

# **STATES OF JERSEY**



## **CORPORATE MANAGEMENT BOARD: ACCESS TO MEETINGS AND MINUTES (P.11/2008) – COMMENTS**

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**Presented to the States on 11th February 2008  
by the Council of Ministers**

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**STATES GREFFE**

## COMMENTS

The Council of Ministers is firmly of the opinion that agreeing to this Proposition would seriously undermine the effective management of the States of Jersey.

The Report states that “if the Council of Ministers believes it develops policy, it deludes itself – and misleads others”. This statement would appear to be the basis upon which the Proposition is founded. As such, it not only seriously undermines the reputation of the States of Jersey, it questions the fundamental principle of democracy that those who are elected by the public must be responsible for policy decisions. The implication is that Ministers who are elected by the States Assembly do not fulfil the responsibility and trust that is placed in them.

The Council of Ministers rejects this contention and states categorically that it is individual Ministers and the Council of Ministers who determine policy or develop and agree proposals which are submitted to the States for decision.

The Report and Proposition would appear to imply that there is insufficient scrutiny of the activities of the Executive and that somehow the Corporate Management Board (CMB) is unaccountable for its actions. It seems to ignore the fact that the States has agreed and implemented a form of Government as defined in P.122/2001 and set out in the States of Jersey Law.

In order to put the Proposition into context it is worth summarising the current rôles and responsibilities – (the Annex sets out a brief outline).

The States Assembly is the Island’s paramount seat of government – it is the legislature, is responsible for agreeing overall policy direction, determining overall resources and significant individual policies.

The Council of Ministers, as the executive, is responsible for producing the Strategic Plan, proposing significant new policies and implementing those plans and policies set by the States.

Officers of the States of Jersey are responsible for advising on, and implementing such policy. Individual Chief Officers are responsible for advising their Minister and implementing their policies, whilst the Corporate Management Board advises, and is accountable to, the Council of Ministers.

The Scrutiny apparatus runs parallel to these functions. It holds Ministers and the Council of Ministers to account by reviewing and commenting on proposed policies and the implementation of agreed policies. The Public Accounts Committee reviews and holds Accounting Officers (Chief Officers) to account for the proper, efficient and effective management of their departments and use of resources.

This is a system of Ministerial Government in which significant checks and balances are already inbuilt. The work of the Executive, whether it be Ministers’ or Officers’, is subject to many layers of accountability. The Proposition claims that: “at present it would appear no-one is monitoring these people.” On the contrary, robust mechanisms for ensuring the accountability of the Corporate Management Board already exist. The Corporate Management Board is held to account for performance by the Council of Ministers, The States Employment Board and the Public Accounts Committee. Any policy advice is presented in reports to the Council of Ministers and Scrutiny Panels are able to review those reports as part of their work.

The Report appears to overlook the fact that, under the States of Jersey Law, it is the Minister who is legally responsible and accountable for decisions. No Minister is therefore going to allow either their officers or the Corporate Management Board to usurp their authority or to act in any way which conflicts with their legal responsibility.

### **The Role of the Corporate Management Board**

It may be helpful to outline the current functions of the Corporate Management Board, which are as follows –

(1) to provide policy advice to the Council of Ministers, particularly on issues that cut across States

departments;

- (2) to manage the Public Service as a unified organisation and to ensure it performs efficiently, effectively and economically; and
- (3) to implement the States and Council of Ministers agreed policies

The Corporate Management Board does not determine policy.

The fundamental flaw in the Report and Proposition is that it fails to differentiate between the proper and transparent functioning of government and the efficient and effective functions of management and administration. If the Corporate Management Board were to be determining policy, and as such fulfilling the function of government, it would be entirely appropriate that minutes should be available. However, it is not determining policy – it is responsible for implementing policy and managing staff and resources efficiently, effectively and economically. In any well run organisation management needs to have the freedom and ability to manage. Discussion has to be robust and open in order to function effectively. Once it becomes burdened by the inevitable bureaucracy which would be required by this Proposition it will become more costly and less effective.

