



**St Helena
Government**

ST HELENA GOVERNMENT

**COMMONWEALTH PARLIAMENTARY ASSOCIATION
ST HELENA LEGISLATIVE COUNCIL
BENCHMARK ASSESSMENT REPORT,
AUGUST 2021**



CPA COMMONWEALTH
PARLIAMENTARY
ASSOCIATION



Recommended Benchmarks for Democratic Legislatures

Published by the Commonwealth Parliamentary Association | www.cpahq.org

First published 2006. Revised and updated 2018.



ACKNOWLEDGMENTS



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Recommended Benchmarks for Democratic Legislatures

The 2006 CPA Benchmarks were the outcome of a Study Group in late 2006 hosted by the Legislature of Bermuda on behalf of the **Commonwealth Parliamentary Association (CPA)** and the **World Bank Institute (World Bank Group)** with support from the **United Nations Development Programme (UNDP)**, the **European Parliament** and the **National Democratic Institute for International Affairs (NDI)**.

The Benchmarks were revised and updated in June 2018 by a second Study Group of CPA Parliamentarians representing different Commonwealth regions, which met at Wilton Park, West Sussex, United Kingdom. The 2018 Study Group was organised by the **Commonwealth Parliamentary Association (CPA) Headquarters Secretariat** together with the **Westminster Foundation for Democracy (WFD)**.

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PREAMBLE

Building on the Commonwealth Latimer House Principles adopted in 2003, which delineate the relationship between the three Branches of Government and provide guidance on the separation of powers, the **Commonwealth Parliamentary Association (CPA)** synthesized and codified a set of Benchmarks in 2006 to reflect good Commonwealth parliamentary practice.

The original Benchmarks are comprised of 87 indicators and were drafted by Parliamentarians representing different Commonwealth regions. The 2006 Study Group represented most of the Commonwealth regions but could not capture all the nuances and diversity in the 52 Commonwealth countries.¹ The development of regional versions of the CPA Benchmarks, for the Pacific region (2009); Asia, India and South-East Asia regions (2010); and the Caribbean, Americas and Atlantic region (2011) has therefore further contributed to the evolution of the Benchmarks. These regional versions have identified variations in practices and priorities, so Parliaments have Benchmarks that truly reflect the Commonwealth's diversity.

Reinforcing the belief that effective Parliaments are one of the principal institutions of any functioning democracy, the **Recommended Benchmarks for Democratic Legislatures** provide a minimum standard and a guide on how a Parliament should be constituted and how it should function. The Benchmarks are therefore fundamental to the wider values and principles of the Commonwealth Charter, adopted by Commonwealth Heads of Government on 14 December 2012, which expresses the commitment of member states to the development of free and democratic societies.

Emphasising the position of the parliamentary system as a dynamic one, all Legislatures can be sources of valuable innovations regardless of their size or age. Different experiences, approaches and attitudes foster variations in practices and policies which stimulate innovation everywhere. Reflecting new parliamentary developments and practices as well as important international developments such as the implementation of the 2015 United Nations Sustainable Development Goals (SDGs), the 2006 Benchmarks have now been reviewed. These updated Benchmarks will continue to play an important part in developing the effectiveness of parliamentary institutions across the 180 Parliaments and Legislatures of the Commonwealth Parliamentary Association.

The Commonwealth Parliamentary Association (CPA) looks forward to working with its partners to promote the updated Benchmarks and will work with its membership to review how they are being implemented within their jurisdictions.

I. GENERAL

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I.1 Elections

- I.1.1 Members of the popularly elected or only house shall be elected by direct universal and equal suffrage in a free and secret ballot.
- I.1.2 Legislative elections shall meet international standards for genuine and transparent elections.²
- I.1.3 Term lengths for Members of the popular house shall reflect the need for accountability through regular and periodic legislative elections.
- I.1.4 There shall be legislation to ensure campaign finance laws are in place to regulate the manner and extent to which political parties and candidates may receive monetary contributions from individuals and corporations.³
- I.1.5 An independent Electoral Commission or similar authority shall be established for the management of the conduct of elections and its tasks shall include monitoring the election expenses of parliamentary candidates and political parties.⁴

I.2 Candidate Eligibility

- I.2.1 Restrictions on candidate eligibility shall not be based on religion, gender, ethnicity, race or disability.
- I.2.2 Measures to encourage the representative political participation of marginalized groups shall be drawn to accomplish precisely defined objectives.⁵

1.3 Incompatibility of Office

- 1.3.1 No elected Member shall be required to take a religious oath against his or her conscience in order to take his or her seat in the Legislature.
- 1.3.2 In a bicameral Legislature, a legislator may not be a Member of both houses.
- 1.3.3 A legislator may not simultaneously serve in the judicial branch or as a civil servant of the Executive branch.

1.4 Freedom of Speech Immunity⁶

- 1.4.1 The Legislature is protected by the freedom of speech immunity. The immunity shall protect persons from legal liability for words spoken and acts done while participating in or directly facilitating the Legislature's proceedings,⁷ and shall restrict the judicial branch's use of such words and acts as evidence in judicial proceedings.⁸
- 1.4.2 The freedom of speech immunity shall operate to enable the Legislature to carry out its constitutional functions effectively, free from interference or impediment. This includes the Legislature having access to all the information it needs to carry out its functions.
- 1.4.3 The Legislature shall have protection against potential misuse of the freedom of speech immunity. References to judicially suppressed or protected information, or to matters awaiting judicial decision, shall be made only in exceptional circumstances and with due regard to the separation of powers between the Legislature and the judiciary.⁹
- 1.4.4 The Legislature shall have mechanisms for persons to respond to adverse references made to them in the course of the Legislature's proceedings.
- 1.4.5 The freedom of speech immunity shall continue to apply to former Legislators after they have left office, in respect of words spoken and acts done while holding office and participating in or directly facilitating the Legislature's proceedings.

