

COMMITTEES OF THE STATES: REORGANISATION - INDUSTRY COMMITTEE

**Lodged au Greffe on 1st December 1998
by the Policy and Resources Committee**



STATES OF JERSEY

STATES GREFFE

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PROPOSITION

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

to refer to their Act dated 11th September 1996, which charged the Policy and Resources Committee to investigate issues regarding the reorganisation of States Committees; to receive the progress report dated 16th November 1998 of that Committee; and to charge the Policy and Resources Committee to take immediate steps to promote the formation of an Industry Committee with responsibility for -

- (i) the licensing and regulatory functions of the Committee for Postal Administration under the Post Office (Jersey) Law 1969, as amended, and the Telecommunications Board under the Telecommunications (Jersey) Law 1972, as amended;
- (ii) the functions of the Finance and Economics Committee under the Regulation of Undertakings and Development (Jersey) Law 1973, as amended;
- (iii) the functions presently discharged by the Trade and Industry Sub-Committee of the Finance and Economics Committee;
- (iv) the safeguarding of consumer interests functions of the Finance and Economics Committee in respect of the Jersey Electricity Company under Article 31 of the Electricity (Jersey) Law 1937, as amended, and of the Public Services Committee in respect of The Jersey New Waterworks Company Limited under Article 14 and Part VII of the Water (Jersey) Law 1972, as amended;
- (v) developing further the consolidation of the responsibilities of the Industry Committee as set out in the progress report.

POLICY AND RESOURCES COMMITTEE

REPORT

Background

1. The States on 8th September 1998 considered a proposition of the Policy and Resources Committee on the reorganisation of States Committees (P.151/98 (Revised)) and decided -
 - (a) not to develop further the work so far undertaken on the formation, organisation and responsibilities of a Finance and Manpower Committee;
 - (b) to develop further the work so far undertaken on the formation, organisation and responsibilities of a Home Affairs Committee;
 - (c) to defer consideration of the steps to be taken to promote the formation of an Industry Committee.
2. On 7th October 1998 the President of the Policy and Resources Committee withdrew the proposition on the formation of an Industry Committee in the light of questions raised by some members whether it would be appropriate for the Industry Committee to regulate the trading companies of Jersey Telecoms and Jersey Post as well as dealing with applications from those companies for licences under the Regulation of Undertakings and Development Law.
3. The Policy and Resources Committee has given further consideration to the proposal to form an Industry Committee and has reached the conclusion -
 - (a) that there is no reason why there need be any conflict between the "promotional" role of the Trade and Industry Sub-Committee when transferred to the Industry Committee and the proposed role of the Industry Committee as a licensing authority for telecommunications and postal services. The Industry Committee will not be promoting the telephone and postal services, for this will be the responsibility of the newly incorporated Telecoms and Postal companies;
 - (b) that there is no reason why there need be any conflict between regulating the telecommunications and postal

services and administering the Regulation of Undertakings and Development Law. No such conflict has arisen at a time when the Finance and Economics Committee has been responsible for the Trade and Industry Sub-Committee and the Regulation of Undertakings and Development Law; has been responsible for safeguarding the consumers' interests in respect of the activities of the Jersey Electricity Company; and prior to the formation of the Jersey Financial Services Commission has been responsible for promoting the finance industry and for administering the Regulation of Undertakings and Development Law.

4. Having reviewed the report and proposition previously presented to the States (P.151/98 (Revised)), the Committee has concluded that in general there is no need to change the approach set out in that report and proposition. However, the Committee, on reflection, is of the opinion that -
 - (a) it should be made clearer than previously that it is proposed that the Industry Committee should take over from the Finance and Economics Committee responsibility for safeguarding the public interest in respect of the activities of the Jersey Electricity Company under Article 31 of the Electricity (Jersey) Law 1937 as amended and should take over from the Public Services Committee responsibility for safeguarding the public interest in respect of The Jersey New Waterworks Company Limited under Articles 14 and Part VII of the Water (Jersey) Law 1972, as amended, and the proposition has been amended accordingly;
 - (b) the Industry Committee when formed should be responsible for progressing the idea of Industry Boards for Tourism, Agriculture and Fisheries and possibly also Construction;

