

**MACHINERY OF GOVERNMENT: STRUCTURE OF THE EXECUTIVE**

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**Lodged au Greffe on 24th September 2002  
by the Policy and Resources Committee**

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**STATES OF JERSEY**

**STATES GREFFE**

150

2002

P.171

Price code: D

## PROPOSITION

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

to refer to their Act dated 28th September 2001 in which they agreed reforms to the machinery of government and -

(a) to agree that the executive function of government should be structured as set out in Appendix 1 of the report of the Policy and Resources Committee dated 22nd August 2002 in relation to the following matters, namely -

- (i) the Council of Ministers;
- (ii) the appointment of the Chief Minister and ministers;
- (iii) the Chief Minister;
- (iv) the Minister;
- (v) the dismissal and replacement of ministers;
- (vi) the Assistant Minister; and
- (vii) policy formulation;

and to vary its decision of 28th September 2001 accordingly;

(b) to direct the Privileges and Procedures Committee in accordance with the Act of the States of 26th March 2002, to incorporate the matters set out in the said Appendix 1, where appropriate, in its proposals for the revised States of Jersey Law and the Standing Orders of the States of Jersey; and

(c) to agree that ministers and assistant ministers should comply with the Guidance and Procedure for Ministers set out in Appendix 2 of the report of the Policy and Resources Committee dated 22nd August 2002.

### POLICY AND RESOURCES COMMITTEE

- Notes:
1. The Finance and Economics Committee's comments are to follow.
  2. The Human Resources Committee's comments are to follow.
  3. The Privileges and Procedures Committee's comments are to follow.

## REPORT

### 1. Introduction

- 1.1 On 28th September 2001 the States adopted an amended report and proposition of the Policy and Resources Committee ('Machinery of Government: Proposed Reforms' (P.122/2001)) and agreed to move to a ministerial system of government. This historic decision will result in major changes to the Island's government. It means that a team of ministers, working under the leadership of the Chief Minister and with support from assistant ministers, will carry out the executive function of government on behalf of the States. This new, simpler structure of government will mean that decision-making will become more timely and efficient, whilst taking full account of public opinion through improved methods of consultation with other States members, scrutiny committees, and the public.
- 1.2 The report accompanying P.122/2001 commented in some detail on the roles and responsibilities that are envisaged for the main participants in this new system of government. The purpose of this report and proposition is to develop this thinking further so as to provide a more detailed account of how it is intended that the executive will work in practice.
- 1.3 As part of the proposition adopted by the States, it was agreed that -
- "the States will appoint a Chief Minister of Jersey from among their number, by a process to be agreed, who will nominate a team of ministers to form the Council of Ministers, with the executive function of government vested in the Chief Minister and the Council of Ministers".
- 1.4 The proposals in respect of the executive were subsequently developed in some detail in Section 6 of the 'Implementation Plan - Machinery of Government: Proposed Reforms', published by the Policy and Resources Committee on 27th November 2001. The Implementation Plan also listed the various reports and propositions that the Committee intended to bring to the States in order to carry forward the process of government reform, including this report and proposition on the structure of the executive.
- 1.5 Since the publication of the Implementation Plan the Committee has given further consideration to the structure and nature of the executive, and has taken note of the views that have been expressed by States members and the public. The proposals set out in this report and proposition represent the Committee's considered view on how the executive should function, including the roles and responsibilities of the key participants.
- 1.6 The Committee would like to emphasise that its proposals should not be seen in isolation, but as part of the wider framework for the Island's machinery of government. The executive needs to be seen in the context of its relationship to the States, to the scrutiny function, and to the public. This report accordingly comments on how it is envisaged the executive will relate to this wider context, which will develop over time.
- 1.7 This report is a development of the proposals that were set out in both 'Machinery of Government: Proposed Reforms' (P.122/2001) and the Implementation Plan. As with the Implementation Plan, the Committee's approach in this report is to describe the roles and responsibilities of the key participants in the executive, and these are set out below. The Committee has also developed its proposals in respect of Guidance and Procedure for Ministers, and policy formulation, and these are examined separately in the report. It will be seen that in many cases the Committee has remained close to the text of the Implementation Plan, and in these areas the Committee has maintained the position that it described in the Plan. There are some areas however where the Committee has moved to a degree from the position described in the Plan, and the reasons for these changes are explained in the text.

### 2. The Council of Ministers

- 2.1 The Council of Ministers will be established by law. Among its core functions will be overall economic and political strategy, the development of strategic policies and new legislation, resource allocation, and the prioritisation of capital projects. Ministers who head departments will, by right, be members of the Council of Ministers. The question of the legal status of the minister is a matter for resolution in the States of Jersey Law.
- 2.2 In accordance with the approach set out in Section 6.8 of the Implementation Plan, the Committee proposes that one of the key tasks for the Council of Ministers at the beginning of its term of office should be to develop a strategic policy programme for consideration by the States. This document would set out the broad direction which the Council of Ministers was proposing to follow during its term of office. The strategic policy programme would be followed up by an annual debate on the States' budget, and by a separate debate on an annual Business Plan in which the Council of Ministers would present its proposals for the year ahead.

