the international norm for external relations to be shared by the 'head of government' and a minister for external relations; (ii) it would improve accountability to the Council of Ministers, the States Assembly and provide clarity for islanders; (iii) it would enhance delivery of the common policy for external relations; (iv) it would help to co-ordinate assistance for other Ministers with a significant international aspect to their portfolios; and (v) it would offer other jurisdictions a single, recognisable representative at Ministerial level. FERAG has a role to play, but cannot deliver all 5 of these improvements.
10	The other Crown Dependencies have yet to create a Minister for External Relations.	Agreed.
11	We were informed that an Assistant Minister did not have sufficient status to undertake external relations effectively on behalf of the Island. However, the Island is already represented externally by the Chief Minister and other Ministers and the immediate need for a new Minister is not therefore apparent.	The Chief Minister cannot be available on all the occasions when a foreign minister with the necessary ministerial status is required to represent the best interest of the Island. Only if the Chief Minister is not expected to have significant domestic responsibilities could he or she devote the necessary time to external relations. The establishment of a Minister for External Relations is therefore

	Findings	Comments
		necessary.
12	The budget underpinning the International Affairs Section of the Chief Minister's Department has grown from £393,765 in 2008 to £920,700 in 2013 and will grow further to £1,699,600 in 2015. Meanwhile, the size of the Section has grown from 2 FTE to 6 FTE and is due to increase to 7 FTE. This budget does not include resources which other departments, both ministerial and non-ministerial, may devote to the work on the Island's external relations.	As agreed by the States Assembly within Business Plan 2008 (P.93/2007), Business Plan 2009 (P.113/2008), Business Plan 2010 (P.179/2009), Business Plan 2011 (P.99/2010), Business Plan 2012 (P.123/2011) and Medium Term Financial Plan 2013-2015 (P.69/2012).
13	The Panel was informed that the establishment of a Minister for External Relations is not connected to a decision about Jersey seeking independence from the UK.	Agreed.
14	Jersey's external relations are a growth area. There would not appear to be any guarantee that further resources will not be requested for the subsequent MTFP period of 2016 to 2018.	The Chief Minister and Council of Ministers are not able to bind their successors in this or other policy areas and future governments could propose to the States Assembly either increases or decreases in resources according to their priorities. MTFP 2016 to 2018 would need to be agreed by the States Assembly.
15	When considering the appointment of new Ministers, consideration needs to be given not only to the resource requirements of Ministerial Departments, but also to any consequential impact on other areas of public administration.	Agreed. However, undertaking such a consideration should be proportionate and where the resource requirements are not likely to be significant in the context of overall resource allocations, these should be captured within a light touch approach.
16	Although the Panel was advised that the creation of a Minister for External Relations would not lead to any changes in the current undertaking of external relations, the Panel remains concerned that the creation of a new Minister could impact upon the Bailiff's role.	The Panel's concern is not consistent with the evidence provided by the Bailiff. The Bailiff wrote to the Panel on 7th May 2013 regarding this matter and stated quite clearly that: "I do not see that the appointment of a Minister for External Relations would have any impact on the Bailiff's role. His advice might in future be tendered to that Minister rather than to the Chief Minister but otherwise the position so far as the Bailiff is concerned would

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		seem to be unaltered.”
17	<p>The Regulations, if approved, would not simply apply to how this Chief Minister and his Minister for External Relations but to all future Chief Ministers and Ministers for External Relations. Future Chief Ministers may wish to take sole responsibility for external relations. Although it has been suggested that accountability for external relations might be improved as the new Minister would be subjected to Scrutiny and questions in the States Assembly, the fact that responsibility would be shared between the new Minister and the Chief Minister could in fact blur the lines of accountability.</p>	<p>The Chief Minister can lodge draft Regulations to propose the abolition of any Ministerial office using the provisions that already exist in the States of Jersey Law 2005. Therefore, if a future Chief Minister wished to devote his or her time to external relations rather than domestic matters, then they could lodge the necessary draft Regulations to abolish the Minister for External Relations.</p> <p>Accountability would be improved. There would be enhanced accountability to the Council of Ministers, improved accountability to the States Assembly and, most importantly, additional clarity for islanders in holding their Government to account in the increasingly important area of UK and international relations. The international norm for foreign affairs to be the concurrent responsibility of the Head of Government (Chief Minister) and Minister for Foreign Affairs (Minister for External Relations) is met by hundreds of governments worldwide who are successfully held to account by their respective cabinets, parliaments and citizens.</p>
18	<p>Creating a new Minister could compound current problems with Ministerial Government as, unless and until these matters are addressed, it would merely establish another Minister as corporation sole over which the Chief Minister has limited influence.</p>	<p>The <i>Machinery of Government Review Sub-Committee: Interim Report April 2013 (R.39/2013)</i> recommended that: “PPC should lodge ‘au Greffe’ an amendment to the States of Jersey Law 2005 that, if adopted, would empower the Chief Minister to dismiss a Minister.”</p> <p>In consultation with the Council of Ministers, the Chief Minister has confirmed that he is content for the Privileges and Procedures Committee (PPC) to proceed with the lodging of such an amendment to the States of Jersey Law 2005, which will reflect the recommendation of Sir Cecil Clothier’s <i>Report of the Review Panel on the Machinery of Government in Jersey</i>,</p>

