# STATES OF JERSEY

# RESEARCH PROJECT: HOW MIGHT THE STANDING ORDERS OF THE STATES OF JERSEY RESPOND TO THE FORMATION OF POLITICAL PARTIES?

**Presented to the States on 25th October 2021**
**by the Privileges and Procedures Committee**

**STATES GREFFE**

## REPORT

In January 2021 the States Assembly adopted P.166/2020 'Amendment of the Standing Orders of the States of Jersey to Provide for Political Parties' which required the Privileges and Procedures Committee (PPC) to investigate the formation of political parties and bring forward any necessary amendments to Standing Orders:

> *that the Standing Orders of the States of Jersey should be amended to take into account that members of the States Assembly may choose to organise themselves within political parties, and to request the Privileges and Procedures Committee to investigate and bring forward the necessary amendments that are appropriate to facilitate this by the end of 2021.*

In February 2021, PPC agreed to seek expressions of interest for a research project on how the Assembly's Standing Orders might need to adapt to reflect the development of party politics. Details of the project were sent to the UK Study of Parliament Group, which comprises over 400 parliamentary officials and academics. In response, the Committee received five proposals in total.

The Committee commissioned Dr Caroline Morris, Queen Mary University of London, Dr Matthew Bishop, University of Sheffield and Professor Jack Corbett, University of Southampton, from the Centre for Small States, who worked in collaboration with Paul Evans CBE to undertake the research project.

PPC asked the researchers to consider the following questions:

1. How the rules and practical arrangements in legislatures in small jurisdictions which have party politics take account of parties, if possible (and where applicable), identifying what steps were taken to change rules when party politics developed; and

2. How Jersey's rules might be adapted to deal with the possible development of party politics, taking account of the list set out above but including any other factors (including new rules or arrangements it may be desirable to introduce) which the author wishes to propose.

Their final report was presented to PPC in October 2021 at a cost of £16,140. The report is published with this document as an Appendix. The Committee records its thanks to the authors for undertaking a thorough piece of research and for producing a final report.

PPC intends to establish a Sub-Committee in order to consider the report in more detail and determine what areas to prioritise for implementation. The Committee welcomes expressions of interest from any Members who may wish to join a Sub-Committee in order to take the proposals forward.

**APPENDIX**

# How might the Standing Orders of the States of Jersey respond to the formation of political parties?

## A report to the Privileges and Procedures Committee of the States Assembly, Jersey

**by**

Dr Caroline Morris, Queen Mary University of London
Dr Matthew Bishop, University of Sheffield
Professor Jack Corbett, University of Southampton
and
Paul Evans CBE, University College London.

October 2021

Centre for Small States

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**Terms of Reference**

With the rise of political parties in the Jersey States, the Privileges and Procedures Committee of the States of Jersey has commissioned a report to address:

- How the rules and practical arrangements in legislatures in small jurisdictions which have party politics take account of parties, if possible (and where applicable) identifying what steps were taken to change rules when party politics developed; and
- How Jersey's rules might be adapted to deal with the possible development of party politics, taking account of the list set out above but including any other factors (including new rules or arrangements it may be desirable to introduce) which the author wishes to propose.

The terms of reference note a number of Standing Orders that may be affected by the existence of parties and thus require amendment. These were:

- 5 (Members may requisition additional meeting) – how should the rules be changed to prevent a party/grouping with seven or more Members from having the power to requisition additional meetings as they see fit?
- 13 (Submission of question to be answered orally) – are rules required to moderate the number of questions a party's members may ask during oral question time?
- 19 (Who can lodge a proposition) – should it be possible for propositions to be lodged in the name of a party? (Standing Order 68A also relevant)
- 21A to 23 (additional requirements for certain types of proposition) - how should the rules be changed to prevent a party/grouping with more than the requisite number of Members in these Standing Orders from having the power to lodge these types of propositions as they see fit?
- 35 (who may present a report or comment) – should parties be enabled to present comments?
- 64 (Questions without notice to be answered by Ministers) - should the leaders of parties not in government have special rights to ask questions of the Chief Minister during Questions Without Notice?
- 85 (Proposal to move to next item) – how should the rules be changed to prevent a party/grouping with 20 or more Members from being able to secure a 'move to next business' whenever they see fit.
- 116 (Chief Minister: selection process) – should the rules provide for a certain number of questions to the candidates for the role of Chief Minister to be reserved for members of parties/groupings other than the party/grouping to which the Chief Minister belongs? (The same issue may come up in respect of other appointments)
- 119 (Chair of the PAC: appointment process): should the rules require that the Public Accounts Committee be chaired by someone who is not a member of the same party/grouping as the Chief Minister, or any minister? (Should the same principle apply in Standing Order 121 – Scrutiny Liaison Committee?)
- 120 (Chair of a scrutiny panel: appointment process): should the rules require that a scrutiny panel cannot be chaired by someone who is in the same party as one of the ministers the panel oversees?

- 122, 123, 125, 126, 127 (committees and panels): should there be a requirement for party balance on panels and committees?

We also note that new, additional Standing Orders may be required in order to respond effectively to the re-emergence of parties in Jersey politics.

**Author biographies**

*Dr Caroline Morris, Queen Mary University of London*

Dr Morris has a particular interest in parliamentary law and the law relating to political parties. She is the founder and Director of the Centre for Small States. She has previously provided advice to the States of Alderney as part of the Alderney Governance Review, and to Sark Chief Pleas on the constitutional status of Sark. Beyond the Channel Islands, she has advised a number of bodies on constitutional matters, including the UK Electoral Commission, the Law Commission of England and Wales, HM Treasury, the Cabinet Office, the Centre for Justice, Bermuda, the Seychelles Court of Appeal, and the New Zealand House of Representatives. Her publications include the books *Parliamentary Elections, Representation and the Law* (2012) and *Small States in a Legal World* (2017) co-edited with Petra Butler.

*Professor Jack Corbett, University of Southampton*

Professor Corbett's research primarily focuses the democratic politics of small island states and territories. He is also presently co-leading a major programme of research with Matt Bishop (below) and the Overseas Development Institute (ODI) in London examining the opportunities for long-term development in Small Island Developing States (SIDS) in an era of accelerating climate change, which will include, in 2022, the establishment of a thinktank called the Resilient Islands Initiative housed at ODI. Previous books include *International Organisations and Small States* (2021) with Pat Weller and Yi-Chong Xu, *Democracy in Small States: Persisting Against All Odds* (2018) with Wouter Veenendaal and *Being Political: Leadership and Democracy in the Pacific Islands* (2015).

*Dr Matthew Bishop, University of Sheffield*

Dr Bishop's primary area of research interest is the political economy of development, with a particular focus on small states. He also works on issues of globalisation, global governance, trade policy and, increasingly, narcopolitics. He has advised the Department for International Development (DfID), the Commonwealth Secretariat, and the United Nations Economic Commission for Latin America and the Caribbean (ECLAC) on small states issues, as well as Caribbean governments. His books include *Democratization* (2014) with Jean Grugel, *The Political Economy of Caribbean Development* (2013), *Post-Colonial Trajectories in the Caribbean: The Three Guianas* (2016) co-edited with Peter Clegg and Rosemarijn Hoefte and *Europe and the British Left* (forthcoming) with Owen Parker and Nicole Lindstrom.

*Paul Evans CBE*

Paul Evans joined the House of Commons service in 1981and retired in 2019 from the post of Clerk of Committees. He has published widely on parliamentary matters. He is an Honorary Senior Research Associate of the Constitution Unit at UCL, a visiting professor in the Department of Political Economy at King's College London, a visiting professor at the College of Social Sciences at the University of Lincoln, an Associate Fellow of the Centre for British Politics and Public Life at Birkbeck and a Fellow of the Academy of Social Sciences. He was awarded CBE for services to Parliament in 2019.

## EXECUTIVE SUMMARY

The form and function of political parties and party systems in small jurisdictions — where they are present — is incredibly diverse. Some have long-entrenched two party systems characterised by Westminster-style executive dominance while others experience a constantly shifting set of fluid and fragmented alliances resulting in frequent changes of government. Somewhere between these two poles stands Jersey. Three political parties are now represented in a States formerly composed entirely of independent members. Proposed electoral reforms may bring further change to how Jersey is governed, its government held accountable, and its laws are made.

Against this backdrop, we consider how Jersey might respond to these changes through the medium of the Standing Orders. We outline the key characteristics of parties and politics in small jurisdictions, and identify the key pressures on the States created by the recent emergence of parties. Drawing on carefully selected comparator examples , we consider potential changes that might be made to the Standing Orders. We divide these into five broad categories. These are:

- Provisions relating to the wider definition of "party" and recognition of political parties as entities in the Standing Orders. At present the Standing Orders are silent on these matters.

- Provisions relating to the appointment of the Chief Minister and other Ministers (government formation). We suggest possible amendments to the existing standing orders which might be appropriate if party organisation in the States becomes the norm.

- Suggestions for amendments which could be devised to achieve a degree of proportionality in the allocation to different parties or groups of the chairs and other members of committees and scrutiny panels.

- Suggestions for amendments to the existing Standing Orders relating to such matters as the powers of initiative in the States' proceedings (agenda control), speaking rights and priority in asking questions which might be needed to accommodate an increase in the presence of organised parties or groups within the States.

- Reflections on other issues relating to the rules of procedure in the States which do not in our view require any immediate changes to be made in response to the potential development of political parties but which may become issues in the future.

We acknowledge that the States could choose not to make any explicit rule changes to recognise the growth of parties, and instead allow conventions to develop in an evolutionary way. Or it could adopt a "soft law" approach, based in developing precedent, in which such conventions are recorded and expected to be respected but do not have the status of enforceable law. Such approaches

have advantages in terms of flexibility. They have disadvantages in terms of lack of certainty.

Our reading of the culture of the States is that there is an institutional preference for setting things down in black and white. While we are not seeking to be prescriptive, we have therefore adopted an approach of setting out a series of rule changes recognising the existence and status of political parties in the system which could be adopted by the States. These are based on international best practice in broadly comparable polities. This approach also aligns with our terms of reference.

However, we are not putting our proposals forward as a take-it-or-leave-it package. For all the proposals we have made there are alternative approaches to be found in international examples. And it is not essential that all the issues we have identified are solved at once.

All our recommendations are informed by the aim of maintaining a broad consensus within the States about the application of the rules, and ensuring so far as possible equality of esteem as between legally-registered parties, other party groups, more informal coalitions and independents.

**We begin by recommending a definition by which parties might recognised in the Standing Orders. We propose that rather than using "party" as the technical term in the Standing Orders the expression "political group" is adopted.** This allows for flexibility in the application of the rules while allowing parties to self-identify as such, even if they do not meet the criteria for recognition, without confusing the issue. The key decision to be made here is about the minimum number of elected members which would be required for recognition in the rules.

This recognition mechanism is probably an essential first step to making the subsequent proposals workable.

We then make our recommendations for changes to the Standing Orders of the States under the categories set out above, using the concept of political groups as a potential organising principle.

In the section on agenda control we consider the idea of the establishment of some kind of parliamentary bureau for the States. Bureaux (sometimes called business committees) are a very common feature of many parliaments and assemblies. Generally, they consist of party representatives and backbenchers, usually under the chairmanship of the presiding officer, and have the principal task of agreeing the forthcoming agenda of the body and presenting it to the plenary body for adoption. **We recommend the Committee should give active consideration to the creation of some form of Bureau or Business Committee within the States.**

In addition to facilitating the day-to-day management of the plenary agenda, we believe a bureau could be an effective means of managing, more widely and consensually, the development of greater party organisation within the States as it evolves. A key task that it could take on in addition to agenda negotiations is bringing forward nominations for committee and panel positions in a way which reflects the party composition of the States as a whole – a task sometimes

undertaken elsewhere by a "Committee of Selection" but also often combined with the more mainstream bureau functions.

We consider then that the establishment of a bureau-style body in the States could be the elegant solution to managing the potential tensions which may arise if parties begin to displace the dominance of independents in its membership, or even if they simply have to seek a way of co-existing. It would also offer a means of enabling the executive to have some guarantee that its business would at least be brought forward in a timely way for decision in the plenary, while ensuring that other voices were heard and alternative agenda given their chance to be tested in a vote. An effective bureau could also provide a degree of protection of the independent status of the presiding officer and Greffier.

We have not put forward any precise text for Standing Orders relating to the creation of a bureau. There would need to be some clear decisions of principle about its formation, its powers and responsibilities and its accountability to the plenary before we could do so. It would undoubtedly be a complex task, but there are many examples from elsewhere of successfully operating bureaux to draw upon.

In our final section we consider whether the development of parties and the growth of executive government in Jersey may require that the States protect their procedures against executive capture and excessive executive agenda control. Entrenching procedural rules in a system without a written constitution or protected statutory basis is a challenge, but it is a question which we believe the Committee should consider. Again, we do not offer any precise wording for a standing order – if the Committee wished to develop some form of entrenchment there would be many decisions of principle to be taken before drafting instructions could be formulated and consequential changes worked through.

However, as we warn in our opening survey, no procedural safeguards are likely long to survive contact with a culture where those with power fail to exercise self-restraint, where respect is not accorded to alternative and minority views, where partisanship always trumps consensus, or where the key actors have lost sight of the essential truth that democracy is about enabling the peaceful transfer of power from one group to another in accordance with the views of the electorate. The States collectively, and elected members individually, along with the wider civil society of Jersey, must bear responsibility for exercising the vigilance required to ensure the political culture remains open, tolerant and fair.

If the Committee decides to go down the path of reform broadly along the lines we have suggested, the timing of changes may require careful judgement. Selected reforms and amendments are also possible, depending on the Committee's views and priorities. We would see advantages to securing a package of reforms in the near term which were suspended and took effect immediately upon the election of a new States in 2022.

# I INTRODUCTION

## A Small jurisdictions and parties: selections and key points

Political parties are generally considered essential for a functioning democracy. And yet, many of the world's smallest jurisdictions have operated highly successful democracies without parties. Jersey is a very good example of this phenomenon. However, politics is never static. As parties arise and become participants in the States, the current Standing Orders, designed for a system without parties, may become unfit for purpose, or at the very least unwieldy or awkward to operate in a mixed system where party members and Independents both coexist in substantial numbers.

### 1 Selected case studies

To assist the States of Jersey to consider how they might meet the procedural challenge of the rise of party politics we drew on analogous real-world examples of similar jurisdictions to provide lessons that can be adapted to the unique context of Jersey. Our starting point was the members of the Small Branches section of the Commonwealth Parliamentary Association which covers national and sub-national legislatures (e.g. the legislatures of overseas territories, Crown Dependencies, and states or provinces). Background information on the main jurisdictions drawn on can be found in Appendix I.

Over twenty small jurisdictions were examined. They included: the British Overseas Territories of Anguilla, Bermuda, the Cayman Islands and the Turks and Caicos Islands; the independent Caribbean states of Antigua and Barbuda, Barbados, Grenada and St Lucia; the New Zealand-administered territory of Tokelau; the Cook Islands and Niue, states in free association with New Zealand; and the independent Pacific states of Fiji, Kiribati, the Marshall Islands, Nauru, Samoa, the Solomon Islands, Tonga and Vanuatu.

We also examined Jersey's fellow Crown Dependencies. Alderney and Sark were discounted given the remote likelihood of parties developing in those jurisdictions. Of the larger Crown Dependencies, Guernsey has recently revised and reissued (as of July 2021) the Standing Orders for the States of Deliberation. Aside from some small indications of the different types of members under the present system, there is no recognition of parties or other policy groupings. Similarly, the Isle of Man has very recently revised and reissued (as of Sept 2021) the Standing Orders for the House of Keys (the lower House of the Tynwald, the Upper House being the Legislative Council). These Standing Orders are also silent on the issue of parties—not only is there no mention of them, there is also no mention of a 'government' or those in 'opposition'. Both comparator Crown Dependencies' Standing Orders are very much premised on an all-independent chamber with fluid alliances.

Finally, although they fall outside the category of small jurisdictions, we also drew guidance from across the Channel to the legislatures of the UK (Westminster, Holyrood, and the Senedd) and the Dáil Éireann. We also looked to New Zealand, a relatively small legislature in global terms (120 members) which experienced a transition from a two-party parliament to a multi-party parliament following the introduction of the Mixed Member Proportional electoral system.