- 2.3 In this connection the Committee believes it to be important that there should be full compatibility between the decisions taken by the States on the overall policy programme and those taken on the annual budget, and it is accordingly recommended that both the strategic policy programme and annual business plans should provide an indication of spending priorities for the year ahead. These priorities would be developed in more detail in the annual budget, which would indicate how much was to be spent on each of the ten departments of government, together with other relevant information. This approach should ensure that there will no incompatibility between the States' decision on the policy programme and their decision regarding the budget.
- 2.4 It is proposed that the strategic policy programme should be lodged 'au Greffe' by the Council of Ministers within four months of taking office. During this period the Council may consult both with the non-executive members of the States, including the scrutiny committees, and the general public. In subsequent years, it is proposed that the annual Business Plan should be debated no later than September, whilst the Budget would be for debate in December, with sufficient provision being made for proper scrutiny of both documents. This timetable would be adjusted if the States should decide to hold spring elections.
- 2.5 With regard to the meetings of the Council, ministers will be expected to speak to items tabled by them in the name of their departments. The Council may also be attended from time to time by Assistant Ministers, heads of departments, or officers as required. Assistant Ministers will not have a vote.
- 2.6 The Attorney General will be entitled to attend all meetings of the Council of Ministers to provide legal or constitutional advice, but will not have a vote. The reason for this is, first, that there will often be times when legal or constitutional advice is required and it is appropriate that this should be readily available to the Council of Ministers just as it is available to the States. Secondly, the Chief Minister will, with the Council of Ministers, have responsibility for the Island's external relations both with the United Kingdom and, where appropriate, with other jurisdictions, and it is obviously necessary that the Attorney General should continue to be directly involved in giving advice in this area. In his attending the meetings of the Council of Ministers, the role of the Attorney General will therefore be to defend the interests of the States as a whole, as well as to advise the Council on specific matters.
- 2.7 The Attorney General will remain available to advise the States and the scrutiny and other committees on matters of law.
- 2.8 The Council of Ministers will meet for the purpose of taking decisions, and for regulating and co-ordinating the executive business of government. Decisions taken by the Council will concern matters that do not fall within the province of individual ministers and which therefore need to be considered on a collective basis, e.g. the annual budget, general policy matters, strategic issues, and matters which cut across ministerial boundaries. The Council will be served by a secretariat, provided by the Chief Minister's Department, to ensure that its decisions are well-recorded, known by those concerned and effectively carried out.
- 2.9 In order to secure the effective overall conduct of business it is neither necessary nor possible for the Council of Ministers to consider every issue arising over the extremely wide field of government activity.
- 2.10 The Council of Ministers will reach collective decisions through discussion and debate. This collective decision-making will ensure that the political process is much more efficient than the present inter-committee discussions. It will also lay the ground for ensuring that once a decision has been made, that decision will be effectively and efficiently carried out, especially as the departmental framework and corporate processes will be much more streamlined. There will be the collective political resolve to turn words into actions.
- 2.11 The primary function of the Council will be to determine the strategic direction of government, but the Council will also have the function of resolving issues that may arise.
- 2.12 What are the issues which ought to come before the Council for decision? The Committee might answer this question by saying that the Council should certainly have an opportunity to consider any matter which may involve the credit, cohesion or standing of the government, whether inside or outside the activities of the States. In deciding whether a question is within this category, a substantial element of judgement will naturally be involved.
- 2.13 Because the question of reference to the Council of Ministers is, to a very large extent, a matter of judgement, it would be impracticable to lay down any set of comprehensive rules. Clearly, however, there are certain matters which inevitably involve the credit, cohesion, or standing of the government. Paramount among these is the question of legislation.

- 2.14 The Council will consider first all proposals for the preparation of legislation, as there would be little point in wasting the time of officers and law draftsmen in preparing laws which the Council was not prepared to support in principle. Secondly, the Council must consider draft legislation, as prepared for presentation to the States. The consideration of legislative proposals and of draft propositions will constitute a very important part of the Council's work. The position regarding subordinate legislation will be covered in Standing Orders and/or the States of Jersey Law, to ensure accountability.
- 2.15 Since Ministers will be making the type of executive decisions presently made by committees, they will also make Orders, and from time to time it may be necessary for the Council to review the parameters within which these Orders are made.
- 2.16 In addition to its own propositions, the Council will want to consider all propositions from private members because a statement to the States of the Council's attitude or intention is likely to be necessary in each case. Because of Jersey's constitutional arrangements, the Council of Ministers will also have to examine legislation, or proposals for legislation, emanating from the United Kingdom and the European Union insofar as these may affect the Island's interests. The Attorney General's presence will ensure that particular attention continues to be paid to the Island's constitutional arrangement with the Crown.
- 2.17 Outside the legislative field, it is impossible to be prescriptive about what may need consideration by the Council of Ministers. Certainly any issue with major social, economic, environmental, political or constitutional policy implications ought to be considered. Exactly what comes to the Council table will evolve over time.
- 2.18 The Council of Ministers must not become the place for resolving differences which could be resolved elsewhere. To the maximum extent possible in the time available, inter-departmental discussion should have reduced questions at issue between departments to major points of principle. Financial implications should have been fully discussed, and if possible cleared, with the Minister or Department of Treasury and Resources. Where more than one department has been involved, the possibility of an agreed submission should be considered, even in terms of alternative solutions.
- 2.19 For the most part, the Council of Ministers should work to an agreed process, and papers presented to it will use a format that will need to be developed by the Chief Minister's Department. At the very least they will include the aims of the proposition, performance indicators where appropriate, and details of the way in which those indicators will be monitored. The way in which this will be achieved will be for detailed consideration.

### **3. The Chief Minister**

- 3.1 At the very outset it is important to say that Jersey's Chief Minister will derive her or his authority from the States Assembly and it follows, therefore, that she or he must command the confidence of the States.
- 3.2 In order to ensure this, it is proposed that the proposal in respect of a certain States member must be presented in writing, signed by six (6) members of the States, and accompanied by a written statement in which the candidate sets out her or his vision of the general direction of policy should she or he be elected. This would form a first basis for the Council of Ministers' ensuing work on a strategic policy programme for consideration by the States.
- 3.3 A timetable will be established which will provide for the nomination of a Chief Minister soon after the general election while allowing sufficient time for members of the States to consider the candidates. A nomination, which will be submitted to the Greffier of the States, shall be accompanied by the candidate's policy statement. The successful candidate must poll more than half of the votes cast. If none of the candidates achieves this, a second ballot will be held after a short adjournment to allow members time to consider how they wish to vote in the second round (and so on, until the required level of more than 50% is achieved). In each round the lowest polling candidate will drop out until an absolute majority is reached. The Chief Minister will only be elected by States members in accordance with the rules to be established by the Privileges and Procedures Committee.
- 3.4 The Chief Minister will take soundings among States' members before proposing the members of the Council of Ministers. When proposing the Council members, the Chief Minister will nominate each candidate as the head of a designated department. The States will then vote on the composition of the Council as an entity and it will not be open to members to express their displeasure at the inclusion of one particular Minister except by voting against the whole proposal. If the Chief Minister's proposal does not command majority support in the States, then she or he will return to the House with alternative proposals following an adjournment. The States will then vote on these revised proposals.