- (c) the Industry Committee when formed should take over from the Finance and Economics Committee the political responsibility for the Jersey Financial Services Commission;
- (d) consideration should be given to the transfer of the functions of the Jersey Transport Authority to the Industry Committee, in consultation with that Authority, in the second phase and not in the first phase as previously proposed;
- (e) it should be made clearer than previously that, in giving consideration to such matters as the possible transfer of political responsibility for Training and Employment, and Employment Relations, from the Employment and Social Security Committee to the Industry Committee, this would only be done with the full co-operation of, and in consultation with, the Employment and Social Security Committee.

Previous report (P.151/98 (Revised))

- 5. The following paragraphs substantially repeat the relevant parts of the Committee's previous report (P.151/98 (Revised)) amended as necessary in accordance with the points made above.
- 6. The States on 11th September 1996 adopted the following proposition -

“to refer to their Act, dated 28th September 1995, recording their acceptance of the policy for the public sector as set out on page 57 of the Strategic Policy Review 1995 - Part I ('2000 and Beyond'), and their agreement of the objectives of the public sector set out in paragraph 11.12 of that Review and -

- (a) to agree in principle -

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(iv) the creation of a new Industry Committee;

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(c) to charge the Policy and Resources Committee to set up a Task Force to investigate, and to report to the States on -

- (i) the proposed terms of reference of the new Committees and those given additional responsibilities, including an identification and analysis of the future discharge of the responsibilities of the Committees that will cease to exist;
- (ii) the proposed constitution of each Committee given additional responsibilities, and any major sub-committee or similar body that is proposed to support a given Committee and the political accountability of the subordinate body;
- (iii) the proposed lines of communication between Committees, identifying areas for inter-Committee co-operation;
- (iv) the financial and manpower implications of the new arrangements;
- (v) the legislative changes necessary to implement the new arrangements, with an estimate of the consequent demand on law drafting services;
- (vi) the operational and organisational efficiencies that will accrue from the new arrangements;
- (vii) the target timetable for implementing the new arrangements.”.

- 7. The arguments put forward by the Policy and Resources Committee for the reorganisation of Committees which were accepted in principle by the States are set out in P.107/96 and the relevant extract from that project is attached as an Appendix to this Report.
- 8. The Policy and Resources Committee duly set up a task force, and the latter in turn set up individual sub-groups to progress the proposals in respect of each of the new Committees mentioned in the proposition.
- 9. The Industry Committee sub-group engaged in a comprehensive process of consultation, which gave rise to a draft report or discussion paper, which was then further discussed with the Committees to be affected by the creation of the proposed new Committee.
- 10. The Committee now wishes to present to the States a report on the nature of the work carried out to date to obtain the States’ agreement on the way forward.
- 11. The proposed Industry Committee that was supported in principle in September 1996 was intended to act as a regulatory body for the new “trading companies” for postal services and telecommunications and take over the responsibilities of the Jersey Transport Authority, the Trade and Industry Sub-Committee of the Finance and Economics Committee, the administration of the Regulation of Undertakings and Development Law, and the responsibility for safeguarding the public interest in respect of the public utilities (the Jersey Electricity Company, the Jersey New Waterworks Company) and the Financial Services Commission.
- 12. The Committee, in seeking the approval of the States in principle to the idea of an Industry Committee, also advanced the idea that representatives of the tourism and agriculture industries should have a greater role in the regulation and promotion of their respective industries. Accordingly the Committee proposed that in place of the present Tourism and Agriculture and Fisheries Committees there should be set up a Tourism Industry Board and an Agriculture and Fisheries Industry Board. In both cases the membership of the Board would include strong industry representation, and the Boards would be directly involved in the regulation and promotion of their industry, with overall responsibility for safeguarding the public interest resting with the Industry Committee.
- 13. The Industry Committee Sub-Group in its report expressed the view that, from the position of the Island’s economy as a whole, the creation of an Industry Committee would be an important step towards the formation of a comprehensive industrial strategy, encompassing responsibility for economic policy as it relates to industry and the Island’s workforce.