## 2 Key points and principles

Two clear models of party development in small jurisdictions were reflected in the Standing Orders that we examined. In the Caribbean, where a strong and highly institutionalised two-party system exists, the Standing Orders essentially take the existence of parties for granted. Detailed provision is made for the roles of the governing and opposition parties with regard to the composition of committees, speaking rights and the conduct of parliamentary business. In the Pacific, where party systems are less established or highly unstable and fragmented—in many cases, they do not even exist at all—more attention is paid to determining who would be eligible to govern or to serve as the 'opposition' along with how to recognise parties or party-like groupings.

Our investigations also revealed that Jersey's proactive and systematic approach of reviewing the Standing Orders in light of the emergence of political parties—but before a party system has developed—is unusual, probably unique, and unquestionably sensible. Where there has been reform in the small jurisdictions of the Caribbean and the Pacific, it has been retrospective and remedial, often following the development of unique—and, in certain respects, problematic—political cultures and ways of doing things which necessitate change from the procedures inherited from Westminster (and, especially, those which are unsuited to small polities).

The combination of these two factors meant that it was difficult to locate and present to the Committee a set of straightforward 'off-the-shelf' Standing Order reforms which could be a complete model for Jersey or could be directly linked to the emergence of parties or to pinpoint which reforms responded to any particular political development or period of time.

Faced with this constraint, we developed a series of key questions to guide our assessment of other jurisdictions' Standing Orders. These are set out below and elaborated further in Part III of the report:

1. How can the party system be connected to good governance objectives?

2. How will parties be recognised and accommodated?

3. How might the interests of parties and Independents be balanced?

4. How will the executive be chosen and how will it exercise authority?

5. How will institutional checks and balances ensure good democratic practice?

6. How will more informal norms and cultures ensure good democratic practice?

We also adopted two key principles to inform this report. The first is a recognition of the past, current, and possible future state of Jersey politics. The island's distinctive political history demonstrates that parties have been an intermittent feature of political life but have not achieved permanent status. At present, three parties, of varying size, are present in the States, but the majority of members are still not affiliated to one, and may never become so. This may

change with forthcoming reforms to the electoral system and the elections in 2022. Nonetheless, the development of parties and party systems is, by definition, an ongoing process: in light of the diverse experiences of other small polities, Jersey could ultimately settle anywhere between a highly institutionalised two-party system, a fragmented one, or even see independentism reasserts itself. All bring with them different consequences and trade-offs. Keeping this front of mind, we have sought to reflect and accommodate the changing balance between party members and independent members in the States as a 'live' issue that will likely be in flux for some time. Linked to this awareness of Jersey politics, then, our second principle is flexibility. The suggestions for reform that follow take a number of forms: from general recognition of the existence of parties to detailed rules. We consider that the States should be able to implement changes at whichever level of formality and specificity they consider is appropriate for Jersey.

## B Structure of this report

In Part II we provide a brief introduction to settled opinion on parties: what they are, what they are for, and how they come into being, and how they fare in small jurisdictions. In Part III we examine Jersey's particular context and pose some key questions about the role of political parties in Jersey political life. Part IV considers: first, the introduction of new Standing Orders to define and provide for the recognition of parties; second, potential changes to the most significant States' Standing Orders listed in the specification; third, in the case of less significant matters other possible changes or additions to the Standing Orders which we have identified as potentially desirable or necessary; and finally, other matters relating to the rules and conventions relating to parties which the Committee may wish to take into consideration. Part V concludes the report.

## II THE PARTY AND THE SMALL JURISDICTION

Political parties are synonymous with modern representative democracy in large states. Indeed, despite there being, in theory, many kinds of democracy—direct, participatory, communitarian—it is difficult to think of a large liberal democracy as consisting of anything other than parties competing electorally for the votes of citizens.[1] Much commentary—both academic and more popular—surrounding the subject focuses on *the* party, including who leads it and what it stands for. Likewise, discussion of the challenges and problems that democracies face are often framed, explicitly or implicitly, in terms of the strengths and weaknesses of different parties and the systems underpinning them. For example, polarisation in the US reflects intense competition between two entrenched parties. By contrast, inertia in some Western European countries is often blamed on fragmented, multi-party systems. This reveals the first and most obvious point that there is great variation in the purpose and performance of party systems around the world: while party system development may lead to better alignment between MPs, voters and their interests, parties can also be captured by predatory vested interests and dominant elites to the detriment of good governance.

Jersey stands outside this orthodox understanding, and at the same time, it finds itself at a point of transition and reflection. Having successfully existed for decades as a democracy without a developed party system, the past year has seen the creation of multiple parties. This is a situation which needs attention, not least because forthcoming electoral reforms may create opportunities for the further development and entrenchment of a party system. How that evolves, and whether it nurtures productive democratic practice, good governance and strong parties, depends at least in part on choices about how to structure institutions made before those processes intensify.

In this section, we outline the typical understandings of what a political party is, why they arise, and the implications for small jurisdictions for multi-party democracy. The aim is to identify common problems with the operation of parties in small jurisdictions as to orient the subsequent sections in which we propose possible solutions.

### A What is a Party?

Political parties are typically defined in the academic literature as organisations whose members hold similar views about how power should be exercised. This highlights three dimensions of the ideal party and its role in a liberal democracy: (1) programmatic; (2) bureaucratic; and (3) electoral. By pursuing a specific suite of policies, parties are supposed to fulfil a key representative function by focusing debate on key issues (programmatic). By operating as organisations, they enable collective decision making and mobilise candidates for elections (bureaucratic). And by seeking to win office, they ensure that competition for power occurs (electoral). A core assumption is that democracy is unworkable without parties and the three ideal functions that they provide.

Jersey currently has limited recognition of parties. As the brief for this report stated:

> Political parties are entities registered in the Royal Court under the Political Parties (Registration) (Jersey) Law 2008. The principal benefit of registration is it enables a party name to be included on a ballot paper. Political parties are not currently recognised in the Standing Orders of the States Assembly and nor is there a mechanism for a party (or any looser form of political grouping) to inform the States Greffe of which Assembly Members are members of that party or grouping.

At a more pragmatic level, parties are recognised in legislatures simply as a group of elected Members who have chosen to make a common cause and created some kind of machinery—in other words a 'leader' elected from amongst their members and perhaps other 'officers' such as whips and so forth. The choice of leadership may lie exclusively with the other elected Members of the legislature who are recognised as members of the 'party' or may rely on the national organisation which supports those elected Members. However, not all parties are associated with a national organisation, and some are entirely intra-legislature entities.

There are also many intermediate forms of groupings of elected Members, such as caucuses (sometimes being parties within parties), 'groups', more or less informal alliances and so forth. And there are many 'parties' which are not represented within the relevant legislature, even though they put forward candidates for election to it. We do not assume that 'a' party within the meaning of the rules of the States must necessarily be one that is registered and whose members were candidates at the preceding election. For the purposes of this report, we do not make any definite and exclusive definition of 'party'—not least since this is a job *for* the States Members themselves—but take it to mean a group *of* elected Members within the States who have chosen to describe themselves as such, whether or not they stood on a party ticket for election. Again, this reflects the broader argument that the development of both parties and party systems is a dynamic, ongoing process.

## B Why do Parties arise?

The common view in political science is that parties emerge—or party system development occurs—for three reasons that map onto the functions outlined above: (1) they reflect existing social cleavages (programmatic); (2) they are a way to overcome coordination challenges (bureaucratic); and (3) they are the outcome of electoral formulas (electoral). Of course, these different, competing, explanations are not—and cannot be—comprehensive: their salience reflects the cases under discussion, the historical time period in which party systems emerge, and the distinctive pressures that influenced their democratic development. Put another way, the advent of a party system in the US in the 18th Century and its subsequent functioning was quite different to that in Spain after Franco's dictatorship, South Africa after apartheid or perhaps Jersey in the 2020s.

- In the first explanation, parties coalesce around social cleavages (like class, but also potentially ethnicity, language or religion). The key idea is that like-minded citizens work together to achieve collective goals and the party is an instrument that serves that broader end. We might call this a demand side explanation because it assumes that citizens and their preferences create parties: in much of the West, parties initially served the interests of landed elites, before the rise of organised labour saw the

emergence of their socialist counterparts, the two reflecting the dominant cleavage in European industrial society during the 19th and 20th centuries.

- The second explanation is that parties solve a coordination problem whereby local groups and institutions struggle to influence national level policy on their own and thus parties arise as a means of harmonising dispersed groups of local actors. This view integrates a blend of demand and supply side factors because, while the interests of citizens create the party, once created the party also seeks out citizens with whom they might cooperate (and this helps to explain the uneasy alliance in many parties between different radical, liberal and conservative voices, as well as different geographical or sectoral interests).

- The third explanation is that electoral systems incentivise the formation of parties as a way for groups to consolidate power. Parties thus act like firms engaging in a process of competitive selection in which the stronger absorb the weaker (and, in so doing, create incentives for compliance and disincentives for those embodying marginalised positions within the party to defect). This is a supply side explanation, in that key political elites seek to shape the preferences of citizens in order to increase their chances of capturing the executive.

These three theories of party system development emphasise why parties are created. But, once established, there is clearly considerable variation in the way they work together. Political scientists refer to this variation as 'party system institutionalisation', a phrase that differentiates between polities where party systems are entrenched and predictable—i.e. the two party politics of the US or the relatively predictable multi-party systems apparent in some continental European nations—or where they are more fragmented and dynamic. The implicit assumption in much of this literature is that the former is more desirable than the latter. As we will discuss below in relation to the function of parties in small states, we are less convinced by this argument. Stable systems can lead to polarisation (the US again) and entrenched corruption or rent seeking. By contrast, weakly institutionalised systems can be more responsive to economic and social change. Normative preferences aside, the important point is that parties and the type of party system that arises in a given context have inherent advantages and disadvantages. The question for reformers is: what types of trade-offs do they wish to make to accommodate them?

The key caveat is that most of the above explanations have little relevance beyond large European and North American countries. As we will discuss further below, representative politics in small states occurs in distinctive ways: it tends to revolve around key individuals rather than policy programmes or ideological differences, and the electoral incentives facing politicians differ too.

## C Parties in small jurisdictions

A key reason why theories about parties in large states are less relevant for small ones is that a common feature of politics in small states and territories all over the world, regardless of culture, history, level of economic wealth or extent of party system institutionalisation, is that politics is highly personalised. There are six main ways in which hyper-personalisation shapes the practice of politics in small states:[2]

1. **Strong connections between individual leaders and constituents.** Rather than being mediated by party systems, in small states voters and politicians have considerable opportunities for direct, personal contact).[3] This tendency is amplified by the overlapping private and professional roles that politicians undertake.[4] Politicians are more than just legislators: they are family, friends, neighbours, business associates or colleagues.

2. **A limited private sphere.** Contemporary democratic politics in large states is characterised by a distinction between public and private, with the institutions that define the former regulating conduct in the latter. In small states, the private sphere is dramatically reduced while the public sphere is expanded beyond the narrow confines of formal institutions. The result is a remarkably transparent political system but also one in which clear lines of accountability are blurred and concern with corruption is magnified.

3. **The limited role of ideology and programmatic policy debate.** Leaders are largely elected because of who they are rather than what they stand for. As a result, political contestation focuses on the qualities and characteristics of individual politicians rather than party manifestos.[5]

4. **Strong political polarisation**. The absence of ideological difference should theoretically breed consensus but in fact, small state politics is often characterised by extreme polarisation (and, at worst, unstable party coalitions and fragmentation). Political competition between personalities is often fiercely antagonistic precisely because they have few ideological differences, meaning politicians have to focus on personal disagreements to differentiate themselves.[6]

5. **The ubiquity of patronage.** In small states, nobody is faceless. Relatives and friends stick together in more visible and unavoidable ways. This leads to political dynasties and various other types of collusion. It also means that politicians in small states typically experience considerable pressure from constituents, who are often the same relatives and friends, to personally provide material largesse. Failure to do so can lead to electoral defeat. Patronage in the public sector is also common in small states, and public sector appointments are often made on the basis of political loyalties rather than merit.[7]

6. **The capacity to dominate all aspects of public life.** An expanded public sphere and the absence of specialist roles create opportunities for individuals to dominate politics in a manner that is virtually impossible in large states. Pluralism is uncomfortable and dissent is often stifled while dependent constituents can be easily bought off.[8]

## D Hyper-fragmentation and executive domination

Parties, then, emerge in small states in ways that are quite distinctive when compared to larger states. Cleavages around ethnicity, language or religion are apparent in small states, as are those related to independence or secession (the latter increasingly common in multi-island territories). However, a dominant left-right ideological spectrum is rarely apparent. Parties thus usually arise to assist prominent leaders in capturing and consolidating their power (the third

explanation above). The exceptions are some small states in the Eastern Caribbean where trade unions have fulfilled strong organisational and coordination functions. But this system arose out of a particular set of circumstances—i.e. a legacy of plantation slavery and labour agitation that begat strong trade union movements which emerged specifically in the early 20th Century—that are unlikely to be replicated elsewhere.[9]

The fact that the formation of parties in small states is typically driven by elites (the supply-side) can help to explain the way these systems operate. Two seemingly contradictory patterns are apparent—executive domination and hyper-fragmentation. Executive domination is most commonly associated with the strong two-party systems of the Caribbean and countries like Malta. In these polities, there is a strong 'winner takes all' culture associated with Westminster-style politics in which well-established parties compete for office and, once elected, seek to all but excise the opposition from public life, with key jobs and government contracts distributed among party supporters.[10] This effective disenfranchisement is exacerbated by first-past-the-post elections grafted onto tiny polities with few constituencies: these regularly return the same party, sometimes with landslide (or even absolute) majorities, on narrow majorities, or even minorities, in terms of vote share, dramatically amplifying the 'elective dictatorship' which essentially excludes half of the population from political life (or access to resources) for sustained periods of time. These governments tend to be long-serving, but, when alternation of power occurs, the other party acts in much the same way, further reinforcing those malign logics. The result is a highly polarised society defined by tribal political support rather than ideological or class cleavages. At the elite level, this is reflected in rent seeking on the part of vested commercial interests connected to each party, with clientelism—i.e. an especially personalised version of the 'pork barrel'—its everyday manifestation at the constituency level.[11]

Executive domination of this type is also apparent in countries without strong two-party systems. In these cases, long serving leaders dominate all aspects of political and social life due to their personal popularity. That is not to say that the above two-party systems are not also defined by key leaders—they are frequently associated with powerful family dynasties that effectively control party machines—but rather to highlight that this type of domination can occur regardless of how institutionalised party systems are. In the Caribbean, Prime Ministers (PMs) regularly serve multiple terms spanning decades: St Vincent and the Grenadines, for example, has had ten elections since independence in 1979, but just four PMs, two of whom won nine of those elections and have held office for 36 of those 42 years. This is an extreme example, albeit from a familiar pattern. Similarly, many of the leaders who led Pacific countries to independence, for example, were long-serving despite *the absence* of strongly institutionalised parties supporting their candidature. In more recent years, these leaders have been less common, but when they do arise, they stay in power by using similar strategies, including the distribution of patronage to reward and punish supporters. In the absence of term-limits, these leaders can also stay in office for decades.

While highly personalised systems can lead to executive domination, they also have a tendency to precipitate hyper-fragmentation. Indeed, many Pacific countries go from a period of entrenched dominance by a single leader to a period in which prime ministers come and go with incredible regularity. The reason is

that, without strong political parties or dominant leaders (or both), governing coalitions are temporary and unstable because they have no programmatic or bureaucratic basis. This is exacerbated by the small size of parliaments which means that votes of no-confidence can be triggered by one or two MPs switching allegiance, thus trumping any electoral incentives. The upshot is that governments spend much of their energy placating disgruntled MPs by dispensing electoral pork or ministerial posts (or both) in order to maintain their tenuous grasp on power.

Neither of these scenarios is especially attractive, which is why there is often a strong desire in small states for the development of parties that fulfil the classic functions (programmatic, bureaucratic and electoral). The problem is that there are virtually no examples where this has occurred. The idealised class-based parties of large North American and European states arose in a particular set of economic and geographic circumstances that small states, regardless of wealth, social and cultural diversity, or history, struggle to replicate. This has strengths and weaknesses—the problems of hyper-personalisation are offset by advantages, including the strong connection between politicians and citizens and the natural level of transparency that arises from increased social intimacy. Indeed, we might argue that the type of personalisation in large states, of which Trump is an exemplar, have all the weaknesses of this type of government with none of the advantages.