- 3.5 Once the States has reached a decision, the Chief Minister and ministers will swear an oath of office before the States, in acknowledgement of the fact that they derive their authority, and their roles and responsibilities, from the Assembly. First the Chief Minister will swear an oath, and later in the same sitting an oath will be sworn by the other ministers.
- 3.6 The Chief Minister will not only be the senior minister of the Council of Ministers. She or he will have her or his own department - the Chief Minister's Department - which will be responsible for corporate strategy and policy, the external relations of the Island, the general performance and activities of the Executive as a whole, and also for supporting generally the Council of Ministers.
- 3.7 The Committee believes the Chief Minister must take special responsibility for the formulation, execution and monitoring of the Island's strategic policy programme. This document will be formulated by the Council of Ministers, circulated for consultation, and lodged 'au Greffe' not more than four months after the Council's election, and debated by the States as soon as possible thereafter. With this responsibility in mind, candidates for the office of Chief Minister will be expected to set out their vision for the future of the Island.
- 3.8 On a day-to-day basis, the Chief Minister will be the chairman of the Council of Ministers and will determine its agenda and place and time of meeting. Responsibility for the agenda is not, of course, an absolute thing. It is inconceivable that a Chief Minister should resist the strong desire of any minister to have an issue discussed in the Council, although she or he might have views on the timing of the discussion. In practice, subject to timing, the Council will no doubt decide to discuss any matter which an individual minister wishes to raise. Perhaps the most important aspect of the Chief Minister's position in relation to the agenda is that he or she can prompt Ministers to bring matters forward for council discussion. In this regard the Council of Ministers will be no different from any other corporate organisation led by a board, committee or whatever.
- 3.9 In addition to the circulation to the Council of Ministers of Memoranda and of the Agenda, the Chief Minister will determine who is to be invited to attend a particular meeting. All ministers belong to the Council as of right, and their duty to attend is therefore a matter of course. But the Chief Minister may also invite any other person whose presence she or he considers will be of assistance.
- 3.10 After the meeting of the Council of Ministers has taken place, it will be the task of the Chief Minister's Department, under the political direction of the Chief Minister, to prepare and circulate to Ministers the conclusions of the meeting. As explained elsewhere, the Council of Ministers is, above all else, a forum for the making of decisions. Accordingly, the conclusions will be, by definition, primarily a clear and unambiguous record of decisions, together with such of the discussion as is necessary to make these decisions understandable, and they will be published.
- 3.11 The Chief Minister's Department will be headed by the Chief Executive to the Council of Ministers and Head of the Public Service. In addition to ensuring that the Council receives proper administrative support, the Chief Executive will be the principal adviser to the Chief Minister and Council of Ministers. She or he will also chair a Corporate Management Board, as agreed by the States in its decision of 28th September 2001, comprising the heads of all the departments of the executive. In this capacity, the Chief Executive will be ultimately accountable for the good management of the public service. She or he will lead and direct her or his colleagues insofar as necessary to ensure the efficient management and implementation of the Council of Ministers' functions, responsibilities and decisions.

#### **4. The Minister**

- 4.1 Each department of the States will be under the direction and control of a minister. As already noted in section 3, the Chief Minister will invite members to become ministers and the proposed members of the Council of Ministers will be submitted to the States for approval, a reminder that executive responsibility will be discharged on behalf of the States Assembly.
- 4.2 In Council, the Chief Minister will invite one of the ministers to act as Deputy Chief Minister and that minister will be expected to fulfil the duties of the Chief Minister in his/her absence.
- 4.3 A minister will be entitled to have up to two Assistant Ministers to help with the running of his or her department, but the appointment of these Assistant Ministers must be carried out in close consultation with the Chief Minister. Indeed, it would be quite wrong for a minister to invite a member of the States to act as an assistant minister only to discover that the Chief Minister was not prepared to sanction the appointment. Instead, ministers will put forward names for consideration by the Chief Minister and only when agreed will they approach the member concerned.

- 4.4 On the subject of ministerial authority, it is proposed that legal authority for decision-making in particular areas of government should rest with individual ministers, whilst the Council of Ministers should be responsible for taking general policy decisions (i.e. those affecting more than one ministry), and for the overall policy aim of departments. Under these arrangements, individual ministers will have a clearly defined role, and they will also be legally accountable for their own areas of government.
- 4.5 There should be the facility for the power of delegation from one minister to another in order to cover for periods of absence. The procedures for delegation will need to cover such eventualities as the prolonged absence of a minister due to sickness, and the death of a minister whilst in office.
- 4.6 For the day-to-day operation of a department, a minister may choose to allocate specific areas of responsibility to assistant ministers, but all assistant ministers will be discharging their responsibilities in the name of the minister.
- 4.7 As with the Council of Ministers, it is important that there should be proper standard arrangements for the recording of ministerial decisions. Ministers (and assistant ministers) will normally be asked to take decisions based upon a short paper prepared by officers of their departments who will be required to produce a standard form of concise minute when formally recording an executive decision. This is especially important to replace the present system of committee Acts and in order to ensure transparency and accountability in decision-taking. In this context it should be noted that the Privileges and Procedures Committee has been charged with bringing forward proposals on the Code of Practice on Public Access to Official Information, as well as on the provision of information about the work of the Council of Ministers, and the Committee's work may well be of relevance in this respect.

## 5. **The Appointment and Dismissal of Ministers**

- 5.1 The Policy and Resources Committee has considered some examples of how the relationship between the States and Scrutiny Committees and the Council of Ministers may work in practice. This practical approach has greatly helped the understanding of what otherwise appears as a purely theoretical set of proposals, and in some cases this has resulted in proposals which are slightly different from what was described in the report accompanying P.122/2001 (e.g. paragraph 6.17 of P.122/2001 regarding the dismissal of ministers).
- 5.2 It is important to remember that it is the States Assembly that appoints ministers, on the nomination of the Chief Minister, and on the basis of each nominee having responsibility for a department. When the Council of Ministers is first proposed after a general election, the States will be asked to agree the team proposed by the Chief Minister, and to assist the States in making their decision, it is proposed that candidates should be nominated for designated departments. Following a resignation or dismissal of a minister, the States will be asked to appoint a replacement. This is a very powerful position for the States Assembly and will be an important 'check and balance' on the way in which the Council of Ministers will work. It is also proposed that the Chief Minister should seek consent from the States if it is proposed to move ministers from one department to another.
- 5.3 A minister may resign for a variety of reasons, totally unrelated to the business of government. It is essential that this possibility is allowed for and that the replacement minister can be appointed without significant delay or difficulty.
- 5.4 The Policy and Resources Committee has rejected the notion that the States Assembly could debate a vote of confidence in an individual minister. She or he would be a member of a team (the Council of Ministers) and it would be inappropriate to challenge one member of that team for matters that will have been a collective decision or deemed to be a collective decision.
- 5.5 On that basis, therefore, the Policy and Resources Committee believes that the new States of Jersey law should permit a proposition of no confidence in the Council of Ministers, but not individual ministers. In accordance with Standing Orders, there should be a requirement that any such proposition should have a minimum number of States members' signatures.
- 5.6 However, if it becomes clear that a minister has lost the confidence of the States Assembly, the Chief Minister has a number of choices. S/he may support the minister and seek to rally the Council of Ministers to his/her support; as a result there may be changes to policy or whatever and this may be enough to satisfy the critics. Supporting an unpopular minister, however, runs the risk of a vote of no confidence in the Council of Ministers.
- 5.7 If the Chief Minister finds that the Council of Ministers has also lost confidence in the minister, s/he may ask the minister to resign. In that eventuality, again the critics may be satisfied and the Council of Ministers will seek a

replacement and resume.