14. It was suggested by the Sub-Group that the mandate of the Industry Committee should relate to strategic policies, specifically -
- the development and promotion of all aspects of Jersey industry;
 - the exercise of a statutory regulatory function over defined areas of activity;
 - the provision of a range of specialised services;
 - the provision of political representation within the States for Jersey's industries.
15. The Sub-Group included the following proposals in its report -
- In due course consideration should be given to the possibility of dividing the current broad remit of the Trade and Industry Sub-Committee into different constituent industries, e.g. the Distribution Industry Sub-Committee, the Construction Industry Sub-Committee, the IT/IS Industry Sub-Committee. The perceived advantage of creating these additional sub-committees lies in the potential for increasing industry representation at this level of the policy-making process.
 - The Jersey Transport Authority should be a sub-committee of the Industry Committee with an unchanged remit. The Chairman should be a member of the Industry Committee and the sub-committee could include non-States members if required.
 - Bearing in mind the importance of the role of the Regulation of Undertakings and Development Law in controlling the level of demand for labour within the Island's economy, and taking account also of the emphasis placed at a strategic level upon providing an appropriate infrastructure for delivering the training and business development needs of local employers, it was felt that political responsibility for the activities of the Training and Employment Partnership and for employment relations would be more sensibly located with the Industry Committee than with the Employment and Social Security Committee.
16. A considerable amount of consultation, detailed analysis and subsequent implementation work will be required to translate the "in principle" proposals for an Industry Committee into reality. The Committee believes that this should be undertaken by an "organising" Committee which would be seen as an embryo Industry Committee.
17. For a first phase it is envisaged that the States would, as proposed by the Sub-Group, be asked to agree to -
- transfer to the Industry Committee the licensing and regulatory functions of the Telecommunications Board and Postal Administration;
 - transfer political responsibility for safeguarding the consumer interests in respect of the Jersey Electricity Company from the Finance and Economics Committee and for The Jersey New Waterworks Company from the Public Services Committee;
 - transfer political and executive responsibility for the Regulation of Undertakings and Development Law from the Finance and Economics Committee to the Industry Committee;
 - transfer political responsibility for the Trade and Industry Sub-Committee from the Finance and Economics Committee to the Industry Committee.
18. The Industry Committee itself would then give consideration, as an extension to the first phase, including full consultation with the other parties involved, to -
- the transfer of political responsibility for the Joint Advisory Council from the Finance and Economics Committee to the Industry Committee;
 - the transfer of political responsibility for training and employment, and employment relations, from the Employment and Social Security Committee to the Industry Committee;
 - the change in the status of the Gambling Control Committee to a sub-committee of the Industry Committee.