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		published in December 2000, which recommended the “Chief Minister to have the power to dismiss Ministers”.
19	The Council of Ministers has agreed to pursue the creation of a new Minister notwithstanding work being undertaken elsewhere on the composition of the States Assembly and the Machinery of Government. Reducing the size of the Assembly would undoubtedly impact upon the Machinery of Government, the number of Ministers and the specified portfolios those Ministers should hold. As PPC has indicated, this raises the question of whether this is the right time to seek the appointment of a new Minister when more wide-reaching discussions about the size of the Assembly and the Machinery of Government are already expected.	See response to Recommendation 5.

RECOMMENDATIONS

	Recommendations	To	Accept/ Reject	Comments	Date of Action/ Completion
1	The Chief Minister should bring forward an amendment to the <i>States of Jersey Law 2005</i> to oblige future Councils of Ministers to lodge their common policy on external relations for debate by the States Assembly within four months of their appointment.	CM	Reject	Whilst the case for an amendment to the law has not been made sufficiently strongly at this stage, the Chief Minister will request that the Minister for External Relations considers how best to provide an opportunity for the Assembly to consider the external relations policy of the Council of Ministers.	One year following the appointment of a Minister for External Relations.
2	The Chief Minister should ensure that a report is presented annually to the Assembly on the work undertaken on external relations.	CM	Accept	The Chief Minister will request that the Minister for External Relations presents an annual report to the Assembly on the	One year following the appointment of a Minister for External Relations.

	Recommendations	To	Accept/ Reject	Comments	Date of Action/ Completion
				work undertaken by the Chief Minister and Minister for External Relations with regards to the conduct of external relations.	
3	The Chief Minister should implement an audit of all the resources devoted to the Island's external relations in order that the true costs of that function may be better understood.	CM	Accept	The Chief Minister will request that the Minister for External Relations undertakes an assessment of the relevant resources in both ministerial and non-ministerial departments and includes the results within the first annual report to the Assembly on the work undertaken by the Chief Minister and Minister for External Relations with regards to the conduct of external relations.	One year following the appointment of a Minister for External Relations.
4	Prior to the debate on the draft Regulations, the Chief Minister should ensure that the States Assembly is provided with an Impact Assessment of establishing a Minister for External Relations.	CM	Reject	Impact Assessments are appropriate for regulatory interventions that affect the private sector, civil society organisations and public services. An Impact Assessment is not appropriate where changes to public administration costs are within the scope of operational efficiency. The Minister for Treasury and Resources wrote to the Panel on 28th March 2013 and confirmed that:	Chief Minister to seek required information from the Greffier of the States before the debate on the draft Regulations.

	Recommendations	To	Accept/ Reject	Comments	Date of Action/ Completion
				<p>“Creating this role has no direct resource implications, as a post of Assistant Minister would simply be replaced by a post of Minister, but such a change would deliver an essential improvement to the ability of the government to represent the best interest of the island overseas.”</p> <p>The improved accountability that would result from the establishment of a Minister for External Relations may have resource implications for Scrutiny. It might be expected that any such additional cost is within the scope of operational efficiency and so an impact assessment is unnecessary. However, the Chief Minister will write to the Greffier of the States prior to the debate to seek information regarding the costs of scrutinising a Minister and will share the information received with the Panel.</p>	
5	The States Assembly should not be asked to approve proposals for a Minister for External Relations until wider issues regarding the Machinery of	CM	Accept	There is a pressing need to establish a Minister for External Relations. However, the views of the Panel	Chief Minister to request before the 16th July 2013 sitting that the debate is re-

	Recommendations	To	Accept/ Reject	Comments	Date of Action/ Completion
	Government have been addressed.			are respected and therefore the Chief Minister will request that the draft Regulations are re-scheduled for debate from the 16th July 2013 sitting to the 10th September 2013 sitting of the Assembly. This is on the understanding that matters arising from the Referendum will be decided during the 16th July 2013 sitting, that any further consequential changes to the machinery of government will be lodged by 10th September 2013 at the latest, and that the Chief Minister is not minded to request any further delay to the debate of these draft Regulations.	scheduled to the 10th September 2013 sitting.

CONCLUSION

This is the first time that a Chief Minister has sought to bring forward proposals to establish a new ministerial office under the provisions intended for this purpose within the States of Jersey Law 2005. The proposal to establish a Minister for External Relations will provide a test of the efficiency and effectiveness of these provisions.

The establishment of a Minister for External Relations is an essential change for the better, which is necessary to represent the best interests of the Island overseas. Jersey would be taking the lead amongst the Crown Dependencies in this regard, but would also be meeting the international norm applied by hundreds of countries around the world, whether large or small, sovereign or non-sovereign. This is an opportunity to make a simple transition from a post of Assistant Minister to a post of Minister, which has no direct resource implications, but which would ensure an immediate improvement to our ability to represent the best interest of the Island overseas and to be held to account by islanders and their elected representatives in the important area of UK and international relations.