- 5.8 If the minister refuses to resign, the Policy and Resources Committee believes that the Chief Minister should be able to ask the Council of Ministers to dismiss the minister. The Chief Minister should not have this power on his/her own. If the Council of Ministers does not agree to the Chief Minister's request, questions over the confidence of the Council of Ministers in the Chief Minister may lead to resignations or a vote of no confidence in the Council of Ministers.
- 5.9 If the Council of Ministers agrees to dismiss the minister, the minister would be removed from the Council; however, the Chief Minister would have to go to the States Assembly to nominate the replacement minister. At this stage, the checks and balances of the proposals would offer full scrutiny of the reasons for the dismissal of the minister and would either lead to the States Assembly endorsing the reasons for dismissal or refusing the Chief Minister's recommendation. Repeated refusal by the States Assembly would effectively become a vote of no confidence in the Council of Ministers.
- 5.10 The Policy and Resources Committee believes that placing the onus on the team of ministers (the Council of Ministers) to resolve matters of dispute and disagreement is by far the best way to proceed. The States Assembly remains the master of the situation by retaining the power to appoint new ministers and the ultimate sanction of a vote of no confidence. These two powers alone are sufficient to keep the Council of Ministers in check, whilst not creating a situation whereby the Council of Ministers is prevented from resolving disputes.
- 5.11 The deterrent effect of a vote of no confidence is more effective as a check and balance, than the actual use of such a measure.

## **6. The Assistant Minister**

- 6.1 As noted in Section 4, ministers will be entitled to have up to two Assistant Ministers to help run their department, but the appointment of these assistant ministers must be carried out in close consultation with, and the approval of, the Chief Minister.
- 6.2 For the day-to-day operation of a department, a minister may choose to allocate specific areas of responsibility to assistant ministers, but it will be important for assistant ministers to remember that they are supporting their minister; indeed, their executive decisions are taken in the name of the minister. The areas of allocation will be set out in advance, and these may include specific decision-making powers. The new States of Jersey Law will need to make provision for the delegation of specific decision-making powers to assistant ministers.
- 6.3 Both ministers and assistant ministers will be bound by collective responsibility and by a Code of Conduct for Ministers (in addition, of course, to the Code of Conduct applicable to all States members).
- 6.4 In order to maintain the executive at a manageable size, and also to have regard to the overall balance between the executive and scrutiny functions, the Policy and Resources Committee is proposing that assistant ministers should be able to serve more than one department. However, care must be taken to avoid conflicts of interest involving different departments, and in the event of such a conflict, the assistant minister would be required to inform the ministers concerned and take no further part in the matter.
- 6.5 Assistant ministers will not normally attend the Council of Ministers. If a minister is unavoidably absent for a discussion on a matter concerning his/her department, s/he will ordinarily ask another minister to present the item. However, the Chief Minister may invite an assistant minister to be present if s/he has particular knowledge of the subject under discussion.

## **7. Guidance and Procedure for Ministers**

- 7.1 Both ministers and assistant ministers will be expected to behave according to the highest standards of conduct in the course of their duties. In this context it should be noted that the Privileges and Procedures Committee has been charged with bringing forward a Code of Conduct for States members for approval by the States, and this code will of course apply to all members of the executive as members of the States.
- 7.2 In addition, it is proposed that there should be separate guidance and procedure for ministers (and assistant ministers) that will take account of the particular demands that will be placed upon those in the executive. It is considered that the highest standards of conduct can best be assured by observing the Seven Principles of Public Life, as set out in the 1995 report of the Nolan Committee, as well as by observing certain other key principles



which are set out in **Appendix 2**. Ministers (and assistant ministers) will be required to avoid any danger of a conflict of interest between their ministerial positions and their private financial interests. Whilst they will remain free to have paid employment unrelated to their role as ministers, they will be obliged as States members to declare their interests in the Register of Members' Interests. Further information on this important subject is given in Appendix 2.

7.3 All ministers will participate actively in the meetings of the Council of Ministers, which will work on the basis of consensual and collective decision-making. Once the Council has reached a decision, ministers must accept the need to support the collective will, because they also accept the need for unity and coherence in the work and policies of the government as a whole. There will be exceptional circumstances in which a minister would not be bound by collective responsibility (e.g. matters of conscience), and these are listed in Appendix 2.

## **8. Policy Formulation**

8.1 Fundamental to the change to a ministerial system of government is the establishment of an Executive, the Council of Ministers, to ensure that policies decided by the States are put into practice. In the debate on P.122/2001, great emphasis was placed on the importance of the executive working within the strategic policies agreed by the States Assembly.

8.2 It should be remembered that there already exists a body of strategic policies. Therefore, as each Council of Ministers is formed, there will be a process of change and development based on the existing strategic policies.

8.3 As a guide to how policies will be developed under the ministerial system of government, it is proposed that the process of policy development would be as follows -

- During elections, candidates for the States will set out their manifestos for the public to consider and the success or otherwise of each candidate will be determined, in part, on those policies espoused.
- The first task of the newly elected States Assembly will be the election of the Chief Minister.
- The candidates for Chief Minister will put forward a programme of policy objectives. It is probable that this programme will be developed in conjunction with other States' members and will reflect a consensual approach to solving the issues of the day, but will draw upon the election manifestos of those elected members. The consensual nature of this approach will, of necessity, lead to some manifesto proposals being compromised or changed, but there will clearly be an advantage to the most successful candidates in the election to argue for their policy proposals. The programme will be a development of the strategic policies in place at that time.
- The successful candidate for the post of Chief Minister will then be expected to put together a team of ministers whose job will be to put into place the programme proposed by the Chief Minister. One of the first tasks for the Council of Ministers, within four months of its election, will be to bring forward a strategic policy plan for consideration by the States.
- There would be nothing to prevent further review of the strategic policy framework during the period of office of the Council of Ministers. Indeed it is likely that some policy development will take considerable time. These changes to the strategic policies would be subject to further debate by the Assembly.
- Every year (with the exception of its first year of office, when it will be publishing a strategic policy programme) the Council will publish a Business Plan for debate no later than September. The Business Plan will describe the proposals which are intended for consideration by the States during the year ahead, as well as setting out an indication of general spending priorities.
- The Council of Ministers will subsequently present its annual Budget proposals to the States for debate in December. The Budget document will reflect the general spending priorities agreed by the States in their debate on the Business Plan.
- Sufficient provision will be made during this process for the proper scrutiny of the strategic policy programme, the Business Plan, and the annual Budget.