19. In a second phase it is envisaged that the Industry Committee, in conjunction with the Agriculture and Fisheries Committee and Tourism Committees, would consider whether to take to the States a detailed proposal or proposals for relating the activities of the latter two Committees and their respective departments to the activities of the Industry Committee. Also in the second phase the Industry Committee would propose, in consultation with the Jersey Financial Services Commission, to take over from the Finance and Economics Committee the over-arching political responsibility for the Jersey Financial Services Commission.
20. A third phase would include plans for the absorption of any executive functions of the Harbours and Airport Committee and to consider a long-term organisation structure of the Industry Department.
21. The need of a Committee to carry out a regulatory/licensing role in respect of telecommunications and postal services is supported by the Telecommunications Board and the Committee for Postal Administration. Both of these Committees wish a regulatory body to be in place as soon as possible. In the meantime they have sought to establish a separate regulatory body within the ambit of the existing Committee. The Telecommunications Board however, is of the view that establishing a sub-committee of the Board would not provide sufficient separation of the regulatory and commercial aspects when the need arose to give impartial consideration to the introduction of competition. The Board believes that the establishment of independent regulation is a matter of urgency and has pressed the Policy and Resources Committee for some indication of what progress is being made with discussion on the establishment of an Industry Committee.
22. The Finance and Economics Committee supports the proposal to establish an Industry Committee in general, although it recognises that the details of what is proposed in a number of areas will require further careful thought, particularly as regards the financial resources required and the scope of responsibilities as between regulation and political accountabilities. The Finance and Economics Committee has agreed that political responsibility for the Trade and Industry Sub-Committee and political and executive responsibility for the Regulation of Undertakings and Development Law could be transferred to the Industry Committee.
23. The Jersey Electricity Company has not expressed any opposition to the suggestion that the Industry Committee should take over the responsibility of the Finance and Economics Committee for “safeguarding consumer interests” providing this does not imply any greater political interference than under the present arrangements. A similar conclusion can be reached in respect of The Jersey New Waterworks Company where the Industry Committee would take over the responsibility of the Public Services Committee for “safeguarding consumer interests”.
24. The Jersey Transport Authority does not support the idea that it should become part of an Industry Committee, although recognising the need to work closely with the Industry Committee including sharing executive resources.
25. The Employment and Social Security Committee agree that there is a need to form a strong relationship between the Industry Committee if it is formed and the other “industry” type committees such as Finance, Tourism and Agriculture, as well as those with some interest such as the Employment and Social Security and Education Committees. It also agreed that the division of responsibility should be reviewed as a clear strategic direction emerges from the new Industry Committee. However, in the short term, the Employment and Social Security Committee is of the view that employment matters should be left with them, and that as the new one-stop employment and training shop was beginning to work well, and social security and employment policies were being integrated and training strategies beginning to have an impact, this would not be a sensible time to start splitting up all the functions again. At the same time the Employment and Social Security Committee saw no difficulty in including a representative from the new Industry Committee on the Training and Employment Partnership Board, alongside those from Education and Employment and Social Security, to continue the “partnership” approach already adopted by the Training and Employment Partnership.
26. Preliminary consideration has been given to possible moves at a later stage towards the incorporation into the Industry Committee of the overall responsibility for the Jersey Financial Services Commission, Tourism, Agriculture, the Airport and the Harbours, in conjunction with the creation of separate trading entities or industry boards where appropriate -
 - the Finance and Economics Committee are generally supportive of the proposal;
 - the Harbours and Airport Committee are generally supportive of the proposal;
 - the Agriculture and Fisheries Committee are not supportive as a Committee;
 - the Tourism Committee was not opposed in principle but reserved its position.

27. There was a general view that a strategic Committee for Industry was required, and that this could be achieved initially without the loss of independence for the Agriculture and Fisheries and Tourism Committees. Information received from representatives of the tourism industry and of the agriculture industry would suggest, however, that there are those who are supportive of the idea of an Industry Board being set up for each industry, with the Industry Committee acting in a regulatory capacity and acting as a spokesman for each industry in the States.
28. There was some concern as to whether an Industry Committee could serve as both a regulatory body and as a body promoting the economic interests of the Island. However, the responsibilities could be separated administratively, and the Industry Committee as the regulator for Telecoms Limited and Postal Limited would have no responsibility for promoting the business of those companies.
29. The Committee is aware that the States in 1996 supported the reorganisation of Committees with a view to reducing the number of Committees and streamlining the administration. This does not sit easily with the creation of a new Committee in the form of an Industry Committee which undoubtedly will require manpower. Some of the staffing of the Industry Committee could come from the moving of staff associated with transferred activities, but some additional staff will be required to cover the regulatory functions of the Committee. However, on the assumption that these functions need to be carried out as an essential support for the concept of the incorporation of Jersey Telecoms and Jersey Post, the resource requirements in this respect are unavoidable, and strenuous efforts should be made to recruit from existing States resources.

General conclusion

30. The Committee has considered the way forward for the proposals. There are those who believe that much more detail is required on the resource implications of the reorganisation of Committees before any decisions can be taken. It can be argued, however, with the experience of the merging of the Resources Recovery Board and the Public Works Committee into a Public Services Committee in mind, that what is required is for a general commitment to be established and for the new Committee and its executives to be required to work up the proposals further. Should insurmountable problems be confronted, then the matter could be returned to the States for further consideration.
31. The Industry Sub-Group argued that it would be premature to attempt to quantify operational and organisational benefits of the creation of the Industry Committee in manpower and costs terms at this stage. The Sub-Group supported the view expressed by KPMG Peat Marwick McLintock in their Review of the Machinery of Government in 1987 that fundamental restructuring of the Committee system should be undertaken in the first instance to improve the effectiveness of the machinery of government, and that manpower and cost savings would then follow provided that performance criteria was established.
32. The Committee on the basis of the Sub-Group's report, to which this report has referred, is not in a position to determine exactly what the detailed staffing and other resource arrangements would be. Should the States give their support to the proposed Industry Committee, an organising committee will be set up to progress the proposal. The organising committee would work closely with the Finance and Economics and Establishment Committees on the financial and manpower implications of what is proposed.
33. The Committee is therefore seeking a mandate from the States to proceed further with the proposals set out in this report, embracing the formation of an Industry Committee.