The more salient point for Jersey is that, if political parties are likely to become a feature of electoral and parliamentary politics, the Standing Orders need to account for the potential for this to exacerbate both the stability of executive domination *and* the instability of hyper-fragmentation. In the next section we identify some of the ‘pinch points’ at which these trends are likely to occur.

## III PINCH POINTS: WHAT DOES THIS MEAN FOR JERSEY?

Jersey is, in many respects, a unique polity, so it is difficult to find direct comparators that offer straightforward lessons. Here, we reflect briefly on this distinctiveness and contrast it with the general discussion of small state parties, to bridge the gap between theory and practice, and identify the sorts of trade-offs that Jersey's reformers might consider. These 'pinch points' represent the thorny tensions inherent in any party system, but especially so in a small territory.

### A Jersey's constitutional and political distinctiveness

The distinctive characteristics of the island's polity will influence how party system development unfolds. First, it has a notably high level of autonomy from the UK, because its political institutions developed specifically to pursue and maintain it.[12] Second, for a long time, both legislative and executive power were 'conflated' in the States,[13] and this has generated a sustained debate about the need for greater separation.[14] The new constitutional settlement in 2005 paved the way for ministerial government and planted the seeds of a party system,[15] but it did not take root immediately. Third, there are ongoing tensions related to the Parish system—and where it fits alongside party politics—due to its important role in the island's political heritage.[16]

Jersey's parliament is unique in both structure and size. Similarly sized island states tend to have unicameral parliaments with approximately 15-20 MPs per 100,000 people, or, occasionally, bicameral ones with additional appointed Senators (or their equivalent). Some, such as Kiribati in the Pacific (pop.110,000) have more MPs (45) in multi-member constituencies, but this is because it consists of 33 islands, of which 21 are inhabited. In most cases, these small parliaments reproduce many of the six characteristics described above, exacerbated by severe capacity constraints, especially when it comes to backbench oversight of legislation and executive scrutiny. However, Jersey has a sizeable and complex parliamentary structure for such a small territory: 49 States Members in total, comprising 8 whole-island Senators; the 12 Constables of each Parish; and the 29 Deputies (although, from the 2022 election, the Senators will be phased out and replaced by new Deputies).

The relative size of the States could be viewed as a democratic boon: the island does not have the same capacity constraints that usually bedevil small parliaments. Moreover, the fact that Islanders can vote for multiple representatives on a different basis—Deputies from the 9 Districts, and Constables from the 12 Parishes—implies that 'the individual Jersey voter has more parliamentary representatives to call on than in almost any other jurisdiction'.[17] As parties develop, the balance between the executive and parliament will necessarily alter, especially as control of the former becomes a party-political matter. This is likely to intensify by the time of the 2022 election once the Deputies constitute an even-greater number of the States membership.[18] One pinch point here is what then happens to the Parish system: will the Constables retain their historical role going forward? In contrast to Jersey, Guernsey's 2020 election—in which *all* 38 States Members were elected from an island-wide list—represents a distinctive way of moving towards party-political governance.[19]

The party system in Jersey is very different from both dominant patterns in small parliaments: the Caribbean's highly institutionalised two-party competition or the Pacific's highly fragmented mix of parties. A majority of its States Members are still independents, and they are likely to coexist with emergent parties, at least for some time (more similar to the Pacific). There is also no guarantee that a party system will develop fully: parties have always come and gone, from the Labour and Progressive Parties in the 1940s, to the Democratic Movement, Green Party and Centre Party through the 1990s and 2000s, and then those that have formed since. These precedents might mean that the development of parties in Jersey will see substantial co-existence with Independent members. How this is managed is critical. Institutional development might help: the fact that, since 2008, any party wishing to contest elections has had to be publicly registered may give structure to the system itself. Another question relates to the relationship between local parties and outposts of metropolitan ones—i.e. the Jersey Conservative Party and the Jersey Liberal Democrats Abroad.[20] A final, general, one pertains to how the States will introduce a party system that generates the democratic benefits associated with it, while avoiding the pitfalls that face small territories such as executive dominance, excessive personalisation, and political polarisation.

## B Questions and Considerations for Reformers

Parliaments have two key roles. In a party-based system of mass democracy they are a mechanism for constituting a government or executive and enabling it to deliver a programme through legislation, taxation and public spending. But they are also there to constrain the power of the executive and to present alternative ways of governing. this latter function reflects that there is an ever-present risk that they will descend into unbridled majoritarianism (the 'elective dictatorship') or disintegrate into incoherent factionalism, stymying coherent executive effectiveness. Standing Orders are a way of attempting to manage and control these risks: the question of who, individually or collectively, gets to determine the agenda, exercise initiative, speak (and how often and for how long), act, vote, and decide, can go a long way to determining the adherence to democratic customs and, hopefully, quality of governance.

However, of at least equal importance are the uncodified rules of the institution—its customs, understandings and conventions which collectively form what might be called its 'culture'. The written rules are sometimes designed to protect the rights of minorities in the legislature, but probably more often are designed to expedite the programme of majorities. As a general rule, the more majoritarian the culture, the more rules there are.[1] The two Houses at Westminster conveniently embody these contrasting approaches. The Commons has a mass of Standing Orders regulating almost every aspect of its proceedings. The Lords is largely self-regulating, relying on the compliance of its Members with understood conventions. Many of those conventions have been, however, collected and written down in its *Companion to the Standing Orders*, representing a kind of middle way between codification and reliance on unwritten practice and precedent. *Erskine May's Parliamentary Practice* serves a similar purpose for the Commons.[21]

[1] The House of Representatives in Washington is an example of an extreme outlier in majoritarianism, where the rules are rewritten by the majority at the start of each Congress to hand them ever-Increasing control over every aspect of its proceedings.

Although this report concentrates on lessons for Jersey from other small jurisdictions, the models offered by the two Houses in Westminster (and elsewhere in the UK and abroad) do provide some useful benchmarks for different approaches to the use of procedural rules as against reliance on custom and practice – though there is a mixture of both in both Houses.[2] In the Commons the Standing Orders have developed over the last 150 years or so to hand greater and greater control over its proceedings to the Government: in the Lords they have tended to evolve in response to a perceived need to protect the proceedings of the House from that control.

These two cultures are reflected as well in the roles of the two presiding officers. The Lord Speaker has few if any formal powers. The Speaker in the Commons has some of the most extensive powers of any presiding officer to control the direction and content of debate and to influence the agenda of the House. The degree of discretion afforded to the presiding officer over proceedings will therefore be a significant consideration in thinking about how to frame any Standing Orders relating to the recognition and procedural privileging of parties within the States.

How reformers in Jersey balance these tensions will be critical. On the one hand, the committee system of government pre-2005 and the lack of parties was seen as a major inhibitor of central policy coherence because 'the lack of differing political philosophies that would allow competing political groupings to aggregate interests').[22] But parties, of themselves, do not necessarily generate competing ideas: as we have seen, many small territories have vicious party politicking based on personality rather than policy. So, on the other, though, if development of a party system appears inevitable, then the more that can be done to shape local institutions to facilitate the democratic public goods that parties are assumed to provide, the more effective the system is likely to be at generating good governance. Recognition of the implications of size here is vital. So, how might the States seek to put its size and the characteristics of its existing political system to good use in designing a framework for the emergence of parties that works with the grain of them rather than against them, to accentuate their democratic positives rather than exacerbate their potential negatives? We outline here some questions that reformers might consider as this journey begins.

1. **How can the party system be connected to good governance?** Parties as they develop do not remain simply collections of like-minded souls: they come to perform vital legitimating functions in a representative democracy. Political scientists have classified these as 'input legitimacy' (that is ensuring popular participation in the policymaking process), 'output legitimacy' (that is shaping the quality of policy outcomes and their wider effects), and 'throughput legitimacy', (that is guaranteeing

[2] The reasons for the differences between the two cultures at Westminster are not hard to discern at a superficial level. The House of Lords, as a revising house, is clearly less powerful than the Commons. Ultimately, the stakes there are lower. Moreover, since 1999 the Government does not enjoy a natural majority there and does not rely on the confidence of the upper House. The tendency to partisanship is heavily dampened by the sense that, without electoral legitimacy, the Peers must seek moral legitimacy through deliberation rather than assertion. The third important factor is the presence of a large group of non-aligned Members—the so-called 'cross-benchers'. There is no reliable majority which can seize control of the rules to pursue its own ends. The rules there are further simplified by the exclusion of the Lords from decision-making powers over public finances.

the legitimacy of the processes come between inputs and outputs).[23] At every stage of the governing process, parties play crucial intermediary roles. But a key point is that they are likely to do this more successfully if they are anchored in an institutional environment that facilitates deliberation rather than entrenched partisanship.

2. **How will parties be recognised and accommodated?** Parties necessarily develop over time. In the earliest stages, they might comprise a small and loose grouping of factional adherents with a similar political outlook, but, as they grow and become more institutionalised, they take on the formal trappings of 'a' party with members, policies, agendas, electoral strategies, branding and so on. In some cases—notably in fragmented systems—a party can retain its form and fight elections long after meaningful political activity has declined. So, while parties embody both formal and substantive elements, neither, alone, is likely to be a good indicator of the extent of their activity, especially in a new system: Jersey might find some parties with prominent members and an extensive public profile may be limited in their actual political functioning and even decline rapidly; others might fly under the radar while developing advanced strategic objectives and deep roots into society. Therefore, reformers should consider seriously how to determine what does and does not constitute 'a' party inside and outside parliament, strengthening the rules governing individual and collective notification, and the privileges afforded to parties within parliament once they have taken their seats.

3. **How might the interests of parties and Independents be balanced?** Parties in Jersey are unlikely to supersede independent members of the States overnight. Indeed, they may never do so, especially since the island has three (soon to be two) separate groups of members who are not elected on the same basis or on clear constituency-based lines (and therefore parties might not be able to generate the same disciplining effects that they can elsewhere). However, as parties become more deeply embedded within the polity, the very fact of their existence influences the behaviour of others —including their propensity to join parties and propel the further development of the system—by changing the distribution of power within parliament and, to some extent, outside in the wider political sphere. Reformers should carefully consider the implications of this and how the interests of both parties and remaining independents should be balanced, both in terms of their input into legislative matters and their role in the executive (especially in terms of party-aligned ministers having the right to pre-empt legislation). Central to this is considering how to avoid dictatorships of the majority (or even minority) and to mitigate the effects of 'winner takes all' politics.

4. **How will the executive be chosen and how will it exercise authority?** At present, the States elect the Chief Minister and Council of Ministers, and the former has to accept the Assembly's decision on the latter even if they were not his or her preferred candidates.[24] However, the introduction of parties will introduce new incentives—and conflicts—around how these positions are filled and continue to do so as parties rise (and decline) to become more (or less) powerful, and it will encourage governing parties to accrue more power. Dominant ones might be able to

achieve their preferred ministerial appointments, but weaker ones might not, undermining the broader rationale of party politics and, potentially, leading to fragmentation. Further questions abound regarding: the extent to which party members and independents can serve together as Ministers when nobody has an overall majority or even a sufficient minority share of seats, and what this means for collective responsibility; the marginalisation of independents (and their expertise) from government if parties become large enough to win majorities or significant minority shares of seats; the implications of polarisation between one or two large parties and the remaining independents; and the effects, in terms of legitimacy, of independent/party splits forming between Constables and Deputies.

5. **How will institutional checks and balances ensure good democratic practice?** Tensions are likely to emerge where sizeable parties or coalitions of independents seek to dominate parliamentary processes and control the agenda. This is especially so if the norms underpinning Jersey's existing consensual form of politics give way, and those different groups each have strong—but unresolved—claims to greater legitimacy. For example, a large party may fall short of the seats necessary to take office but argue that its manifesto enjoys greater popular support than those of independents elected on the basis of their personal appeal, even though the latter base their legitimacy on their explicitly non-ideological posture.[25] The States could conceivably become a site of polarised, politicised infighting rather than policy debate. How reformers choose to balance these tensions is crucial. They might consider giving serious consideration to: how 'government' and 'opposition' are conceived; who chairs committees (as well as scrutiny panels and review panels) and on what basis, particularly powerful ones such as the public accounts committee; pre-emptive rights for opposition day motions; and so on. These institutional checks and balances can go a long way to ensuring the effective democratic operation of parliament.

6. **How will more informal norms and cultures ensure good democratic practice?** Jersey has a distinctive political culture which developed in the absence of political parties, and therefore has no history of oppositional party politics. Moreover, all political systems with a Westminster inheritance are replete with unwritten, often informal, conventions surrounding parliamentary practice, which determined political actors can circumvent in malign ways if they are so minded.[26] As such, the behaviour of parties and responses of independents, and the evolving culture and character of States will need to take account of these conventions, and the options for often-small institutional changes which can have a strong effect on maintaining a consensual democratic culture.

In sum, reformers might consider a simple question: how might the States collectively put in place mechanisms to ensure that that system develops in ways which are conducive to improving, rather than undermining, Jersey's democracy? In the remainder of this report, we discuss some of the specific reforms that might help realise this outcome.

Lastly, we note here some additional issues that States Members might wish to consider. These are, broadly speaking, outside our specific remit, but they are

worth considering intellectually since the establishment of parties is not an end in itself, but rather a means to the end of achieving a strong democracy and good governance.

**What is the purpose of a political party in Jersey?**

As we have seen, in the absence of strong ideological or class cleavages, parties in small territories can become personalistic vehicles for the advancement of dominant leaders and repositories for the distribution of patronage. So, a key consideration for States Members is how and why Jersey's parties are emerging: what purpose, and whose purpose, do they serve, and why are they necessary to improve the governing process? Are they now necessary to represent latent ideological or programmatic differences amongst the wider populace, do they reflect the desire by certain factional interests to consolidate power? Or is something else driving their formation at this point in time? The answer to this question will necessarily determine the kinds of overarching safeguards Members might wish to embed into the party system before it develops further.

**How can both polarisation and fragmentation be inhibited?**

Once parties emerge in small island states, the system can become highly institutionalised (as in the Caribbean, where two-party competition endures) or it can become highly fragmented (as in the Pacific, where parties rise and decline with great frequency, often according to the whims of personalistic leaders). A high level of stability is usually prised for its predictability and the ability of well-developed parties to carry out programmatic, coordinating and electoral functions, but it can also lead to an ossified two-party duopoly that marginalises alternative voices, particularly when parties are not fighting over substantive policy differences. In either case, and especially in the case of highly fragmented politics, parties struggle to carry out their democratic functions. Members might wish to consider this question in terms of the kinds of incentives that new rules are likely to provoke, both in terms of nurturing and sustaining healthy democratic parties while also safeguarding the legitimacy of Independents.

**What support, if any, should be made available to political parties in the States?**

First, should parties receive (additional) funding in the States? Secondly, as an alternative to block funding or as an additional form of support, the Committee may wish to consider whether a party leader should be provided with an office or suitable accommodation for caucus meetings. An alternative is to have a general requirement on the Greffier to assist recognised parties to hold their meetings and conduct their proper business**.** If parties are to have some entitlement to support, should there be a minimum number of party members to qualify?

## IV POTENTIAL REFORM OF STANDING ORDERS

In this part of the report, we identify general areas of States' procedure and some particular Standing Orders which might be affected or need amending in light of the (re-)emergence of political parties in Jersey. This development may take on greater significance with the recent reforms made to Jersey's political system, either by increasing the number of States' Members who are members of a political party, or by increasing the number of parties in the States. We are grateful to the PPC for their preliminary work in identifying particular Standing Orders for review. We have built on that work by grouping the Standing Orders into the following thematic topics:

1. Definition and recognition of political parties and political groups

2. Formation of 'Government'

3. States' Committees and panels: chairs and membership

4. Agenda control and speaking arrangements

5. Voting arrangements

6. Seating arrangements

7. Recognition of an 'Opposition'

8. Entrenchment of Standing Orders

The topics fall into three categories. First, where the Jersey Standing Orders are silent: the definition of a party and whether and how one might be recognised (1). The next category covers existing Standing Orders which may be affected by the development of party politics. We have further categorised these according to their significance for the operation of the States. Those that we consider most significant are: the formation of government and appointment of Ministers, the composition of States' committees (including scrutiny panels and review panels within this term), and agenda control and speaking arrangements (topics 2, 3 and 4). Those of lesser significance are topics 5 to 7, the arrangement for voting and seating, and part of topic 3, the role of those not in 'government'. These may be able to be addressed by changes in States' practice rather than Standing Order reform, although we also provide examples of the latter.