## **9. Conclusion**

- 9.1 In this report the Committee has endeavoured to provide a detailed description of the structure of the executive. A summary of the principles of executive government, including the roles and responsibilities of the key participants, is given in Appendix 1. The Committee has also set out Guidance and Procedure for Ministers, and this is given in Appendix 2.
- 9.2 It will be seen from the proposition that the Privileges and Procedures Committee is being asked to incorporate these principles, where appropriate, in its proposals for the revised States of Jersey Law and the Standing Orders of the States of Jersey. The Privileges and Procedures Committee has been consulted and will produce its comments in due course.
- 9.3 This report and proposition represents a further step along the path to a ministerial system of government. Subject to endorsement by the States, and with the continuing support of States members, the principles set out in the report will provide a solid foundation upon which to build the ministerial system.

## **10. Financial and manpower implications**

- 10.1 The Committee considers that the present committee system of government is unwieldy and demanding in terms of resources, not only on the services provided by the States Greffe, but also on the time of senior officers in other States departments. A single Council of Ministers will be much less demanding in terms of both financial and manpower resources. It is the Committee's view that the resource savings will be substantial, and the actual nature and extent of these savings will be explored in more detail by the Chief Executive and departmental directors in the transitional period leading up to the introduction of a ministerial system.
- 10.2 The report comments at some length on the arrangements for the appointment and dismissal of ministers, as well as on the principles of ministerial conduct and collective responsibility. These subjects relate to procedures or to matters of conduct, and they do not have significant resource implications.

## STRUCTURE OF THE EXECUTIVE - SUMMARY

### 1. The Council of Ministers

- 1.1 The Council of Ministers will meet for the purpose of taking decisions, and for directing, regulating and co-ordinating the executive business of government.
- 1.2 The membership of the Council of Ministers will consist of the Chief Minister and the other ministers. The Council may also be attended, from time to time, by Assistant Ministers, heads of departments, or other officers as required.
- 1.3 The Attorney General will be entitled to attend all meetings of the Council to provide legal or constitutional advice, but will not have a vote. In attending the meetings of the Council the role of the Attorney General will be to defend the interests of the States as a whole, as well as to advise the Council on specific matters.
- 1.4 The Council's responsibilities will include the following -
- to consider any issue with major social, economic, environmental, political or constitutional policy implications;
  - to consider any matter involving the credit, cohesion or standing of the government;
  - to develop a strategic policy programme within four months of taking office, for consideration by the States;
  - to prepare and publish an annual Business Plan for consideration by the States;
  - to prepare and publish an annual budget for consideration by the States;
  - to consider all proposals for the preparation of legislation, to consider legislation before it is presented to the States, and, where appropriate, to consider proposals for subordinate legislation;
  - to examine legislation, or proposals relating to legislation, emanating from the United Kingdom and the European Union, insofar as these may affect the Island's interests;
  - to consider all propositions from private members in case a comment to the States is necessary.

### 2. The Appointment of the Chief Minister and Ministers

- 2.1 The Chief Minister will derive his or her authority from the States and it is therefore important that there should be clearly-established procedures for his or her appointment.
- 2.2 It is proposed that any States member seeking appointment as Chief Minister should first submit a nomination paper to the Greffier of the States, to be signed by six serving members of the States, and accompanied by a written statement in which the candidate sets out her or his vision of the general direction of policy.
- 2.3 The successful candidate must poll more than half of the votes cast. If none of the candidates achieves this majority, a second ballot will be held but only after a short adjournment to allow members time to consider how they wish to vote in the second round (and so on, until the required level of more than 50% is achieved). In each round the lowest polling candidate will drop out until an absolute majority is reached.
- 2.4 Following his or her election, the Chief Minister will come back to the States with nominations for the Council of Ministers. When proposing the Council members, the Chief Minister will nominate each candidate as the head of a designated department. The States will then vote on the composition of the Council as an entity and it will not be open to members to express their displeasure at the inclusion of one particular Minister except by voting against the whole proposal. If this happens, the Chief Minister will return to the House with alternative proposals following an adjournment. The States will then vote on these revised proposals.
- 2.5 Following their election, the Chief Minister and ministers will swear an oath of office before the States. Firstly the Chief Minister will swear an oath, and later in the same sitting an oath will be taken by the other ministers.

### **3. The Chief Minister**

- 3.1 The Chief Minister will take special responsibility for the formulation, execution and monitoring of the Island's strategic policy programme. This document will be formulated by the Council of Ministers, circulated for consultation, and lodged 'au Greffe' within four months of the Council's election, for debate by the States as soon as possible thereafter.
- 3.2 The Chief Minister will be the chairman of the Council of Ministers and will determine its agenda and place and time of meeting.
- 3.3 The Chief Minister will have his/her own department - the Chief Minister's Department - which be responsible for, *inter alia* -
- corporate strategy and policy;
  - the general performance and activities of the Executive as a whole;
  - the external relations of the Island;
  - generally supporting the Council of Ministers, and in this capacity preparing and circulating to ministers a record of the decisions taken at Council meetings.
- 3.4 This department will be headed by the Chief Executive to the Council of Ministers. In addition to ensuring that the Council receives proper administrative support, the Chief Executive will be the principal adviser to the Chief Minister and Council of Ministers. S/he will also chair a corporate management board, comprising the heads of all the departments of the executive. In this capacity, the Chief Executive will be ultimately accountable for the good management of the public service, and s/he will lead and direct his or her colleagues insofar as necessary to ensure the efficient management and implementation of the Council of Ministers' functions, responsibilities and decisions.

### **4. The Minister**

- 4.1 Each department of the States will be under the direction and control of a minister.
- 4.2 In Council, the Chief Minister will invite one of the ministers to act as Deputy Chief Minister, and that minister will be expected to fulfil the duties of the Chief Minister in his/her absence.
- 4.3 A minister will be entitled to have up to two Assistant Ministers to help with the running of his or her department, but the appointment of these Assistant Ministers must be carried out in close consultation with the Chief Minister. Ministers will put forward names for consideration by the Chief Minister, and only when agreed will they approach the States member concerned.
- 4.4 Legal authority for decision-making in particular areas of government should rest with individual ministers, in line with their departmental responsibilities, whilst the responsibility for taking general policy decisions (e.g. those affecting more than one ministry), and for the overall policy aim of departments, should rest with the Council of Ministers. Ministers will therefore be legally accountable for their own areas of government.
- 4.5 There should be the facility for the power of delegation from one minister to another in order to cover for periods of absence. The procedures for delegation will need to cover such eventualities as the prolonged absence of a minister due to sickness, and the death of a minister whilst in office.
- 4.6 As with the Council of Ministers, it is important that there should be proper standard arrangements for the recording of ministerial decisions. Ministers (and assistant ministers) will normally be asked to take decisions based upon a short paper prepared by officers of their department. The officers will be required to produce a standard form of concise minute when formally recording an executive decision, thereby ensuring that a proper record exists of the decisions taken.