The Corporate Management Board is an internal Management Board, it is part of the executive. Integral to the notion of Ministerial Government is the agreement that, in order to encourage full and open debate, the Council of Ministers meets in private without observers. Since the highest meeting of the executive meets under these terms, there is no rationale for the Corporate Management Board, which is subordinate to the Council of Ministers, to depart from these arrangements. It would run contrary to the basic principles of Jersey's Governmental structure if the meetings were to be attended by States Members as observers.

One of the roles of the Board is to offer advice to the Council of Ministers. If minutes were published and its meetings are open to observers their advice could be known before it had reached the Council of Ministers, clearly circumventing the apparatus of Ministerial Government. Furthermore, it is highly unlikely that proper deliberation around policy would be able to take place as it is the Council of Ministers which determines policy or the content of proposals to the States.

The Board comprises the Chief Officers of the ten departments together with Chief of Police and Director of Human Resources. These are senior experienced people of high integrity. The report implies that they knowingly or unknowingly usurp the roles and responsibilities of Ministers and the States. This implication not only impugns the reputation of Chief Officers it also demeans the authority and standing of the States itself.

In adopting P.122/2001 the States agreed, "*the Council of Ministers will be supported by a Chief Executive who will be the head of the civil service, which will be unified at senior level; and heads of departments will form a management board under the leadership of the Chief Executive*". It is clear that the intent was to promote a unified civil service, because it was expected that this would bring significant benefits in terms of impartiality, advice and performance. If this is to be achieved then it is fundamentally important that the Board is able to function as an effective team of senior people. Teams develop trust and confidence in each other through open and robust exchange of views in which challenge is accepted and there are opportunities to develop ideas in a free environment. The presence of observers would render such exchanges impossible.

Impartiality is a central tenet of the public service. If Corporate Management Board meetings were open to States Members then the group, or individual Chief Officers, could become open to political pressure, which would clearly impair the successful administration of the service.

Finally, it should be noted that the Corporate Management Board meetings are not minuted in the very formal sense that Council of Ministers and other States Members meetings are minuted by an independent minute taker. Short action notes are prepared to record the decisions in order to ensure that agreed actions are appropriately implemented. Adoption of this Proposition would therefore increase the bureaucracy and cost of this internal management function.

The Council of Ministers therefore firmly opposes the Proposition as, if adopted, it would seriously hinder the

effective management of the States of Jersey. The appropriate channels for scrutiny of policy and accountability of officers are already in place and would be fundamentally undermined if this Proposition were successful.

A Summary of the System of Government in the States of Jersey

**The States is the paramount seat of the Island's Government and it –**

- Is the Island's Legislature.
- Appoints Ministers and Scrutiny members. (it also holds the power to dismiss them).
- Sets overall policy direction in the Strategic Plan which the executive is required to deliver.
- Determines resource allocation and annual priorities in the Business Plan.
- Decides major policies.
- Decides a range of specific matters e.g. Road orders etc.

**Ministers and the Council of Ministers are the Executive and –**

- Propose a Strategic Plan to the States.
- Propose annual resource allocation and priorities to the States in the Business Plan.
- Propose major policies to the States for their decision.
- Propose laws to the States.
- Implement the Strategic Plan, Business Plan and Policies decided by the States.
- Are held to account by the States with advice from Scrutiny and the PAC.

**Scrutiny which is independent of the Executive –**

- Scrutinise the proposals put forward by the Executive in order to advise the States and inform their decision making. They may also advise the Executive in order to improve their proposals.
- Scrutinise the implementation and actions of the Executive in order to ensure that they are held to account.
- Through the Public Accounts Committee, monitor whether or not public bodies are giving value for money and assess whether public funds have been used in line with the purposes intended by the States.

Thus whilst the Executive clearly has powers to act in order to implement Policy they do so within a clear framework set by the States and are held to account for their actions by an effective scrutiny function. It is the members of the States Assembly advised by both the Executive and Scrutiny who should always be responsible for determining this balance.