For each topic, we explain why this is relevant, and the problems that may arise when parties are brought into the mix. We summarise the practice in other jurisdictions insofar as is relevant, and provide both bespoke Standing Orders and/or examples from other jurisdictions as possible solutions. The full text of other jurisdictions' Standing Orders can be found in Appendix II.

Finally, in topic 8, we look at the question of whether there should be any mechanism for entrenching the Standing Orders as a protection against majoritarian abuse.

## A Matters not currently addressed in Standing Orders

### 1. Definition and recognition of parties

*Definition of a political party*

*Why is this relevant?*

Much of what follows is dependent on there being some way of identifying who is a party member. This in turn depends on being able to know whether a grouping of individuals constitutes a 'party' or not.

*Statutory definitions*

The Political Parties (Registration) (Jersey) Law 2008 does not contain a definition of party/parties although s 2(8) states 'The party must have a written constitution, one of the expressed objectives of which must be the endorsement of candidates for election as Senator, Deputy or Connétable'. This is similar to the provision in the electoral law of the Isle of Man.[3]

Some jurisdictions require as a condition for registration a minimum number of parliamentarians with extra-parliamentary membership requirements. Examples of states which have such a stipulation are New Zealand (500 registered members) and Fiji (5000 members). In Ireland, parties can register with *either* a minimum of 1 member in the Dáil Éireann *or* 300 registered members amongst the public.

Given the fluid nature of the party system in Jersey, and the assumption that independent members will continue for some time to form either a majority or a significant minority of the States, **we recommend that any recognition of parties (in the broadest sense) within the Standing Orders is flexible and is not tied to any legal requirements for registration in election law**.

That is not to say that legal definitions are not required for the purposes of electoral law (which is a question beyond the scope of this report), but only to acknowledge that most parliamentary rule books allow for the recognition of other types of groupings of members. However, in the examples cited below members elected on the ticket of a party recognised under electoral law sometimes have an automatic right of recognition which more informal groupings do not.

*Recognition of parties for procedural purposes*

*Why is this relevant?*

Recognition as a party within the States has the potential to bring with it certain rights and advantages. There therefore would need some way of providing for the recognition of parties, including any conditions required or information that needs to be provided.

[3] Isle of Man Representation of the People Act 1995 s 77.

In the examples below, drawn from various jurisdictions, the Standing Orders generally recognise two types of grouping. The first is defined by reference to elected members who stood for election on a party ticket for a "registered" political party. The second (often referred to as a "group") is a collection of elected members who have chosen to make common cause as a more or less structured group within the Parliament. Sometimes they are required to meet certain criteria for registration as a formal group with the presiding officer, the most common of which is a minimum number of members. In some cases elected members who stood on a party ticket are recognised as a "party" without any minimum membership requirement.

Minimum numbers range from one (Antigua and Barbuda) to six (New Zealand). The Standing Orders of the Samoan Parliament require a minimum number of eight members for recognition (and also that the party to which they belong is registered under electoral law),[4] but this is an outlier in terms of size. The Standing Orders of the Cayman Islands refer to both 'parties' and 'groups' without defining either in terms of minimum memberships. The Standing Orders of the Parliament of Fiji similarly recognise "elected" parties with eight members but give equal status to self-identifying groups.[5]

**The history of political party representation in the Jersey States, and the relative size of the Jersey parliament, suggests that between two and four members would be an appropriate minimum number for recognition in the Standing Orders.**

The Standing Orders of the Dáil Éireann also provide both for parties and groups: the former is recognised automatically; the latter are required to register their existence.[6] In both cases a minimum membership of five is specified. The formation of a 'group' allows smaller parties to combine together to earn certain privileges in relation to the procedural rules. This kind of approach could provide a pathway for independent Members to challenge the domination of party groups – the position of the crossbench group in the House of Lords is in some ways a parallel.

In the case of the Welsh Senedd a group of a minimum of three elected members can be recognised whether or not they were elected on a party ticket, but this is purely for the purposes of allocating financial support available to opposition parties.[7] The Scottish Parliament sets a minimum of five MSPs for a group to qualify for a seat on the Parliamentary Bureau, but does not otherwise define parties.[8]

The House of Commons Standing Orders recognise the concept of "opposition business", the "Leader of the Opposition" and the "second largest opposition party" (S.O. No. 14(2). Only the last of these terms is defined as "That party, of those not represented in Her Majesty's Government, which has the second largest number of Members elected to the House as members of that party". This

[4] Samoan Parliament, SO 21.
[5] Parliament of Fiji, SO 4.
[6] Dáil Éireann, SO 163.
[7] Welsh Senedd, SO 1(3), 1(3A) and 1(4). In contrast, the Rules of the Scottish Parliament appear to be almost silent on this issue, although s97 of the Scotland Act makes similar provision to s24 of the Government of Wales Act in relation to funding for opposition parties.
[8] Scottish Parliament, Rule 5.2.

is the only implication that a party needs to have stood for election under a specific name to count as a party for procedural purposes.[9] Standing Order No. 122B regulating the election of Chairs of most select committees contains one of the few other explicit references to parties but does not define them, implicitly leaving the judgment to the Speaker. It does, however, at paragraph (8)(f) state that candidates for the Chair of the Public Accounts Committee must belong to the 'official Opposition' (the only use of this term). Standing Order No.122D(1)(c) states that the Chair of the Backbench Business Committee may not come from a party represented in Her Majesty's Government.[10]

Another consideration which needs to be taken into account is the potential fluidity of parties during the parliamentary term. Scenarios might arise where (a) parties or groups form during the parliamentary term; (b) parties or groups dissolve; and (c) elected members join or leave existing parties or groups. The rules should be flexible enough to adapt to political change.[11]

In the context of the current situation in Jersey, provision should also be made for identifying protecting the position of elected members who belong to no party.

It would also help to clarify at what point recognition should occur, and who should control the register of parties and groups. Examples of existing practice elsewhere appear to give the Speaker or Presiding Officer the power of recognition. In the Jersey tradition this might more likely be the Greffier.

In the proposals for potential changes to Standing Orders that follow, we use the term "political group" (the qualifier "political" could be dropped if preferred, but it makes clearer that it is a technical term for these purposes). For these to make any sense and to be operable the States must define these terms in some way. Without this most of our specific recommendations would fall away. But by using the term "political group" for the purposes of Standing Orders, parties with a number of elected members falling below whatever minimum threshold is chosen would be able, as they quite legitimately should be, to continue to refer to themselves as a "party".

Taking the model of the Dáil Éireann as a starting point, we recommend the adoption of a standing order along the following lines:

***Meaning of "political group"***

> *(1) Where [four] or more members of a registered political party have been elected to the States, those elected members will enjoy the same*

[9] It seems quite possible to imagine a situation where the opposition party with the second largest number of MPs elected on that ticket ceased to be the second largest opposition party numerically In the House, so this provision may have been quite carefully worded.

[10] S.O. No. 99(3) also Includes a curious reference to the largest and second largest opposition parties in Scotland represented In the House of Commons; paragraph (4) of that standing order defines these terms. However, the Scottish Grand Committee Is something of a dead letter procedurally, and has not met since 2003.

[11] In the case of States' Members leaving their party of origin, rules prohibiting or penalising this behaviour would be undesirable given the risks of litigation, as seen in other jurisdictions where these provisions exist (e.g., Fiji, India, Malaysia, New Zealand and the Cook Islands), and the troublesome implications for Members' rights of association and freedom of speech.

*rights under Standing Orders as a political group formed pursuant to paragraph (3).*

*(2) "Registered political party" means a party registered in accordance with the Political Parties (Registration) (Jersey) Law 2008*

*(3) Any [four] or more elected members not satisfying the criteria in paragraph (1) may notify the Greffier that they wish to be registered as a political group for the purposes of the Standing Orders.*

*(4) A political group may include elected members from more than one registered party.*

*(5) A political group (including any group formed pursuant to paragraph (1)) must register with the Greffier its name and the names of those elected members who belong to it, and the Greffier must publish that information.*

*(6) In order to register as a group, the members of that group must have elected a leader whose name is provided to the Greffier at the time the group is registered; and the name of the registered leader may be changed when a new leader is elected by a political group.*

*(7) No elected member may belong to more than one group.*

*(8) Any elected member may give notice to the Greffier that they no longer wish to be registered as a member of a specified group.*

*(9) The leader of any group may at any time during a session notify the Greffier of the name of any elected member who has joined, or been discharged from, the group which they lead.*

*(10) Where a political group falls below [four] members in number, the Greffier will remove it from the register compiled in accordance with paragraph (4) and it will cease to be recognised as a political group for the purposes of the Standing Orders.*

Alternatively, this definition could be inserted in Standing Order 1 between the entries for "Planning Committee" and "PPC".

## B Proposed amendments to existing Standing Orders

### 2. Formation of 'Government'

*Current Standing Orders*

Standing Orders 115 to 117 address the Election of Chief Minister and Council of Ministers.

*Why is this relevant?*

At present, the States elect the Chief Minister and Council of Ministers, and the Chief Minister has to accept the Assembly's decision on the latter even if they were not his or her preferred candidates.[27] However, the introduction of parties is likely to introduce new incentives—and conflicts—around how these positions are filled. Such pressures are likely to intensify if the dominance of parties in the States rises. Dominant parties might be able to achieve their preferred ministerial appointments, but weaker ones might not even if they are the party of the Chief Minister. A development of this nature has potential to disrupt the smooth functioning of government. We understand that the practice and status of the concept of (Cabinet) collective responsibility has been a contentious issue in Jersey of late. It may well arise again should the States end up with a Chief Minister heading a Council of Ministers which is dominated by a party other than the Chief Minister's and/or by non-party Members.

There are further questions about the extent to which party members and independents can serve together as Ministers; the marginalisation of independents (and their expertise) from government if parties become large enough to win majorities or significant minority shares of seats; the implications of polarisation between one or two large parties and the remaining independents; and the effects, in terms of legitimacy, of independent/party splits forming.

Should parties become a permanent or longstanding feature of Jersey politics, or the number of States Members with a party affiliation increases, the practice of Jersey politics may shift from its current status to something more closely resembling traditional Westminster politics, with a party-based government/executive dominating the legislature, and a party-based opposition without executive functions. It would be helpful therefore to have some processes for determining how the government would be formed and the role of parties in that formation.

*Comparisons*

While in many Commonwealth Parliaments the head of government is nominally appointed by the Queen's representative, many of them have made specific provision for the Parliament to decide which candidate is put forward for the post. This is essentially the same position as in Jersey, where the States elect the Chief Minister. The arrangements in these jurisdictions therefore may offer useful parallels to draw on. For example, the Standing Orders of the Cayman Islands Parliament provide that where a recognised party has an overall majority, its nomination for Premier must be accepted by the Governor. Where there is no

majority party it requires the presiding officer to arrange for a ballot to determine the question.[12]

The Constitution of St Lucia requires the Governor General to appoint as Prime Minister 'a member of the House who appears to him or her likely to command the support of the majority of the members of the House'.[13] The process for ascertaining who that member is not spelled out (as it is not for the appointment of the UK Prime Minister).

Westminster itself has legislated for the devolved legislatures of the UK to operate a system whereby the head of government must be endorsed by a vote of the legislature – partly on the assumption that there would be no single party with an overall majority.[14] If there is more than one nomination for First Minister, the Standing Orders of the Scottish Parliament provide for decision by the normal method of motion and amendment;[15] those of the Welsh Senedd provide for an exhaustive ballot with voting by roll call.[16]

The process in the Standing Orders of the States for electing other Ministers is more unusual by international standards, insofar as it disregards party/group altogether. Although SO 117 privileges the nominations made by the Chief Minister it does allow for other names to be put forward. It is a question for consideration whether either (a) the appointment of Ministers should be entirely at the discretion of the Chief Minister or (b) whether the power of nomination should be confined to the Chief Minister, but still with the possibility of a ballot if the States votes down a nomination.

The Scotland Act 1998 provides that:

> The First Minister may, with the approval of Her Majesty, appoint Ministers from among the members of the Parliament.
>
> The First Minister shall not seek Her Majesty's approval for any appointment under this section without the agreement of the Parliament.[17]

The Standing Orders of the Scottish Parliament provide that:

> Where the First Minister proposes to appoint any Minister or Ministers [including junior Ministers] … [they] shall, before seeking Her Majesty's approval for any appointment, seek the agreement of the Parliament [by motion] to the proposal … of either (a) an individual member to be a Minister; or (b) a group of 2 or more members to be Ministers … [and] the motion may be amended but only to delete that part of the motion relating to a particular member or members. If there is a division on such

[12] Cayman Islands SO 5.
[13] Constitution of St Lucia (2006) s60.
[14] Scotland Act 1998 s46; Government of Wales Act 2006 s47.
[15] Rules 4.1 and 11.3 of the Scottish Parliament.
[16] SO 8 of the Welsh Senedd.
[17] Scotland Act 1998 s47(1) and (2).

> a motion, the result is valid only if the number of members who voted is more than one quarter of the total number of seats for members …[18]

In contrast, the Government of Wales Act 2006 makes no provision for the approval of ministerial appointments by the Senedd, leaving the matter entirely to the discretion of the First Minister, and accordingly the Standing Orders of the Senedd are silent on the matter. This striking difference (which may in fact just be a legacy of the original corporate model of the National Assembly for Wales/Welsh Assembly Government) illustrates that the issue of parliamentary approval of ministerial appointments can be approached in entirely different ways. At Westminster, of course, they are wholly at the discretion of the Prime Minister acting under the polite constitutional fiction of 'the Crown'.

*Suggested changes to SO 115 and SO 116*

SO 115 makes provision for any group of six Members of the States to put forward a candidate for election as Chief Minister and, more unusually, requires each candidate to publish a kind of manifesto.

SO 116 makes complicated provisions for the election of the Chief Minister in cases where there is more than one nomination, including for each candidate to make a speech of up to ten minutes and for this to be followed by up to an hour of questioning by other Members of the States (though not by rival candidates, who are required to withdraw).

It then makes provision for an exhaustive ballot to be held by recorded vote.

The Standing Orders of the States therefore already make provision for the election of a Chief Minister and this is in line with practice elsewhere. There seems to be no pressing reason to change it, although the formulation above for the Cayman Islands could be adopted to avoid a ballot where one party clearly held a majority of seats.

A candidate may be validly nominated by any group of six Members of the States. There is a question of whether recognised parties/groups should have any special privileges or priorities in this process.

At present the presiding officer must choose the order in which candidates present their cases for election as Chief Minister to the States, and all candidates must be heard and questioned before a vote is taken. Recognition of parties/groups might lead to a choice to present the candidates in party/group-size order. This could be left to the discretion of the presiding officer or codified as a rule.

Paragraphs (2)(b) and (5) of SO 116 allow for questions to candidates for Chief Minister. There is a question whether priority in questioning should be afforded to leaders of recognised parties.

Amendments along these lines might be as follows:

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[18] Rules 4.6 and 4.7 of the Scottish Parliament; see, for an example, Meeting of the Parliament: 31/08/2021 | Scottish Parliament Website.

**New Standing Order (114A): Election of Chief Minister where a single party holds a majority of seats.**

*(1) Where the elected members of a single political party hold a majority of the seats won at an election, Standing Orders 115 and 116 shall not apply.*

*(2) The leader of that party shall put the motion that a named member of that party be the Chief Minister designate.*

*(3) No amendment may be offered to a motion made under paragraph (2).*

*(4) If a motion made under paragraph (2) is defeated, Standing Orders 115 and 116 will apply.*

*(5) If no political party has such a majority, Standing Orders 115 and 116 will apply.*

**Possible amendments (underlined) to Standing Order 115: Chief Minister: nominations**

(1) A nomination of an elected member as a candidate for the office of Chief Minister must be –

(a) *made by the leader of a political group or* by at least 6 elected members;

(b) in writing, signed by the elected members making it;
(c) accompanied by *either*–

(i) *a declaration giving the name of the political group by which they have been nominated, or*

(ii) a statement provided by the candidate setting out the candidate's vision for a strategic policy, and the manner in which the candidate would propose to discharge his or her responsibilities as Chief Minister; and

(d) submitted to the Greffier no later than 5 p.m. on the working day that is 5 clear working days before the day the meeting during which the selection is to be made commences.