### **5. The dismissal and replacement of ministers**

- 5.1 A minister may resign for a number of reasons, totally unrelated to the business of government. It is essential that this possibility is allowed for and that the replacement minister can be appointed without significant problems.

- 5.2 The States Assembly should not be able to debate a vote of confidence in an individual minister. The minister is a member of a team (the Council of Ministers) and it would be inappropriate to challenge one member of that team for matters that will have been a collective decision or deemed to be a collective decision. On that basis, therefore, the new States of Jersey law should facilitate a proposition of no confidence in the Council of Ministers, but not individual ministers. In accordance with Standing Orders, there should be a requirement that any such proposition should have the signatures of a minimum number of States members,
- 5.3 However, if it becomes clear that a minister has lost the confidence of the States Assembly, the Chief Minister has a number of choices. S/he may support the minister and seek to rally the Council of Ministers to his/her support; as a result there may be changes to policy or whatever and this may be enough to satisfy the critics. Supporting an unpopular minister, however, runs the risk of a vote of no confidence in the Council of Ministers.
- 5.4 If the Chief Minister finds that the Council of Ministers has also lost confidence in the minister, s/he may ask the minister to resign. In that eventuality, again the critics may be satisfied and the Council of Ministers will seek a replacement and resume.
- 5.5 If the Minister refuses to resign, the Chief Minister should be able to ask the Council of Ministers to dismiss the Minister. The Chief Minister should not have this power on his/her own. If the Council of Ministers does not agree to the Chief Minister's request, questions over the confidence of the Council of Ministers in the Chief Minister may lead to resignations or a vote of no confidence in the Council of Ministers.
- 5.6 If the Council of Ministers agrees to dismiss the Minister, the Minister would be removed from the Council, however, the Chief Minister would have to go to the States Assembly to nominate the replacement Minister.
- 5.7 Under these arrangements the States Assembly will retain the power to appoint new ministers and the ultimate sanction of a vote of no confidence. These two powers alone are sufficient to keep the Council of Ministers in check, whilst not creating a situation whereby the Council of Ministers is prevented from resolving areas of dispute.
- 5.8 It is proposed that the Chief Minister should seek the consent of the States if it is proposed to move ministers from one department to another.

## **6. The Assistant Minister**

- 6.1 For the day-to-day operation of a department, a minister may choose to allocate specific areas of responsibility to assistant ministers, but all assistant ministers will be discharging their responsibilities in the name of the minister. The areas of allocation will be set out in advance, and these may include specific decision-making powers. The new States of Jersey Law will need to make provision for the delegation of specific decision-making powers to assistant ministers.
- 6.2 In order to maintain the executive at a manageable size, and also to have regard to the overall balance between the executive and scrutiny functions, it is proposed that assistant ministers should be able to serve more than one department.
- 6.3 Assistant ministers will not normally attend the Council of Ministers. If a minister is unavoidably absent for a discussion on a matter concerning his/her department, s/he will ordinarily ask another minister to present the item. However, the Chief Minister may invite an assistant minister to be present if s/he has a particular expertise in the subject under discussion.

## **7. Policy Formulation**

- 7.1 One of the key features of the ministerial system is the creation of an Executive, the Council of Ministers, to ensure that the policies decided by the States are put into effect.
- 7.2 As a guide to how policies will be developed under the ministerial system of government, it is proposed that the process of policy development would be as follows -
- During elections, candidates for the States will set out their manifestos for the public to consider and the success or otherwise of each candidate will be determined, in part, on those policies espoused.
  - The first task of the newly elected States Assembly will be the election of the Chief Minister.

- The candidates for Chief Minister will put forward a programme of policy objectives. It is probable that this programme will be developed in conjunction with other States' members and will reflect a consensual approach to solving the issues of the day, but will draw upon the election manifestos of those elected members. The consensual nature of this approach will, of necessity, lead to some manifesto proposals being compromised or changed, but there will clearly be an advantage to the most successful candidates in the election to argue for their policy proposals. The programme will be a development of the strategic policies in place at that time.
- The successful candidate for the post of Chief Minister will then be expected to put together a team of ministers whose job will be to put into place the programme proposed by the Chief Minister. One of the first tasks for the Council of Ministers, within four months of its election, will be to bring forward a strategic policy programme for consideration by the States.
- There would be nothing to prevent further review of the strategic policy framework during the period of office of the Council of Ministers. Indeed it is likely that some policy development will take considerable time. These changes to the strategic policies would be subject to further debate by the Assembly.
- Every year the Council will publish a Business Plan for debate no later than September. The Business Plan will describe the proposals which are intended for consideration by the States during the year ahead, as well as setting out an indication of general spending priorities.
- The Council of Ministers will subsequently present its annual Budget proposals to the States for debate in December. The Budget document will reflect the general spending priorities agreed by the States in their debate on the Business Plan.
- Sufficient provision will be made during this process for the proper scrutiny of the strategic policy programme, the Business Plan, and the annual Budget.

COUNCIL OF MINISTERS  
GUIDANCE AND PROCEDURE FOR MINISTERS

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## **Introduction**

Ministers of the States will wish to behave according to the highest standards of constitutional and personal conduct in the performance of their duties. It will be for individual ministers to judge how best to act in order to uphold those standards, subject to any further guidance which, after consideration by the Council, the Chief Minister may offer from time to time. It will be for the Chief Minister and the Council of Ministers to determine whether or not they have done so in any particular circumstance.

Ministers must comply with the law, including international law and treaty obligations, uphold the administration of justice and protect the integrity of public life. This can best be assured by observing the Seven Principles of Public Life set out in the first report of the Nolan Committee (May 1995) and repeated here:

### *Selflessness*

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

### *Integrity*

Holders of public office should not place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties.

### *Objectivity*

In carrying out public business, including make public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

### *Accountability*

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

### *Openness*

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

### *Honesty*

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

### *Leadership*

Holders of public office should promote and support these principles by leadership and example.

Additionally, Ministers will be expected to comply with the following principles of ministerial conduct -

- i. Ministers must uphold the principle of collective responsibility as defined in this document.
- ii. Ministers have a duty to the States to account, and be held to account, for the policies, decisions and actions of their department and any agencies for which their department has responsibility.
- iii. It is of paramount importance that Ministers give accurate and truthful information to the States, correcting any inadvertent error at the earliest opportunity. Ministers who knowingly mislead the States will be expected to offer their resignation to the Chief Minister.
- iv. Ministers should be as open as possible with the States, scrutiny committees and the public, refusing to provide information only when disclosure would not be in the public interest which should be decided in accordance with the relevant statutes and codes of access to information.