16th November 1998

“REPORT

Background

1. The States in approving the Strategic Policy Review 1995 requested the Policy and Resources Committee to bring proposals to the States no later than June 1996 for reducing the number of States Committees.
2. The Policy and Resources Committee in carrying out this remit has borne in mind the following -
 - (i) the support that clearly exists among States’ members for the principle of reducing the number of States Committees, reflected in members’ approval of the action requested of the Committee in para. 11.13 of the Strategic Policy Review 1995;
 - (ii) the views of States’ members. While there were some differences in the views expressed on how the functions of the States should be allocated, those who responded to the Committee’s invitation all supported the idea of reducing the number of Committees;
 - (iii) that the more Committees there are the more overlap and duplication of functions can be expected to occur;
 - (iv) that if States’ members were called upon to sit on fewer Committees they would have more time to give to those Committees of which they are a member, more time for States’ business, and more time for considering the decisions of Committees of which they are not a member;
 - (v) the following views which were expressed by the Policy Advisory Committee’s Committee Structure Sub-Committee when it reported in 1983 -

“one of the points most frequently made to us was that the large number of Committees and the haphazard distribution of functions was time consuming and labour intensive, and aggravated the problems of co-ordination ... Such a regrouping will not in itself of course reduce the total volume of business to be transacted. We believe that such a regrouping will simplify the process of formulating policy and expedite the transaction of public business and, therefore, save money”;

- (vi) the views expressed by KPMG (Peats) in their report on “A review of the machinery of government” presented to the States on 8th December 1987 -

“7.5 - we set out in section three a number of overall criticisms of the present structure, which we recap here -

the structure does not appear to relate closely enough to particular policy or programme areas;

the structure appears to have grown as a result of particular events, not in relation to a thought out plan; the last attempt to rationalise the structure failed;

the large number of Committees leads to fragmentation of responsibility;

the result is that there is overlap of responsibilities in some areas; and other areas where there appear to be gaps. There are also misunderstandings between Committees about respective responsibilities.

7.6 - we believe that the time is now right to look again at the overall Committee structure and begin a process of change towards a structure which would have the following features -

fewer main Committees, with greater spans of responsibility;

closer alignment between Committee responsibilities and programmes;

clearer definition of remits and responsibilities;

more delegation of case work to officials with agree policy frameworks;

greater use of Sub-Committees;

Committees whose job is in effect finished, and which are purely advisory, put outside the main structure.”.

3. The Committee in its deliberations also has taken account of the following -

- (i) many of the minor Committees do not have sufficient administrative support. However it is not considered to be a good use of the States’ limited manpower resources to build up the administration of the minor Committees. The better course it is believed would be for such Committees to become part of a major Committee, and have access to the manpower resources employed by that Committee;
- (ii) the decision of the States in principle, made during the 1995 Strategic Policy debate, to ‘incorporate’ Jersey Postal Service, Jersey Telecoms and Jersey Airport;
- (iii) the decision of the States in principle, in October 1995, to set up a Financial Services Commission, to supervise and promote the finance industry, made up of States and non-States members;
- (iv) the previous decisions of the States to give overall responsibility for strategic policy to individual Committees of the States (e.g. traffic policy - Public Services; environmental policies - Planning and Environment; social services policy - Health and Social Services) to ensure more effective policy co-ordination and decision taking, and the case for extending this approach to other strategic policy areas;
- (v) the pressure on the States’ manpower and financial resources and the need for Committees generally to use their resources more effectively and produce better value for money.”.