(2) When the time for submission of nominations has expired the Greffier shall circulate to members details of the nominations submitted and copies of the *declarations or* statements which accompanied them.

(3) In this standing order 'elected member' –

(a) includes a person who has been elected as a Senator, Deputy or Connétable, but who has not yet taken his or her oath of office; and

(b) does not include a Senator, Deputy or Connétable whose term of office expires upon a person mentioned in sub-paragraph (a) taking his or her oath of office.

**Possible amendments (underlined) to Standing Order 116: Chief Minister: selection process**

(1) The presiding officer shall ask the Greffier to read out the nominations for the office of Chief Minister.

(2) If there is only one candidate –

(a) the presiding officer shall invite the candidate to speak for up to 10 minutes;

(b) after the candidate has spoken, the presiding officer shall allow up to one hour for elected members to question the candidate*, and in calling elected members to ask questions the presiding officer shall have regard to elected members who lead political groups of which the candidate is not a member and will not call those who are members of a political group to which the candidate belongs*;

(c) when the candidate's speech and the members' questions are concluded, the candidate is taken to have been selected as the Chief Minister designate.

(3) If there is more than one candidate, the presiding officer shall call candidates *representing political groups in an order which has regard to the number of elected members who belong to that political group, and where a candidate belongs to no political group or where the membership of two political groups is equal* will *then* draw lots to determine the order in which they shall be invited to speak.

(4) The presiding officer shall then invite each candidate to speak for up to 10 minutes.

(5) After a candidate has spoken, the presiding officer shall allow up to one hour for elected members to question the candidate*, and in calling elected members to ask questions the presiding officer shall have regard to elected members who lead political groups of which the candidate is not a member and will not call those who are members of a political group to which the candidate belongs*.

[No change to paragraphs (6) to (12).]

*Suggested changes to SO 117*

As noted above, there are variations as to whether the head of government's nominations for ministerial posts require approval by the legislature, even between two very traditionally party-based parliaments such as those in Scotland or Wales.

This is not just an issue relating to the development of parties within the States – it is also related to the deliberate decision to move towards an executive/legislature model rather than a corporate model of governance.

SO 117 is an elaborate set of provisions relating to the approval of ministerial nominations by the Chief Minister. Although it privileges the Chief Minister's own nominations, it gives pretty much equality of opportunity to nominations made by other elected members, with no minimum number of sponsors required to propose an alternative candidate.

The most radical option would be to end the process of approval of ministerial appointments by the States and leave it wholly to the Chief Minister's discretion. This could either be by total silence on the question or by a declaration (whether embodied in the Standing Orders or just by resolution) that the Chief Minister will appoint the designated list of Ministers from amongst the elected members.

The next most radical approach would be to adopt something close to the Scottish system. SO 117 might be replaced with a new standing order along the following lines:

> *(1) Where the Chief Minister designate proposes to appoint any Minister or Ministers to any of the following responsibilities:*
> *Children and Housing*
> *Economic Development, Tourism, Sport and Culture*
> *Education*
> *Environment*
> *External Relations*
> *Health and Social Services*
> *Home Affairs*
> *Infrastructure*
> *International Development*
> *Social Security*
> *Treasury and Resources;*
> *the Chief Minister designate shall seek the agreement of the States to his or her proposals in accordance with the following provisions.*
>
> *(2) The Chief Minister designate shall by motion seek the agreement of the States to the appointment of either—*
> *(a) an individual elected member to be a Minister; or*
> *(b) a group of 2 or more elected members to be Ministers*
> *specifying in each case the ministerial office to which each candidate would be assigned.*
>
> *(3) Before the presiding officer puts the question on a motion relating to a group of members, the motion may be amended but only to delete that part of the motion relating to a particular member or members.*
>
> *(4) If there is a vote on such a motion, the result is valid only if the number of members who voted is more than one half of the total number of seats for members.*

Appropriate provision would need to be made for casual vacancies. Consideration would need to also be given to whether provision would be made

for the States to vote any specified Minister out of office. Here, it would probably be better to rely on the no confidence convention.

Finally, the arrangements set out in SO 117 could be largely retained but with paragraphs (4) to (17) omitted. If the Chief Minister's nomination for a particular post were defeated, the assumption would be that he or she would have to make a new nomination (or this assumption could be spelled out).

## 3. Allocation of Chairs and other positions on committees and panels

*Current Standing Orders*:

Standing Orders 119, 120, 121, 122, 123, 126, 127, 131, 135, 141A and 142 relate to the appointment/election of Chairs and members of committees. They are lengthy, elaborate and complex. We observe here that they would greatly benefit from simplification and consolidation.

*Why is this relevant?*

If parties in Jersey form along traditional lines, that is to advance a particular programme, they are likely to seek avenues for promoting their programme in various parliamentary contexts. One of these is that of committees and scrutiny panels. They may also wish to use these fora to present themselves to the Jersey electorate as a credible government, or government-in-waiting. The States is therefore likely to come under pressure to provide opportunities for parties to advance their policy goals and electoral profile via committee and panel membership and the high-profile role of Chair.

As well as the programmatic and electoral goals of parties mentioned above, non-permanent committees and review panels provide a space for parties to participate in the core activities of the legislature and a platform for a diversity of views and experiences to contribute to the business of the States. Parties are likely to want as many avenues as possible to achieve these goals and be seen as active and credible players in the States.

A number of issues arise in relation to committee membership, in particular, how committees should be composed while having regard to the existence of parties in the States. First, however, we address the membership of committees generally.

*Exclusion of Ministers from committee membership*

It is common practice across Westminster-style jurisdictions to exclude members of the executive from membership of committees, which are essentially 'backbench' in nature.[19] Currently the Standing Orders of the States give effect to this general principle in a series of very particular provisions and prohibitions relating to specific committees of panels. It would be clearer to have a general rule which was applied across the board and could therefore be adapted quickly and flexibly to the creation of new committees or panels.

We recommend that there should be a new standing order giving effect to this principle along the following lines:

***117B No Minister to serve on a committee***

*(1) Except where otherwise provided in these Standing Orders, no Minister [or Assistant Minister] may be nominated for the post of chair or member of a committee or scrutiny panel.*

[19] Although In the House of Commons itself it is an unwritten rule, rather than codified (for the most part - there are some exceptions such as the Backbench Business Committee, see S.O. No. 152J(5)).

*(2) Any elected member who has been appointed as a Minister [or Assistant Minister] ceases on appointment to be a member of any committee to which they have previously been appointed; and the presiding officer must immediately declare any vacancy so caused.*

*The Committee of Public Accounts*

In all Westminster-derived parliaments the Committee of Public Accounts (PAC) is seen as the most critical bulwark against corruption and the misuse of public money by the executive. In consequence, provisions preventing a member of the governing party chairing this committee are a very widespread feature of their Standing Orders. In some cases, the chair of this committee is reserved to members of the 'official' opposition,[20] and in at least one case to the Leader of the official opposition.[21]

It is likely to be some time, if it ever happens, before Jersey develops the concept of an 'official' opposition, as we discuss below. It is also likely that, for at least a while, the executive will not be formed from members of a single party. The PPC may therefore need to choose whether the chair of the PAC is restricted to elected members—

(a) who are not members of the same party/group as the Chief Minister;

(b) who are not members of any party/group which is represented in the executive; or

(c) who are members of the largest party/group not represented in the executive (a sort of proxy for the official opposition).

Of these options, the middle way represented by (b) seems to us the most practical and in keeping with the developing culture of the States. We therefore recommend that SO 119 be amended by inserting after paragraph (1) the following new paragraph:

*(1A) The presiding officer cannot receive nominations for this office of elected members who are members of the same political group as a Minister.*

SO 131 would need to be consequentially amended by omitting sub-paragraph (1)(a), on the assumption that the prohibition on Ministers had also been implemented.

Consideration should be given to whether there should be a prohibition on the unelected members of the PAC being members of a party represented in the executive.

*Composition of other committees: chairs*

It is common in party-dominated legislatures to distribute chairs of committees to a greater or lesser degree in proportion to party strengths. Standing Orders 17.2A to 17.2D of the Welsh Senedd and Rule 12.1 of the Scottish Parliament are useful examples of how this is done on a relatively non-prescriptive basis, using the Business Committee/Bureau as gatekeeper. While it might be possible for the PPC to adopt this role in the States, it would require some complex sequencing of the Standing Orders relating to appointment of chairs.

[20] Westminster House of Commons and Bermuda.
[21] Barbados.

S.O. No. 122(2) to (6) of the House of Commons uses a similar procedure, but puts the organising and negotiating onus on the Speaker. This model would be easier to adapt to the Jersey situation.

In both models, the requirement for party balance is expressed in very broad terms (for example 'to have regard to the balance of political parties in the Parliament').[22] Given the inevitably fluid state of parties in the States for the foreseeable future, this approach seems sensible.

If the States chose to go down this relatively well-trodden path, a standing order to give effect to this might look something like the following:

***117C Allocation of chairs of committees***

*(1) Before any committee or panel chairs are appointed the presiding officer [or Greffier or Chair of the Bureau] shall communicate to the States a list showing, for each committee—*
   *a. the political group whose members shall be eligible to be chair of the committee; or*
   *b. that the chair shall be chosen from the members not representing any political group.*

*(2) In making this determination, the presiding officer [or Greffier or Bureau] must have regard to the balance of political groups and of elected members representing no political group in the States.*

*(3) The Chief Minister [designate] must immediately move a motion to give effect to the proposals of the presiding officer [or Greffier or Bureau].*

*(4) No amendment may be proposed to a motion moved under paragraph (3) unless it has been accepted as admissible by the presiding officer.*

*(5) Where the chair of a committee has been allocated to a specified political group by a resolution made in accordance with this order, nominations for that position can only be [of a member of that group] [made by the leader of that group].*

*(6) Any standing order relating to the appointment process for the chair of a committee or panel will be read and given effect in accordance with this order.*[23]

*Composition of committees: other members*

Similarly, in other jurisdictions where parties are a dominant feature, there is usually some mechanism for allocating other places on committees in proportion to party strengths. Again, this is most easily achieved through a gatekeeper function, performed in the House of Commons by the Committee of Selection and in other places by a bureau (for example the Scottish Parliament) or a business committee (for example the Welsh Senedd).

[22] Scottish Parliament Rule 12.1.5.

[23] The assumption is made here that any determination of allocation of Chairs will not be affected between elections by the changes in party or group strengths or the coming into being of new parties or political groups. In other words, Chairs will remain in office until they resign or are unseated whatever party or political group ticket they may have originally been elected on.

Typically, the requirement is again expressed as a general guiding principle rather than some precise mathematical formulation: for example 'No motion to agree the remaining membership of a committee … can be passed unless … the total membership reflects (so far as is reasonably practicable) the balance of the political groups to which Members belong …'[24] or, even more vaguely, a requirement '…to have regard to the composition of the House …'.[25] Other examples of such generalised requirements in the Standing Orders of the legislative assemblies of Vanuatu,[26] the Turks and Caicos Islands,[27] the Cayman Islands[28] and Bermuda,[29] as listed in Appendix II.

Again, finding a solution which might work for the States is hampered by the absence of any body equivalent to a Bureau or Committee of Selection in which nominations could be filtered for proportionality before being put to the plenary for endorsement. Currently, the arrangements for appointing other members of committees and panels depend to some extent on the goodwill of the respective chairs (under SOs 122(1), 123(1), 125(1) and 125A(1)). The simplest approach would be to add a rider to each of these provisions along the lines:

> *(1A) In making their nominations, the chairman shall have regard, so far as possible, to the desirability of reflecting proportionately the numerical strength of all political groups making up the elected membership of the States.*

In the absence of any filtering mechanism, reliance on the goodwill of the chairs and plenary is therefore possible, but the States' election systems for committee members makes that quite difficult to orchestrate. One possibility would be again to fall back on the presiding officer to referee the process. This would be complex, but a possible model for a new standing order might be as follows (note that it is couched here in permissive rather than mandatory language):

***121A Allocation of places on committees***

*(1) Before any appointments are made to any committee or panel the presiding officer [or Greffier or Chair of the Bureau] may communicate to the States a declaration showing—*

- *a. The total number of places available on all committees and panels;*
- *b. The number of those places each political group represented in the States would be entitled to in proportion to the number of elected members it has in the States; and*
- *c. The places on each committee or panel that the leader of each political group has stated they wish to reserve to that group.*

*(2) In calculating the places each group is entitled to on a committee or panel, the chair of the committee or panel will be counted towards that allocation.*

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[24] Welsh Senedd, SO 17.6.
[25] House of Commons, S.O. No. 86(2).
[26] SO 64.
[27] SO 121(2).
[28] SO 79A.
[29] SO 36(4).

*(3) If the presiding officer [or other] has made such a declaration, the Chief Minister shall immediately move a motion to give effect to it, and the question on that motion shall be put without amendment or debate.*

It might then be possible to insert the following provision in each of the Standing Orders relating to the appointment of other members of committees or panels (SOs 122, 123, 125 and 125A and others thought appropriate):

*(1A) Before inviting nominations, the presiding officer shall announce those places which have been filled by the nomination of the leader of a recognised political group in accordance with a resolution made under paragraph (3) of SO 121A.*

## 4. Agenda initiative and speaking rights

*Current Standing Orders*

Standing Orders 5, 13, 19, 21A to 23, 35, 63, 69 and 70 deal with the ability to determine States' business and speaking rights.

*Why is this relevant?*

As in the case of committee membership, if parties form along traditional lines ie to advance a particular programme, they are likely to seek avenues for promoting their programme in various parliamentary contexts. These can include opportunities to speak in the States or participate in setting the agenda of the States. They may also wish to use these fora to present themselves to the Jersey electorate as a credible government, or government-in-waiting. The States is therefore likely to come under pressure to provide opportunities for parties to advance their policy goals and electoral profile.

*Power of initiative*

Typically, in legislatures dominated by parties and where there is a single-party (or formal coalition) executive, the power of agenda initiative will be balanced more or less firmly in favour of the executive. The House of Commons probably presents the classic model of overwhelming executive power of initiative: S.O. No. 14 asserts that 'Save as provided in this order, government business shall have precedent at every sitting',[30] and then goes on to carve out exceptions to this rule for opposition business (20 days a year – 17 for the official opposition and three for the other parties),[31] backbench business under the control of the Backbench Business Committee (27 days a year in the plenary) and private members' bills (13 Fridays a year – as a general rule the only Fridays on which the House sits).[32] Even allowing for these rules, the allocation of time for these other groups is still ultimately under the control of the government, which has not infrequently been accused of abusing its power.[33]

[30] House of Commons, S.O. No. 14(1).
[31] House of Commons, S.O. No. 14(2).
[32] House of Commons, S.O. No. 14(4).
[33] For a full discussion of this issue, see Meg Russell and Daniel Gover, *Taking Back Control: Why the House of Commons should govern its own time*, UCL Constitution Unit, January 2021.

*The long term solution – a Bureau*

In other jurisdictions a common solution to the problem of agenda-setting for the legislature is the creation of some kind of 'parliamentary bureau' or 'business committee' on which the parties can negotiate forthcoming business. Their proposals may then either be given automatic force or be subject to adoption and possible amendment by the plenary (occasionally requiring special majorities for amendment).

The Welsh Senedd presents a useful example of how this may work. A Business Committee is constituted comprising the presiding officer as chair, a representative of each party or group and (where they exist) independent Members.[34] Each member representing a party carries a voting weight equal to the number of elected members belonging to that party. The Committee essentially timetables business of the plenary, as well as other functions such as managing the number of committees and so forth.

Time in the Senedd plenary is divided between government business and 'Senedd business' in the ratio 3:2.[35] The Standing Orders define government business, and the government controls that portion of the agenda. The arrangement of other business is determined by the Business Committee. There is no vote in the plenary to adopt the agenda determined by the Business Committee.