- v. Ministers should require civil servants who give evidence before scrutiny committees on their behalf and under their direction to be as helpful as possible in providing accurate, truthful and full information.
- vi. Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests;
- vii. Ministers should avoid accepting any gift or hospitality which might, or might reasonably appear to, compromise their judgement or place them under an improper obligation.

### **Ministers' private and outside interests**

Ministers are reminded of the obligation placed upon all States' members to declare their interests in the Register of Members' Interests. These may not necessarily be financial interests.

Ministers remain free to have paid employment unrelated to their role as Ministers in their own ministerial areas.

Ministers are prohibited from entering into contracts or agreements which in any way restrict their freedom to act and speak as they wish, or which require them to act in the States as representatives of outside bodies.

Ministers must ensure that no conflict arises, or appears to arise, between their public duties and their private interests, financial or otherwise.

It is the personal responsibility of each Minister to decide whether and what action is needed to avoid a conflict, or the perception of a conflict, and to defend that decision, if necessary by accounting for it in the States. Upon appointment, Ministers are advised to consult the Chief Minister or the Attorney General if in doubt. The minister may also wish on occasion to consult the Chief Executive or the director of the department concerned, because in some cases the officer might be better placed to know the detailed background to the issue at hand, and therefore to advise on whether there could be a conflict of interest.

Where it is proper for a Minister to retain a private interest it is the rule that he or she should declare that interest to Ministerial colleagues if they have to discuss public business which in any way affects it, and that the Minister should remain entirely detached from the consideration of that business. Similar steps may be necessary if a matter under consideration in the Department relates in some way to a Minister's previous or existing private interests such that there is, or may be thought to be, a conflict of interest. Particular care needs to be taken where financial interests are involved.

#### *Financial interests*

Ministers must scrupulously avoid any danger of an actual or apparent conflict of interest between their ministerial position and their private financial interests. In order to avoid such a danger, they should be guided by the general principle that they should either dispose of any financial interest giving rise to the actual or apparent conflict or take alternative steps to prevent it.

Two particular ways in which a conflict of financial interest, or the perception of it, can arise are as follows -

- i. from the exercise of powers or other influence in a way that does, or could be considered to, affect the value of interests held; or
- ii. from using special knowledge acquired in the course of ministerial activities in ways which bring benefit or avoid loss (or could arouse reasonable suspicion of this) in relation to a Minister's private financial interests.

Any exercise or non-exercise by a Minister of a legal power or discretion or other influence on a matter in which the Minister has a pecuniary interest could be challenged in the courts and, if the challenge is upheld, could be declared invalid.

If, for any reason, a Minister is unable or unwilling to dispose of a relevant interest, he or she should consider, in consultation with the Chief Minister, what alternative measures would sufficiently remove the risk of conflict. It may be possible to pass the handling of the matter to an Assistant Minister or an appropriate official in the Department or, exceptionally, to another Minister. In such cases, the advice of the Attorney General should be sought to ensure that the relevant powers can be exercised in this way.

#### *Public appointments*

When they take up office, Ministers should give up any other public appointment they may hold. Where it is proposed that such an appointment should be retained, the Chief Minister's agreement must be obtained.

#### *Non-public bodies*

Ministers should take care to ensure that they do not become associated with non-public organisations whose objectives many conflict with the policies of the States and thus give rise to a conflict of interest. There is, normally, no objection to a Minister associating him or herself with a charity (subject to the points above) but Ministers should take care to ensure that in participating in any fund-raising activity, they do not place, or appear to place, themselves under an obligation as Ministers to those to whom appeals are directed. Ministers should also exercise care in giving public support for petitions, open letters, etc.

#### *Trade and business associations*

There is no objection to a Minister having an involvement in trade, business or community associations, but care must be taken to avoid any actual or perceived conflict of interest. Accordingly, Ministers should arrange their affairs so as to avoid any suggestion that an association of which they are a member has any undue influence and they should take no active part in the conduct of union affairs.

#### *Assistant ministers*

Assistant ministers will be able to serve more than one department. However, care must be taken to avoid conflicts of interest involving different departments, and in the event of such a conflict, the assistant minister would be required to inform the ministers concerned and take no further part in the matter.

### **Collective responsibility**

Jersey's Council of Ministers will work on the basis of consensual and collective decision-taking. In many ways this should be self-evident because if the Chief Minister is forced to take an issue to the vote s/he can expect discontent and trouble not only with the other ministers but also on the floor of the Assembly. With collective decision-taking goes the notion of collective responsibility.

The object of discussion at the Council of Ministers is to find solutions and take decisions by which Ministers can stand collectively with reasonable conviction. This being so, the aim is rarely - unless considerations of timing make it essential - to arrive at an immediate decision, even if this means leaving a substantial minority of Ministers dissatisfied. Simple voting in the Council of Ministers is normally a thing to be avoided, and a Chief Minister may decide that any decision reached at a particular meeting is likely to be divisive and unsatisfactory, and that consideration should be adjourned to a later meeting to allow further reflection and, perhaps, a degree of informal discussion.

Collective responsibility requires that Ministers should be able to express their views frankly in the expectation that they can argue freely in private while maintaining a united front when decisions have been reached. This in turn requires that the privacy of opinions expressed at meetings of the Council of Ministers should be maintained.

It would, of course, be wholly unrealistic to imagine that all Ministers are equally enthusiastic about every Council decision. They accept, however, the need to support the collective will on issues, because they also accept the need for unity and coherence in the work and policies of the government as a whole. Of course, if a Minister feels so strongly about a decision reached in Council that s/he considers s/he must criticise it publicly, s/he has no option but to offer his/her resignation. There are exceptional circumstances in which a Minister would not be bound by collective responsibility, and these are listed below under the heading 'Exceptions'.

The Council may decide collectively to allow its members to speak or vote independently. Such cases must be rare, if collective responsibility is not to be eroded, but they can arise. One example in Jersey's recent political history might be the debate on the Termination of Pregnancy Law or, in the future, a discussion about the opening of a casino (a policy matter which has moral or ethical dimensions).

In all normal circumstances, however, it is self-evident that the standing and cohesiveness of a government could not long survive if its members were in open public disagreement with each other on public issues of any importance. This does not mean that there is nothing about which Ministers may disagree. They have a right to express their own views on matters of conscience, or to state an opinion on issues outside the ambit of government responsibility.

In general, however, collective responsibility applies to action and comment over the whole field of government policy. In particular, decisions of the Executive or of Ministers on behalf of the executive bind all its members. For them to be so bound, it does not follow that they must have participated actively in the decision-taking process. A Minister is bound by a decision of the Council of Ministers at a meeting that s/he has not been able to attend. If s/he feels sufficiently strongly that the decision was wrong, s/he may ask for it to be discussed in Council again, or s/he may resign; but s/he may not remain a Minister and publicly criticise it.

Collective responsibility also binds members of the Executive in relation to the exercise of a Minister's legitimate discretion, without specific recourse to the Council. Under their powers, Ministers will be required to take decisions day in and day out; it would be impossible to obtain Council sanction for all of these, but intolerable if they were to be publicly criticised by other members of the Executive.

Decisions reached by the Council of Ministers are binding on all Ministers and on Assistant Ministers in the lead department involved in a particular decision. Decisions are normally announced and explained as the decision of the Minister concerned.

In summary, collective responsibility has the following features -

- i. A Minister may speak against any proposal in the Council of Ministers, but must subsequently either support the policy decided upon or resign.
- ii. Where the policy of a particular Minister is being challenged, it is the Council of Ministers as a whole which is being challenged. Thus, the defeat of a Minister on a major issue represents a defeat for Council.
- iii. Every Minister must be prepared to support all Council of Ministers' decisions both inside and outside the States.
- iv. Collective responsibility does not apply to a Minister's responsibility for his personal mistakes.
- v. Any major shift of policy proposed by a Minister must be cleared by the Council of Ministers before it is announced.

#### *Exceptions*

There are circumstances under which Ministers have freedom to speak publicly against policies and decisions of the Council of Ministers -

**Matters of conscience.** There will inevitably be issues where Ministers will be guided by a fundamental religious or moral belief (rather than political ideology).

**A declared position.** A Minister joining the Council of Ministers may have a previously declared position on a particular subject. It would be unrealistic to expect them to change their position for the sake of the Council's solidarity. Equally, it would be unacceptable for the Minister to "crusade" in support of that declared position in the knowledge that the Council of Ministers does not share their view.

**Constituency matters.** Issues may arise where there is a strong and specific constituency interest which conflicts with a Council decision. In these circumstances, a Minister from that constituency must have the right to represent that interest if s/he so wishes. Where this is so, the Minister must first make clear their position to the Council of Ministers.

**Inconsequential matters.** Collective responsibility applies to Council policies and decisions. Where small matters of detail arise, where there can be room for disagreement without those policies or decisions being called into question, Ministers will have the freedom to express themselves.

**Unresolved issues.** Issues will be raised from time to time which the Council of Ministers has not considered or on which the Council has not taken a decision. Until a Council position is established, Ministers will be free to express themselves. However, if the matter is likely to be discussed by the Council Ministers should consider refraining from comment until after the relevant Council meeting.

**Collective exemption.** The Council of Ministers may agree to waive the requirement for collective responsibility on any particular matter. However, a personal or political dislike of a Council of Ministers' decision is not, in itself, sufficient justification for an application to suspend collective responsibility.

#### *Conduct in dissent*

Where a Minister exercises their right to a free vote, or to speak publicly against a policy or decision of the Council of Ministers, in accordance with one of the recognised exemptions, they must express themselves towards other Ministers in a responsible way. Even in disagreement, courtesy and respect are due to ministerial colleagues.

#### *Chief Minister*

These procedural guidelines apply to the Chief Minister in the same way as to other Ministers.

#### *Assistant Ministers*

Assistant Ministers are bound by the convention of collective responsibility in respect of decisions taken within in their department, even if they have not been involved in taking the decision.

In respect of decisions taken by other departments, or by the Council of Ministers itself, with which they have had no involvement, collective responsibility will not apply. However, Assistant Ministers are expected to observe the guidelines on courtesy towards other Ministers and Assistant Ministers outlined above.

### **Legal proceedings involving Ministers**

Ministers occasionally become engaged in legal proceedings in their personal capacities but in circumstances which may have implications for them in their official positions. Defamation is an example of an area where proceedings will invariably raise issues for the Minister's official position. In all such cases they should consult the Attorney General so that he may express a view on the handling of the case so far as the public interest is concerned.

### **Policy pronouncements**

Ministers must take care not to infringe the rules of the States Assembly when publicity is being arranged for new policies or consultation papers.

When making speeches or being interviewed by the media, Ministers cannot speak on public affairs for themselves alone. They speak as Ministers, and the principle of collective responsibility applies. They should ensure that their statements are consistent with the policies of the Council of Ministers and should not anticipate decisions not yet made public.

Ministers should exercise special care when referring to subjects which are the responsibility of other Ministers. Any Ministers who intends to make a speech which deals with, or makes observations which bear upon, matters which fall within another Minister's responsibilities should consult that Minister.

### **Gifts and hospitality**

A minister should not accept gifts (including services or hospitality) from anyone so that he or she would appear to be placed under an obligation. The principle applies also in respect of gifts, etc., offered to a member of a Minister's family.

In the event of any doubt regarding the receipt of a gift, a Minister may seek guidance from the Chief Minister.

Tokens, mementos of official occasions, visits or conferences are not to be regarded as gifts unless they exceed an apparent value of £100.

A gift may be offered to the Department or to a Minister. A gift to a department may be more easily accepted, particularly if it is an object which can be placed on display within the Department.

A gift to a Minister to be retained personally should only be accepted where to refuse would be discourteous. Where a gift is accepted, the following rules apply -

- i. Gifts with an apparent value up to £100 may be retained by the recipient;
- ii. Gifts of a higher value should be passed to the Department.

There may be occasions on which a minister/department wishes to retain an object which is being offered (i.e. with a value in excess of £100) but does not wish to accept it as a gift. In these circumstances, one option might be to offer to pay for the object.

Travel within the Island and hospitality provided within normal bounds, which is infrequent or reciprocated, cause no difficulty (e.g. attendance as a guest at a formal dinner).

Travel and hospitality, including accommodation, provided outside the Island cause no difficulty if the Minister is fulfilling an engagement at the request of the donor, which is of promotional or other sufficient value to the Island.

In order to pre-empt any accusations of profligacy, it is recommended that travel by a minister or assistant minister to a destination outside the United Kingdom should be a matter for prior discussion with the Chief Minister.

### **Access and retention of documents**

Ministers should be able to have access to the information that they require to enable them to carry out their duties, and there should therefore be a presumption in favour of ministers having access to information for these purposes.

Ministers, officials and chairs of agencies reporting to departments leaving office should be requested to return all remaining official papers.

### **Monitoring and review**

The Committee considers that the 'Guidance and Procedure for Ministers' will provide a comprehensive framework for ministers and assistant ministers in carrying out their work. It is acknowledged, nonetheless, that the Council of Ministers may in the future decide that it wishes to review the 'Guidance and Procedure' in the light of changing circumstances. In this event, the Council would prepare revisions to the document and submit these revisions to the States for approval.