The system in the Scottish Parliament is broadly similar, though its body is known as the Parliamentary Bureau.[36] There is a similar system of weighted voting,[37] and there are mandated requirements to provide time for government, opposition and committee business.[38] A significant difference from the Senedd is the requirement for the Bureau's proposals to be adopted by the plenary.[39]

The Standing Orders of the Dáil Éireann also provide for a Business Committee, constituted along similar lines to those in Cardiff Bay and Holyrood.[40] Time in the plenary is similarly divided between government and other business. There is no provision for the plenary to vote on the agenda determined by the Business Committee, but the Committee must appoint a Rapporteur to present the agenda to the plenary.[41]

In a novel, and rather pleasing twist on the use of Standing Orders, the Dáil Éireann's Committee is enjoined to 'aim for consensus in reaching its arrangements' and, rather than weighted voting, simply permit the recording of dissent from the government's agenda proposals if consensus cannot be reached.[42]

[34] Welsh Senedd, SO 11.5.
[35] Welsh Senedd, SO 11.18.
[36] Scottish Parliament, Rule 5.1.
[37] Scottish Parliament, Rule 5.3.5.
[38] Scottish Parliament, Rule 5.6.
[39] Scottish Parliament, Rule 5.4.1.
[40] Dáil Éireann, SO 28.
[41] Dáil Éireann, SO 33.
[42] Dáil Éireann, SO 32.

While a fully-fledged Bureau may seem a premature development for the States, it could be that a system along these lines would in fact provide a flexible and adaptable instrument to guide the States through any increase in party representation amongst its elected members. While independents remain in a majority, devising rules for its composition would be a challenge, but if there were trust and a willingness to make it work it could be an efficient way to manage the business of the States and accommodate to the emerging executive/legislature arrangements.

A Bureau might also be able to simplify some of the procedures relating to appointing members of committees proposed above, by acting as a sort of 'Committee of Selection' (as the Business Committee of the Dáil Éireann does).[43]

The PPC itself already has at least one duty which is connected with agenda-setting – that of determining the pattern of sittings.[44] Whether it has the capacity or appetite to take on further Bureau-type roles we do not know. But the creation of a Bureau function could solve several of the dilemmas of managing party co-ordination in the States, and we recommend that the PPC invites the States to take a decision in principle as to whether the establishment of a Bureau-style body is an appropriate direction of procedural travel.

We have not here attempted to devise any model Standing Orders to give effect to this idea. They would be complex, and much would depend on the instructions given as to the remit and powers of any such body.

*Short-term measures*

Meanwhile, consideration needs to be given to whether any changes are needed to the current Standing Orders relating to the power of agenda initiative.

**SO 5** provides for any seven elected members to requisition an additional meeting of the States. It is easy to imagine that a single party might in future have seven or more members. It would not seem sensible to allow a single political group unilateral power to requisition a meeting in this way, and it may be sensible to include a requirement for such a request to be from more than one group, or include independents amongst its signatories.

**SO 19** allows individual elected members to lodge a proposition, and SOs 30 to 33 make provision for timetabling these. Consideration should be given to whether prioritisation of propositions on the agenda should take account of political group strengths, where a proposition is lodged by the leader of a group.

**SOs 21A to 23** make provision for a minimum number (three) of elected members to lodge certain categories of proposition. Consideration should again be given to whether to add a multi-group requirement to these thresholds.

**SO 35** lists those persons and bodies able to present a report or comment. While it could be argued that a representative of a recognised party or group should have similar rights, we do not think this is really necessary. There is a distinction

[43] Dáil Éireann, SO 34.
[44] SO 4.

legitimately to be drawn between official bodies and committees and parties and group. However, we return to this issue somewhat obliquely in the next section, on whether parties and groups should be given any priority in taking the floor to address the States in debates and questions.

*Right to speak and ask questions*

Parliaments sometimes elaborate rules and formulae dividing speaking time and determining the order in which questions are asked according to relative party strengths. It is usual for the time so made available to be allocated amongst members of those parties by their business managers. We have unearthed few references to parties in this context in the rules of other small jurisdictions.

**SO 63(4)** allows the presiding officer to invite supplementary oral questions. This could be used to allow political group leaders to intervene early in questions to Ministers without being subject to the rules regarding the order of calling. Such a privilege could be distributed with regard to the size of the groups.

The opportunity to ask supplementary questions could also be used by the presiding officer to balance contributions from 'backbenchers' of different groups.

If desired, this approach could be codified by adding to the end of SO 63(4) words along the lines of:

> *'In calling members to ask supplementary questions, the presiding officer will have regard to the balance of membership of political groups represented by elected members in the States and of those elected members who belong to no political group.'*

**SOs 69 and 70**, and some of those that follow relating to specific forms of proposition, govern the process of debate. If and as parties develop, it might be expected that certain conventions would emerge as to which elected members are called at different points in different debates. In party-dominated assemblies some kind of priority is often accorded to the spokespeople of the official opposition and sometimes those of smaller parties.

It would neither be feasible, nor we think desirable, to try and codify such conventions in advance. However, if it were felt to be desirable to give the presiding officer some kind of mandate to begin developing such conventions as and when the need for them appears to arise, a new standing order could be inserted along the following lines:

> ***68B Presiding officer to balance opinions heard from all parts of the States***
>
> *In calling members other than Ministers to speak in any debate, the presiding officer will have regard to the balance of membership of parties and political groups represented by elected members in the States and of those elected members who belong to no party or group.*

**SO 85** allows any member to requisition a vote on a motion to move to the next business (a form of what is known at Westminster as the "previous question" or

a “dilatory motion” for the adjournment of debate). A vote in favour of such a motion is only valid if no fewer than 20 elected members vote in the majority. However, the standing order also provides that the presiding officer may refuse to accept such a motion if it appears to be “an abuse of the procedure of the States or an infringement of the rights of a minority”. This appears to be a sufficient protection against a political party or group with 20 or more members using this procedure to foreclose debate by springing a surprise vote.

## C Matters not requiring immediate attention

In this section, we address three areas which could be dealt with either by amending existing Standing Orders or creating new ones. However, in our view, these matters are not immediately pressing and/or they are not of major constitutional significance. It might be more appropriate to leave these for later consideration, address them in less formal ways (such as by States' resolution) or let them evolve via practice and convention.

### 5. Voting arrangements

*Current Standing Orders*

Voting in the States is currently addressed by Standing Orders 89A-96.

*Why is this relevant?*

Should party politics in Jersey become more institutionalised, we would expect that parties would speak and vote 'en bloc' (depending on their own party constitutions and/or whether a free/conscience vote is permitted). Accordingly, parties may wish to come to arrangements with other parties and/or particular individuals to maintain voting parity when they are not able to be physically (or remotely) present for a vote in the Chamber. The States may also wish to consider whether a system of proxy voting, to be exercised by a party leader, should be adopted. This may be particularly relevant where a minority government is in power—pairing and/or proxy arrangements can maintain the existing balance of power and so contribute to stability.

Detailed rules accommodating the interests of parties are not common. One example is provided below. This paucity of examples may indicate that this is a matter better left to internal party processes or an area that should be left to evolve should it become more pressing for parties in the States.

*Example of voting rules*

***New Zealand House of Representatives SO 146 Proxy votes cast during party vote***

(1) During a party vote, the leader or whip of a party may cast proxy votes for members of that party who are not present within the parliamentary precincts, but a party's proxy votes must not exceed the limit set out in paragraph (2).

(2) The limit on proxy votes for each party is the number equal to 25 percent of that party's membership in the House, or another limit determined by the Business Committee, rounded upwards where applicable.

(3) A member's proxy vote is not counted towards the limit on proxy votes under paragraph (2) if, at the time the proxy vote is cast, the member is absent from the House with the permission of the Speaker granted under Standing Order 39(1).

(4) The limit on proxy votes under paragraph (2) does not apply—

(a) at any time determined by the Business Committee for this purpose, or

(b) in the period from the declaration of a state of national emergency until that state of national emergency is terminated or expires.

## 6. Seating arrangements

*Current Standing Orders*

Standing Order 171 provides that it is the duty of the Greffier to draw up a seating plan for the States. No guidance or other specifications are provided.

*Why is this relevant?*

Since they have campaigned and presented themselves as a unit with a coherent platform during the election, party members are likely to want to continue this presentation in the legislative chamber. Reliance on previous approaches such as seating members by length of service, in geographical or alphabetical groups or by type of membership could see party members scattered across the chamber. This could have the effect of diluting their cohesion and effectiveness in the chamber and presentation to the public as a united group.

Existing provisions elsewhere range from the very specific to the very general.

*Examples of rules providing for seating arrangements*

***Guernsey States of Deliberation Rule 5: Seating Arrangements (2021)***

The Presiding Officer shall determine the seating arrangements in the States' Chamber. Before doing so he or she shall consult the States' Assembly & Constitution Committee on the matter.

***Niue Assembly SO 22 Seating of members (2006)***

(1) For the first meeting of the Assembly after a general election the Clerk must allocate a seat in the Assembly Chamber to each member in alphabetical order of each member's family name starting to the right of the Speaker's chair.

(2) After the Speaker has appointed the Premier and the 3 other Ministers they must occupy the seats immediately facing the Speaker's chair.

(3) The seats of the other members must be determined by each member drawing a seat number from a container.

(4) The Speaker must determine any question that may arise with regard to the seat to be occupied by a member.

***Samoan Parliament SO 23 Seats of Members (2016)***

(1) As far as practicable, each party occupies a block of seats in the Chamber, provided the Speaker decides any dispute as to the seats to be occupied.

(2) A member must only speak from the seat allocated to him or her.

(3) Seats allocated to Ministers and the Deputy Speaker shall not be allocated individually.

## 7. Recognition of Opposition or Non-government members

*Current Standing Orders*

None.

*Why is this relevant?*

Should parties become a permanent or longstanding feature of Jersey politics, or the number of States Members with a party affiliation increases, the practice of Jersey politics may shift from its current status to something more closely resembling traditional Westminster politics, with a party-based government/executive dominating the legislature, and a party-based opposition without executive functions. It would be helpful therefore to have some processes for determining who or what would be designated as the Opposition (and the Leader of the Opposition) and the role of parties in that designation.

The House of Commons Standing Orders recognise the concept of 'opposition business', the 'Leader of the Opposition' and the 'second largest opposition party' (SO 14(2)). Only the last of these terms is defined as 'That party, of those not represented in Her Majesty's Government, which has the second largest number of Members elected to the House as members of that party'. Other jurisdictions, such as Tonga and Vanuatu, refer to the 'Opposition' but do not define what that means.

*Examples of rules addressing the Opposition*

***Parliament of Samoa SO 22 Leader of the Opposition (and also Kiribati Maneaba Ni Maungatabu (Parliament) Rules of Procedure R 13 Leader of the Opposition (2010)) (2016)***

The Leader of the largest party in terms of its Parliamentary membership which is not in Government or in coalition with a Government party is entitled to be recognised as a Leader of the Opposition.

***Parliament of Fiji SO 14 Election of Leader of the Opposition for new Parliament (2014)***

(1) In this Standing Order, 'members', means—

> (a) the members who do not belong to the Prime Minister's political party;
>
> (b) the members who do not belong to any party that is in coalition with, or that supports, the Prime Minister's political party; and
>
> (c) the independent members who do not support the Prime Minister or the Prime Minister's political party.

(2) The members must elect, after a general election, and from amongst themselves, a person to be the Leader of the Opposition.

***House of Commons SO 99 Scottish Grand Committee (substantive motions for the adjournment) (2018)***

For the purposes of this order, the 'largest' and 'next largest' opposition parties in Scotland shall be those parties, not being represented in Her Majesty's Government and of which the Leader of the Opposition is not a member, which have the largest and next largest number of Members who represent constituencies in Scotland, and of which not fewer than three Members were elected to the House as members of those parties.

## 8. Entrenchment of Standing Orders

There will always be a trade-off in legislatures between efficiency of decision-making, depth of scrutiny and strength of accountability mechanisms. If political parties do come to dominate the democratic governance arrangements of Jersey, the system will have to find its own balance.

We have noted above the risk that the development of parties may lead to the pattern of executive dominance of the States that has occurred in many other parliaments, where the party (or coalition of parties) in government control the agenda, power of legislative initiative and appointments to positions of influence within the Parliament. First-past-the post electoral systems will be particularly prone to delivering disproportionate majorities within the legislature to a single party. This can lead to the "elective dictatorship" which many commentators believe characterises Westminster politics.

Without a written constitution detailing the respective roles and powers of the executive and legislative branches, the procedures of a legislature will be vulnerable to executive capture if a single party comes to dominate both the executive and legislative branches. The Standing Orders of a legislature where there are few justiciable constitutional rules (as opposed to conventions) are a significant bulwark against such capture.

The Committee may therefore wish to give consideration to whether there needs to be protection against a future executive manipulating the Standing Orders in a way which disempowers the opposition (whether formed of parties or independents) within the legislature.

The standard method of doing so would be to entrench the Standing Orders by requiring some form of special majority for their amendment. Such a majority can range from an "absolute majority" requirement (that is a requirement that the number of members voting in favour must represent a majority of the seats in the legislature – so in a legislature of 49 members it would be 25) to some form of "super-majority".

An absolute majority requirement is really only a protection against attempts to spring a vote on the legislature without sufficient notice or to seize an opportunity to take a vote where for some reason potential opponents are prevented from participation. Super-majorities tend to be two-thirds or three-quarters of the total number of either votes cast or the total available votes, but pretty much any proportion can be chosen depending on the extent to which the framers are determined that change can only be made by consensus.

The risk of imposing super-majority requirements is that they can lead to stalemate.[45] A two-thirds majority requirement in a body of 49 members creates a blocking minority of 17 votes. This has the potential to lead to a situation in which there is almost always a sufficient number of members to block and/or oppose change for reasons which may be unconnected with the merits of any particular proposal.

[45] This was a claim frequently made about the two-thirds requirement for calling an early general election under the UK's Fixed-term Parliaments Act 2011 when the government failed on three occasions in 2019 to secure such a majority.

Alternative forms of super-majority requirements include devices such as "double majorities" (which in the Jersey context might be a requirement for a majority to include a majority of those members not belonging to the political group or groups which form the government)[46] or multi-party requirements (for example that the majority must include members of at least three political groups or three members belonging to no political group).[47] We have recommended the use of multi-party requirements elsewhere in this report to mitigate the risk of a single political group abusing its procedural privileges.

It is possible to conceive of a scheme whereby only some of the Standing Orders were protected against amendment by one of these means, though it would be a challenge to draft provision to give effect to this.

**We make no specific recommendation relating to mechanisms to entrench any Standing Orders of the States**. Should the Committee decide in principle that such a mechanism would be desirable, considerable further work would be required to identify the preferred option and draft provisions to give effect to it.

[46] Such a device formed an element of the Standing Orders of the House of Commons relating to "English Votes for English Laws" (which were repealed in July 2021).
[47] Some of the most complex provisions for this kind of mixed majority requirement are those contained in s4(5) of the UK Northern Ireland Act 1998 concerning "cross-community support".

# V CONCLUSION

In this report, we have outlined some of the possibilities for reform in Jersey. Before summarising our main arguments, we reiterate here a few crucial considerations that might weigh on the minds of Members. First, Jersey is unique: although it is comparable in size, constitutional statues and level of party development to many other societies, it is also highly distinctive, meaning that its solutions should necessarily be tailored to its particular context. Second, reformers should be cognisant of history as well as the future: there is no pre-ordained path to developing a strong party system that supports good democratic practice, and the implicit norms, values and ways of doing things that are passed down through the generations necessarily influence political practice as much as explicit rules and procedures. Third, the nature of reform should take those legacies into account: it is not for us to say what Members should do, but we recognise that a wide spectrum of equally legitimate and plausible options for reform exist, ranging from minimal tweaks of accepted practice to full redrafting of the Standing Orders and procedures underpinning the States. Fourth, reform is neither an isolated event nor an end-point: no democracy is perfect, all models involve tensions and trade-offs, and these exist in an ongoing process of contestation and reiteration. Indeed, that is ultimately what democratic politics is all about. The key concern for Jersey is how to flexibly accommodate parties in ways that do justice to its extant political practice while supporting the development of a party system that improves its democracy.

There exist a wide range of examples from around the world—from both small states which echo Jersey's size and scale to overseas territories which have a similar political inheritance, and even larger British polities with similar political DNA—on which Members might draw for inspiration. As they undertake this work, we believe that there are some 'high priority' and 'lower priority' tasks. In the case of the former, we recommend that a conversation is initiated rapidly around how the Standing Orders might be revised in terms of defining and recognising a party, along with those pertaining to the appointment of a Chief Minister and the composition of committees. This is especially important given the evident conflicts that could emerge—in terms of governing legitimacy—if large numbers of Independent Members come to coexist with those representing parties. The latter, which is equally important, but of less immediate concern, is the need to consider the Standing Orders that relate to voting and seating arrangements, but we consider that these can be developed over time according to how political conventions evolve. To help with this endeavour, they might also be kept under constant review by the Privileges and Procedures Committee and made an ongoing topic of political deliberation, so that all actors have buy-in to ensuring party development occurs alongside—and, crucially, is seen to occur in ways that facilitate—good bipartisan democratic practice (rather than being operationalised for factional advantage). In that sense, it is very much a means to an end rather than an end in itself.

## Appendix I: Comparative jurisdictions

The States of Jersey, as noted, has a unique political system. Our comparison focused on analogous cases on one or more of the following dimensions: 1) constitutional status; 2) size of parliament; 3) party system institutionalisation. None of these provide a template for Jersey but they have wrestled with similar challenges, either in the modern era or in the past, so their experience offers insights that can inform deliberations about the general problem of developing a party system or the specific imperative of amending Standing Orders.

| Jurisdiction (population) | Constitutional Status | Size of Parliament | Party system |
|---|---|---|---|
| Anguilla (15,094) | Overseas Territory | Unicameral: 13 Members: 7 in single-seat constituencies; 4 island-wide; 2 ex-officio | Multi-party, well institutionalised but with some independent representation |
| Bermuda (63,918) | Overseas Territory | Bicameral: 36 Members in single-seat constituencies; 11 appointed Senators | Two-party, strongly institutionalised |
| Cayman Islands (64,948) | Overseas Territory | Unicameral: 19 members elected in single-seat constituencies; 2 ex officio | Multi-party, weakly institutionalised, with strong independent representation |
| Turks and Caicos Islands (38,191) | Overseas Territory | Unicameral: 13 members elected in single-seat constituencies; 3 ex officio; 3 appointed; and an externally appointed Speaker | Two-party, strongly institutionalised |
| Gibraltar (33,701) | Overseas Territory | Unicameral: 17 members elected under partial bloc system | Multi-party, strongly institutionalised |
| Antigua-Barbuda (97,118) | Sovereign State | Bicameral: 17 members elected in single-seat constituencies and 2 ex officio; 17 appointed Senators | Two-party, strongly institutionalised |
| Barbados (287,025) | Sovereign State | Bicameral: 30 members elected in single-member constituencies; 21 appointed Senators in upper-house | Two-party, strongly institutionalised |
| Grenada (112,000) | Sovereign State | Bicameral: 15 members elected in single-seat constituencies; 13 appointed Senators (10 by government, 3 by opposition) | Multi-party, strongly institutionalised |
| St Lucia (182,790) | Sovereign State | Bicameral: 17 members elected in single-seat constituencies; 11 Senators appointed by Governor-General | Two-party, strongly institutionalised |
| St Vincent and the Grenadines (110,500) | Sovereign State | Unicameral: 23 members, 15 elected in single-member constituencies; 6 appointed. NB: failed constitutional reform in 2000s sought to create non-geographical constituencies (e.g. sectoral/diasporic) | Multiple parties and independents, strongly institutionalised |
| Trinidad and Tobago (1.3 million) | Sovereign State (Republic) | Bicameral: 41 members elected in single-seat constituencies; 31 appointed Senators | Multi-party, strongly institutionalised |
| Tokelau (1,411) | Administered by New Zealand | Twenty seats, divided between the three main atolls | None |
| Cook Islands (17,459) | Free Association with New Zealand | Unicameral: 24 members, elected in single-seat constituencies (plus an advisory council of Chiefs, the House of Araki) | Two-party, strongly institutionalised |
| Niue (1,620) | Free Association with New Zealand | Unicameral: 20 members, 6 elected on a nationwide list, 14 village representatives | None |

| | | | |
|---|---|---|---|
| Fiji (889,953) | Sovereign State | Unicameral: 50 members elected on party-list proportional representation (on a single national constituency) | Multi-party, strongly institutionalised |
| Kiribati (117,6060) | Sovereign State | 45 members, multi-member constituencies | Multiple parties and independents, weakly institutionalized |
| Marshall Islands (58,791) | Sovereign State | Unicameral: 33 members, 19 elected in single-seat constituencies, 14 in multi-seat constituencies (plus an advisory council of Chiefs, the Iroji) | Multi-party, but very weakly institutionalised |
| Nauru (12,581) | Sovereign State | Unicameral: 19 members elected in multi-seat constituencies (with compulsory voting) | Most candidates stand as independents, although parties have emerged occasionally |
| Samoa (197,097) | Sovereign State | 50 members, single and multi-member constituencies | Single party and independents, moderately institutionalized |
| Solomon Islands (669,823) | Sovereign State | 50 members, single-member constituencies | Multiple parties and independents, weakly institutionalised |
| Tonga (104,494) | Sovereign State | Unicameral: 17 members elected in multi-seat constituencies by STV; 8 elected by 33 hereditary nobles | Mixture of parties, independents and nominated members |
| Vanuatu (pop. 280,000) | Sovereign State | 52 members, multi-member constituencies | Multiple parties and independents, weakly institutionalised |
| Alderney (2,030) | Crown Dependency | 10 members, half elected every two years on single list; 1 directly elected President (every four years) | None |
| Sark (c.500) | Crown Dependency | Unicameral: 18 members, half elected every two years on a single island-wide multi-member list | None |
| Guernsey (63,329) | Crown Dependency | Unicameral: 38 members, elected on a single island-wide multi-member list (since 2020) | Multi-party, weakly institutionalised |
| Isle of Man (84,584) | Crown Dependency | Bicameral: House of Keys has 24 members, elected in two-seat constituencies; 11-member Legislative Council elected by House of Keys | Multi-party, weakly institutionalised: most candidates stand as independents |
| United Kingdom (66.65 million) | Sovereign State | Bicameral: 650 members, elected in single-seat constituencies; 788 Lords (at present: 92 hereditary, 26 spiritual, remainder appointed life peers) | Multi-party, strongly institutionalised |
| Scotland (5.45 million) | Devolved nation | Unicameral: 129 members, 73 elected in single-seat constituencies (FPP); 56 elected by PR from 8 regional lists | Multi-party, strongly institutionalised |
| Wales (3.24 million) | Devolved nation | Unicameral: 60 members, 40 elected in single-seat constituencies (FPP); 20 elected by PR from 5 regional lists | Multi-party, strongly institutionalised |
| Ireland (4.9 million) | Sovereign State | Bicameral: 160 members, elected in multi-seat constituencies under PR; 60 nominated Senators | Multi-party, strongly institutionalised |
| New Zealand (4.92 million) | Sovereign State | Unicameral: 120 members, elected on mixed-member proportional system (with some lists reserved for Māori) | Multi-party, strongly institutionalised |

## Appendix II: Standing Orders of other jurisdictions

### 1 Party Definition and recognition

***Party definition***

**Isle of Man Representation of the People Act 1995 s 77 Interpretation: General**

'political party' means an organisation, howsoever called, one of whose fundamental purposes is to participate in the public affairs of the Island by supporting or otherwise endorsing a candidate at an election of the Keys.

**Parliament of Fiji SO 4 Definition of party (2014)**

(1) In these Standing Orders, unless the context requires otherwise, party means a political party registered under the Political Parties (Registration, Conduct, Funding and Disclosures) Decree 2013.

(2) Despite clause (1), three or more independent members who have formed a working relationship for the purposes of participating in parliamentary business in relation to which these Standing Orders specifically prescribe rules or procedures for parties (rather than members) must be treated as a party for the purposes of that business.

(3) To avoid doubt, the members of a group described in clause (2) are treated as a party for the purposes only of that business and the relevant Standing Orders. Other than as a necessary consequence, the members concerned are not required to exercise their votes or participate in Parliament in any other way as if the members were members of the same political party.

**NZ House of Representatives SO 3 Definitions (2014)**

**party** means the parliamentary membership of a political party that is recognised as a party for parliamentary purposes under the Standing Orders

**Welsh Senedd, SO 1(3), 1(3A) and 1(4):**

1.3 For the purposes of the Act [the Government of Wales Act 2006],[48] a political group is:

> (i) a group of at least three Members belonging to the same registered political party that won at least one seat at the previous Senedd election; or
>
> (ii) three or more Members not satisfying the criteria in Standing Order 1.3(i), who have notified the Presiding Officer of their wish to be regarded as a political group, and satisfied the Presiding Officer that exceptional circumstances apply.

[48] This reference to the 2006 Act is required in respect of s24 which deals with financial assistance to political groups.

1.3A The Presiding Officer must issue guidance to Members under Standing Order 6.17 on the interpretation and application of Standing Order 1.3(ii).

1.4 The Presiding Officer must decide any question as to whether any Member belongs to a political group or as to which political group he or she belongs.

***Recognition of a party***

**NZ House of Representatives SO 35 Recognition of parties (2014)**

(1) Every political party registered under Part 4 of the Electoral Act 1993, and in whose interest a member was elected at the preceding general election or at any subsequent by-election, is entitled to be recognised as a party for parliamentary purposes, subject to paragraph (3).

(2) Independent members, or members who cease to be members of the party for which they were originally elected, may be recognised, for parliamentary purposes,—

(a) as members of an existing recognised party if they inform the Speaker in writing that they have joined that party with the agreement of the leader of that party, or

(b) as a new party if they apply to the Speaker and their new party—

(i) is registered under Part 4 of the Electoral Act 1993, and

(ii) has at least six members of Parliament, or

(c) as members of a component party in whose interest those members stood as constituency candidates at the preceding general election if they inform the Speaker in writing that they wish to be so recognised.

(3) If a party that has been recognised as a party for parliamentary purposes ceases to be registered under Part 4 of the Electoral Act 1993, the Speaker may continue to recognise that party for parliamentary purposes on a temporary basis, for a reasonable period. A party that ceases to be recognised as a party for parliamentary purposes may subsequently be recognised only as a new party under paragraph (2)(b) or as a component party under paragraph (2)(c).

(4) A party that has been recognised as a new party under paragraph (2)(b) loses its recognition if its membership falls below six members of Parliament.

(5) Any member who is not a member of a recognised party is treated as an Independent member for parliamentary purposes.

*Nb* Very similar to NZ, although different threshold for recognition

**Samoan Parliament SO 21 Recognition of Parties (2016)**

(1) At the commencement of each Parliament any group of members of not less than eight (8) shall be recognised as a party in Parliament on its leader notifying the Speaker: Provided that the party is registered as a party by the Electoral Commissioner pursuant to section 15A of the Electoral Act 1963.

(2) A party must inform the Speaker of:
(a) the name of the party;
(b) the identity of the leader and deputy leader;
(c) its Parliamentary membership: Provided that the matters specified in (1) and (2) of this Order are notified before the members take the Oath of Allegiance.

(3) The Speaker must be informed of any change in matters specified in (2) of this Order.

(4) A coalition between two or more parties must be notified to the Speaker but each party to the coalition remains a separate party for the purposes of the Standing Orders.

(5) A party that has been recognised as a party in Parliament shall lose its recognition if its membership falls below eight (8) Members of Parliament.

(6) For parliamentary purposes:(a)any member who takes the Oath of Allegiance before he or she is notified under a party as required by (2)(c) of this Order shall be recognised as an independent member for the duration of the parliamentary term;

**Antigua and Barbuda House of Representatives SO10 Parties (2020)**

The Speaker shall recognize a party for parliamentary purposes, if such party has at least one Member elected to the House of Representatives.

**Parliament of Vanuatu SO 95 Members' interests (2020)**

(1) Every Member must, within three (3) weeks of signing the Roll of Members of Parliament, inform the Speaker in writing of the following:

(a) The Member's affiliation or alliance with any political party or group represented in Parliament;

(b)….

(2) The Speaker must make arrangements for such information given by Members to be recorded in a book kept for that purpose and to record any necessary alterations.

(3) Any Member must, as soon as possible, inform the Speaker of any change in the Member's political affiliation, or pecuniary interests of any kind, recorded in accordance with paragraph (2).

***Recognition of party membership and roles***

**NZ House of Representatives SO 36 Notification of party details (2014)**

(1) A party must inform the Speaker of—

(a) the name by which it wishes to be known for parliamentary purposes, and

(b) the identity of its leader and other office holders, such as deputy leader and whips, and

(c) its parliamentary membership.

The Speaker must be informed of any change in these matters.

(2) A coalition between two or more parties must be notified to the Speaker, but each party to the coalition remains a separate party for parliamentary purposes.

(3) In the period between a general election and the House electing a Speaker, the matters specified in this Standing Order may be notified to the Clerk.

## 2 FORMATION OF GOVERNMENT

**Cayman Islands SO 5: Appointment and composition of Cabinet (2018)**

(1) Where a political party gains a majority of the seats of elected Members, the Governor shall appoint as Premier the elected Member recommended by a majority of the elected Members who are Members of that party.

(2) If no political party gains such a majority or if no recommendation is made under paragraph (1), the Speaker shall cause a ballot to be held among the elected Members to determine which elected Member commands the support of the majority of such Members, and shall record the vote of each Member voting; and, where such a ballot is held, the Governor shall appoint as Premier the elected Member who obtains a majority of the votes of the elected Members.

**Kiribati Election of the Beretitenti (President and Head of Government) Act ss 4 and 5**

**Calling for nominations**

4. At the meeting of the Maneaba ni Maungatabu at which candidates for election as Beretitenti are to be nominated in accordance with section 32 (2) of the Constitution –

1. The Speaker shall call for the names of members qualified and willing to stand for nomination; and
2. If, at the end of the period allowed by the Speaker for names to be given, less than 3 names have been given, the Speaker shall extend this period for such period as he thinks proper until at least 3 names have been given; and

3. If, at the end of the period or extended period referred to in paragraph (b), the names of only 3 or 4 members qualified and willing to stand have been given, the Speaker shall declare them to be the candidates nominated by the Maneaba for the purposes of section 32 (2) of the Constitution; and
4. If, at the end of the period or extended period referred to in paragraph (b), the names of more than 4 members qualified and willing to stand have been given, an election shall be held by the Maneaba, in accordance with section 5 to select 4 candidates.

**Selection of nominees**

5. (1) At an election referred to in section 4(d), the provisions of this section apply.

2. The method of voting shall be by secret ballot.
3. There shall be two rounds of voting in which each member shall cast not more than a vote from among the candidates, and a member who is in the ballot may vote for himself.
4. Any dispute arising out of or in connection with the election shall be determined by the Speaker, whose decision shall be final.
5. When voting in the first round has been completed, the Speaker shall declare or cause to be declared the result of the voting in that first round and the two candidates with the greatest number of votes shall be duly nominated.

6. The Speaker shall then call for a second round of voting exempting the two candidates with the greatest number of votes in the first round from the ballot but not from taking part in the vote.
7. At the completion of voting in the second round, the Speaker shall declare or cause to be declared the result of the voting in that second round and the two candidates with the greatest number of votes shall be declared duly nominated.
8. If an equality of votes is found to exist between any of the members in the ballot, the Speaker shall order any further ballot that he thinks necessary, and the procedure at any further ballot shall be in accordance with this section.'

**Parliament of Fiji SO 13 Election of Prime Minister (if necessary) for new Parliament**

(1) This Standing Order applies if it is necessary to elect a Prime Minister after a general election in accordance with section 93(3) of the Constitution.

(2) The Speaker must call for nominations for appointment. If only one person is nominated, and seconded, then that person assumes office as the Prime Minister by taking before the President the oath or affirmation of allegiance and office (which the President must administer). Otherwise the rest of this Standing Order applies.

(3) An officer of Parliament must give to each member a ballot paper on which the member may write the name of the person nominated and seconded for whom

the member wishes to vote and then fold the paper so that the name written on it cannot be seen by any other person.

(4) An officer of Parliament must collect the ballot papers for counting at the Table by the Secretary-General. A member on behalf of each person nominated may act as a scrutineer and those scrutineers may observe the count at the Table.

(5) If a nominee receives the votes of more than half of all members, the person assumes office as the Prime Minister by taking before the President the Oath or Affirmation of Allegiance and the Oath or Affirmation for Prime Minister set out in the Schedule, which the President must administer.

(6) If no nominee receives the votes of more than half of all members, the Speaker must conduct a second ballot within 24 hours of the first vote and in the same manner as that vote. If a nominee receives the votes of more than half of all members in this ballot, the person assumes office as the Prime Minister by taking before the President the Oath or Affirmation of Allegiance and Oath or Affirmation for Prime Minister set out in the Schedule, which the President must administer.

(7) If no nominee receives the votes of more than half of all members, the Speaker must conduct a third ballot within 24 hours of the second vote in the same manner as the first vote. If a nominee receives the votes of more than half of all members in this ballot, the person assumes office as the Prime Minister by taking before the President the Oath or Affirmation of Allegiance and the Oath or Affirmation for Prime Minister set out in the Schedule, which the President must administer.

(8) If, after the third ballot, no nominee receives the votes of more than half of all the members in this ballot, the Speaker must notify the President in writing of the inability of Parliament to appoint a Prime Minister and the President must, within 24 hours of being notified, dissolve Parliament and issue a writ for a general election to take place in accordance with the Constitution.

(9) At the conclusion of each ballot, the Secretary-General, in the presence of any scrutineers, must destroy the ballot papers.

**Constitution of St Lucia s 60 Ministers of the Government (rev ed 2006)**

(1) There shall be a Prime Minister of Saint Lucia who shall be appointed by the Governor General.

(2) Whenever the Governor General has occasion to appoint a Prime Minister he or she shall appoint a member of the House who appears to him or her likely to command the support of the majority of the members of the House.

## 3. ALLOCATION OF COMMITTEE POSITIONS AND COMPOSITION

**Standing Committees**

**Turks and Caicos Islands SO 116 Public Accounts Committee (2014)**

1) There shall be a Public Accounts Committee of the House of Assembly which shall consist of—

(a) at least three members of the House appointed by the Speaker from among members who are not Ministers; and

(b) two persons expert in public finance who are not members of the House, one of whom shall be appointed by the Speaker and one of whom shall be appointed by the Governor, acting in his or her discretion.

(2) The Chairman of the Public Accounts Committee shall be a member of the House of Assembly in opposition to the Government (without prejudice to the appointment of other such members to the Committee).

**Turks and Caicos Islands Constitution s 64**

*(*1) The House of Assembly shall establish at least two Standing Committees of the House (in addition to the Appropriations Committee and the Public Accounts Committee established by this Constitution), each of which shall be charged with responsibility for monitoring the conduct of business of the Government for which responsibility has been assigned to a Minister or Ministers under section 36(1).

(2) Each Standing Committee shall consist of members of the House of Assembly who are not Ministers.

…..

(4) At least one Standing Committee shall be presided over by a member of the House of Assembly in opposition to the Government.

**Bermuda House of Assembly SO 34(3)(a) Committees (2013)**

(a) The **Public Accounts Committee** shall consist of seven Members appointed by the Speaker, inclusive of the Chair, for the duration of the life of Parliament;…

(b) The Chair of the Public Accounts Committee shall be a Member of Her Majesty's Loyal Opposition.

**Barbados House of Assembly SO 59 Sessional Select Committees (1973)**

(1) There shall be a Committee of Public Accounts….

(2) The Leader of the Opposition shall be the Chairman of the Committee. In the absence of the Leader of the Opposition any member of the Committee other

than a member who supports the Government may be appointed by the Committee to chair a meeting of the Committee.

**Other Committees**

**Parliament of Vanuatu SO 64 Membership of Standing Committees (2020)**

A Standing Committee consists of no more than seven (7) Members and the Membership of the Standing Committee must have regard to:

(a) The proportional representation of Government and Opposition Members;
(b) The views of the Prime Minister, the Opposition Leader, and the leaders of all political parties represented in the Parliament;
(c) Priority must be given to Members who hold no offices in Parliament, the Government or the Opposition;
(d) The Chairperson must be a Member of the Government, with the exception of the Public Accounts Committee which is chaired by an Opposition Member.

and **SO 67 Membership Change of Standing Committees**

(1) In the event that the Membership of Standing Committees needs to be altered as a result of a change of Government, a reshuffle of parties within the Government midterm, or by virtue of a Member moving from Government to Opposition, or Opposition to Government, or for any other reason, the Prime Minister and the Opposition Leader as the case may be, must nominate to the Speaker as soon as possible, the names of replacement members of the Committee.

**Turks and Caicos Islands SO 121(2) Constitution of Standing Committees (2014)**

'In accordance with section 64 of the Constitution, those members shall be elected by the House from elected *or appointed members* who are not Ministers and shall be elected so that, so far as possible, the membership of the Committee is proportionate to the numerical strength of the political parties in the House.'

**Cayman Islands SO 79A Composition of Standing Committees (2018)**

'The composition of all standing committees shall, so far as possible, reflect proportionately the numerical strength of all political parties *or groups* making up the elected membership of the House'

**NZ House of Representatives SO 186(1) Membership of committees (2014)**

'The overall membership of subject select committees must, *so far as reasonably practicable*, be proportional to party membership in the House.'

**House of Commons SO 86(2) Nomination of general committees (2019)**

'In nominating such Members the Committee of Selection shall have regard to the *qualifications of those Members* nominated and to *the composition of the House*, and shall have power to discharge Members from time to time and appoint others in substitution for those discharged:…'

**Bermuda House of Assembly SO 36(4) Other Select Committees (2013)**

'Every Select Committee shall be so constituted as to ensure, as far as is possible, that the balance of parties in the House is reflected in the Committee.'

**Kiribati Maneaba Ni Maungatabu (Parliament) Rules of Procedure R 68: General Committee Provisions (2010)**

The following provisions shall apply to both select and standing committees of the Maneaba:

**Membership**

(1) Unless otherwise ordered in these Rules, the Maneaba shall appoint no less than three and no more than five Members to serve on each select or standing committee for the whole term of the Maneaba. As far as possible; the overall membership of committees shall include Members representative of all parties and groups represented in the Maneaba.

## 4 AGENDA INITIATIVE AND SPEAKING RIGHTS

### *Agenda initiative*

**Rules of Procedure of the Nitijela (legislature) of the Marshall Islands R 50: Cabinet Priority**

(1) In order to give Cabinet the opportunity to carry out its functions under Article V Section 1 (3) (b) of the Constitution to recommend legislative proposals to the Nitijela, unless the Nitijela, on a motion of a member of the Cabinet orders otherwise, Cabinet business has priority over all business other than business of the first seven classes listed in section 52 of these Rules, except that on Wednesday or Fridays other business has similar priority.

(2) A motion to give any business priority over Cabinet business shall not be moved except by a member of the Cabinet.

**Parliament of Vanuatu SO 47 Opposition business**

(1) The Opposition Leader or another Opposition Member designated by the Opposition Leader may, during the period allocated for Opposition business, move a motion to take note of a matter related to public policy or public administration

(2) The Opposition Leader or another Opposition Member designated by the Opposition Leader must inform Speaker of his or her intention under paragraph (1) and provide the Speaker with a written copy of the motion, two (2) days before the sitting day in which the motion is to be presented.

### *Speaking rights*

**Parliament of Vanuatu SO 41 Oral questions (2020)**

(1) Subject to Standing Order 42, any Member may address oral questions, without notice, to a Minister relating to a public matter for which the Minister is officially responsible.

(2) An oral question must be confined to a single question (but the Speaker may allow a Member to proceed thereafter with not more than two (2) supplementary questions) and must be concise.

(3) The Opposition Leader has first priority of questions asked.

(4) A Minister answering a question must not speak for more than two (2) minutes and must be concise.

(5) If a Minister is not present in the Parliament, the Prime Minister will answer the question on behalf of that Minister.

**Antigua and Barbuda House of Representatives SO 21 Statements by Ministers**

1) A Minister may make a statement in the House, with the approval of the Cabinet on government policy, legislative proposals he intends to submit to Parliament, or the course he intends to adopt in the transaction and arrangement of public business.

2) A Minister who intends to make a ministerial statement shall, before the commencement of the sitting, inform the Speaker of his intention to make a ministerial statement and the subject of the statement and provide the Speaker with a copy of the statement.

3) A statement by a Minister shall not exceed fifteen (15) minutes.

4) The Speaker may permit one (1) question for the purpose of elucidation, to be asked by one Member from each of the parties in Opposition to the Government and the Minister, if he can then answer, shall reply. Such question shall not exceed fifteen (15) seconds in length, must be asked without argument or opinion, and shall not address more than one matter of general government policy.

**Parliament of Vanuatu SO 23 Statements by Ministers (2020)**

(1) A Minister may make a factual statement of no longer than fifteen (15) minutes on Government policy, or on matters for which the Minister is responsible. A spokesman for each of the parties in the Opposition may speak for no longer than five (5) minutes on the statement and Members may be permitted to address questions to the Minister.

**Antigua and Barbuda House of Representatives SO 40 Length of Speeches and Debates (2020)**

(1) The limits for speeches are set out in Appendix 1.

(2) The ruling of the Speaker or Chair as to the time taken by any Member shall be final.

(3) Notwithstanding paragraph (1) of this Standing Order, the House may limit the length of a debate on any matter, provided that there is agreement between the Leader of the House and Whips of the Opposition Parties in the House.

(4) In any debate in which a time limit is imposed on the entire debate by agreement between the Leader of the House and the Whips of the debate by agreement between the Leader of the House and the Whips of the Opposition Parties in the House, the Speaker shall ensure that the time is equally apportioned among the parties represented in House.

**Barbados House of Assembly SO 30 Time Limits on Speeches (1973)**

(1) In a debate on a Government Order, a Member may speak for 30 minutes, except on a third reading of a Bill when a Member may speak for 15 minutes, provided that these limits shall not apply to the Prime Minister, a Minister moving a Government Order, and the Leader of the Opposition or the Member speaking first of behalf of the Opposition.

(2) In a debate on the Annual Financial Statement and Budgetary Proposals each Member may speak for 30 minutes, except on a third reading of a Bill when a Member may speak for 15 minutes, provided that these limits shall not apply to the Prime Minister, a Minister moving a Government Order, and the Leader of the Opposition or the Member speaking first of behalf of the Opposition.

(3) In a debate on a motion of an Address in Reply to the Speech from the Throne of His Excellency the Governor-General, a Member may speak for 30 minutes, except on a third reading of a Bill when a Member may speak for 15 minutes, provided that these limits shall not apply to the Prime Minister, a Minister moving a Government Order, and the Leader of the Opposition or the Member speaking first of behalf of the Opposition.

**Bermuda House of Assembly SO 19(14)(2) Rules of Debate (2013)**

Notwithstanding clause (1), the first speaker for any recognised Party in the House may not speak for more than 60 minutes in the following circumstances:

(i) debate on second reading of a Government Bill;
(ii) debate on third reading of a Government Bill;
(iii) debate on any other motion.

(3) Notwithstanding clause (1) no Member shall speak for more than 20 minutes after 7 hours of debate on second or third reading of a Government Bill.

**Bermuda House of Assembly SO 40 Committee of Supply (2013)**

(1) There shall be a Committee of the Whole House to be called ‘the Committee of Supply’.
(2) It shall be the duty of the Committee of Supply to consider the Estimates of revenues and expenditure and any supplementary Estimates.

(3) Unless the House otherwise decides, a maximum of fifty-six hours shall be allowed for the consideration of the Estimates in the Committee of Supply….

(4) In the case of debate of the Estimates of Expenditure, the Opposition shall have the right to determine the order in which the heads of expenditure shall be considered by notifying the Speaker and the Government in writing thereof not less than two clear days before the day named by the Member in charge …. for resumption of debate on the motion for the approval of the Estimates of expenditure:

Provided that in the event of failure of the Opposition to exercise the right conferred under this paragraph the Government shall have the right to determine such order.

**Antigua and Barbuda House of Representatives SO77 Procedure on Examination of Estimates In Standing Finance Committee**

(1) The Standing Finance Committee shall consider the Estimates of Expenditure in relation to the Heads of Expenditure in the order submitted by the Leader of the Opposition.

(2) The Leader of the Opposition shall have the right to determine the order in which the Heads of Expenditure shall be considered and shall notify the Speaker and the Government in writing on the day named by the Minister for resumption of the debate on the Appropriation Bill for the approval of the Estimates of Expenditure; provided that in the event of failure of the Opposition to exercise the right conferred under this paragraph, the Government shall have the right to determine the order.

**Parliament of Vanuatu SO 14 Presidential address (2020)**

(1) H. E. the President may address each Parliament once during the first ordinary session in any calendar year.

(2) After the message from H.E. the President, the Prime Minister and the Opposition Leader, or in their absence a delegated Member comment briefly on the message. Each speech may not exceed more than thirty (30) minutes.

## 5 VOTING ARRANGMENTS

***Proxy voting***

**New Zealand House of Representatives SO 146 Proxy votes cast during party vote**

(1) During a party vote, the leader or whip of a party may cast proxy votes for members of that party who are not present within the parliamentary precincts, but a party's proxy votes must not exceed the limit set out in paragraph (2).

(2) The limit on proxy votes for each party is the number equal to 25 percent of that party's membership in the House, or another limit determined by the Business Committee, rounded upwards where applicable.

(3) A member's proxy vote is not counted towards the limit on proxy votes under paragraph (2) if, at the time the proxy vote is cast, the member is absent

from the House with the permission of the Speaker granted under Standing Order 39(1).

(4) The limit on proxy votes under paragraph (2) does not apply—

(a) at any time determined by the Business Committee for this purpose, or

(b) in the period from the declaration of a state of national emergency until that state of national emergency is terminated or expires.

## 6 SEATING ARRANGEMENTS

**Guernsey States of Deliberation Rule 5: Seating Arrangements (2021)**

'The Presiding Officer shall determine the seating arrangements in the States' Chamber. Before doing so he or she shall consult the States' Assembly & Constitution Committee on the matter.'

**Niue Assembly SO 22 Seating of members (2006)**

(1) For the first meeting of the Assembly after a general election the Clerk must allocate a seat in the Assembly Chamber to each member in alphabetical order of each member's family name starting to the right of the Speaker's chair.

(2) After the Speaker has appointed the Premier and the 3 other Ministers they must occupy the seats immediately facing the Speaker's chair.

(3) The seats of the other members must be determined by each member drawing a seat number from a container.

(4) The Speaker must determine any question that may arise with regard to the seat to be occupied by a member.

**Samoan Parliament SO 23 Seats of Members (2016)**

(1) As far as practicable, each party occupies a block of seats in the Chamber, provided the Speaker decides any dispute as to the seats to be occupied.

(2) A member must only speak from the seat allocated to him or her.

(3) Seats allocated to Ministers and the Deputy Speaker shall not be allocated individually.

## 7 OPPOSITION

**Parliament of Samoa SO 22: Leader of the Opposition (and also Kiribati Maneaba Ni Maungatabu (Parliament) Rules of Procedure R 13: Leader of the Opposition (2010))**

The Leader of the largest party in terms of its Parliamentary membership which is not in Government or in coalition with a Government party is entitled to be recognised as a Leader of the Opposition.

**Parliament of Fiji SO 14 Election of Leader of the Opposition for new Parliament (2014)**

(1) In this Standing Order, 'members', means—

(a) the members who do not belong to the Prime Minister's political party;

(b) the members who do not belong to any party that is in coalition with, or that supports, the Prime Minister's political party; and

(c) the independent members who do not support the Prime Minister or the Prime Minister's political party.

(2) The members must elect, after a general election, and from amongst themselves, a person to be the Leader of the Opposition.

**Parliament of Vanuatu SO 47 Opposition business**

(1) The Opposition Leader or another Opposition Member designated by the Opposition Leader may, during the period allocated for Opposition business, move a motion to take note of a matter related to public policy or public administration

(2) The Opposition Leader or another Opposition Member designated by the Opposition Leader must inform Speaker of his or her intention under paragraph (1) and provide the Speaker with a written copy of the motion, two (2) days before the sitting day in which the motion is to be presented.

## Endnotes

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