1.5 Remuneration and Benefits

- 1.5.1 Fair remuneration and reimbursement of parliamentary expenses shall be provided to legislators for their service, to ensure that they give priority to parliamentary duties. All forms of compensation shall be allocated on a non-partisan basis.¹⁰
- 1.5.2 An independent body or mechanism should determine the remuneration, benefits and other statutory entitlements of legislators.¹¹

1.6 Professional Development

- 1.6.1 The Legislature shall take measures to ensure that newly elected Members are assisted in understanding how the Legislature works and its rules of procedure.¹²
- 1.6.2 The Legislature shall take measures to assist legislators increase their knowledge and skills in the performance of their parliamentary duties.¹³

1.7 Resignation

- 1.7.1 Legislators shall have the right to resign from Parliament in accordance with clearly defined procedures in the rules of procedure, the Constitution or any other related law.¹⁴

1.8 Natural Justice¹⁵

- 1.8.1 The Legislature shall incorporate principles of natural justice into its rules and procedures, and these shall be applied rigorously to all situations where serious allegations are made against named or identifiable persons during the course of proceedings, either in the Legislature or in its Committees.
- 1.8.2 Members, or others, who are subject to serious charges of contempt of, and offences against, the Legislature are accorded natural justice during the whole process of consideration, and the charges are decided on the basis of all properly admissible evidence.

1.8.3 Punishments imposed by the Legislature on Members or other people (for example, fines, or suspensions from attending or participating in further sittings of the Legislature and its Committees) are proportionate and fair.

1.9 Infrastructure

1.9.1 The Legislature shall have adequate physical infrastructure to enable Members and staff to fulfil their responsibilities.

II. ORGANISATION OF THE LEGISLATURE

2. PROCEDURE AND SESSIONS

2.1 Rules of Procedure

2.1.1 The Legislature's rules of procedure reflect and support the actual practice and culture of the Legislature.¹⁶

2.1.2 Only the Legislature may adopt and amend its rules of procedure.

2.1.3 The Legislature's rules, procedures and practice shall be reviewed regularly to enhance parliamentary effectiveness and relevance.¹⁷

2.1.4 Changes to the Legislature's rules of procedure shall be adopted with near unanimity.¹⁸

2.1.5 The Legislature's rules of procedure shall allow Members to raise genuine and succinct points of order for the Presiding Officer to consider and decide.¹⁹

2.1.6 The Legislature's rules, procedures and practice shall be accessible to Members and to the public.²⁰

2.2 Presiding Officers

- 2.2.1 The Legislature shall select or elect Presiding Officers pursuant to criteria and procedures clearly defined in the Constitution and/or rules of procedure.²¹
- 2.2.2 The Presiding Officer maintains order so that the Legislature carries out its functions effectively and Members have full opportunities to participate and be heard in accordance with the Legislature's rules, procedures and practice.²²
- 2.2.3 The Presiding Officer decides all questions of procedure, and in doing so is guided by previous decisions and practice.²³
- 2.2.4 Punishments (such as orders to leave the chamber) are imposed on Members during proceedings only to the extent necessary to uphold the Presiding Officer's proper authority and ability to chair proceedings.²⁴

2.3 Convening Sessions

- 2.3.1 The Legislature shall meet regularly, at intervals sufficient to fulfil its responsibilities.
- 2.3.2 The Legislature shall have procedures for calling itself into regular session.
- 2.3.3 The Legislature shall have procedures for calling itself into extraordinary or special session.
- 2.3.4 Provisions and qualifying requirements for the Executive branch to convene a special session of the Legislature shall be clearly specified.²⁵

2.4 Agenda

- 2.4.1 Legislators shall have the right to vote to amend the proposed agenda for debate in accordance with the rules of procedure.²⁶

2.4.2 Legislators in the lower or only house shall have the right to initiate legislation and to offer amendments to proposed legislation.

2.4.3 A substantial proportion of the Legislature's time is set aside for it to consider business proposed by non-Government Members.²⁷

2.4.4 There shall be an annual parliamentary calendar to promote transparency.²⁸

2.5 Debate

2.5.1 The Legislature shall establish and follow clear procedures for structuring debate and determining the order of precedence of motions tabled by Members.

2.5.2 The Legislature shall provide adequate opportunity for legislators to debate Bills prior to a vote.

2.6 Voting

2.6.1 Plenary debates and votes in the Legislature shall be public.²⁹

2.6.2 Members in a minority on a vote shall be able to demand a recorded vote.

2.6.3 Only legislators may vote on issues before the Legislature.

2.7 Petitions

2.7.1 The Legislature shall have procedures to allow for the meaningful consideration of petitions.³⁰

2.8 Records

2.8.1 The Legislature shall maintain and publish readily accessible records of its proceedings, in a standard and consistent format.³¹

3. COMMITTEES

3.1 Organisation

- 3.1.1 The Legislature shall have the right and sufficient resources to form permanent and temporary Committees.³²
- 3.1.2 The Legislature's assignment of Committee Members on each Committee shall include both majority and minority party Members and reflect the political composition of the Legislature.
- 3.1.3 The Legislature shall establish and follow a transparent method for selecting or electing the Chairs of Committees.
- 3.1.4 Once established, Committees shall meet regularly in a timely and effective manner.³³
- 3.1.5 All Committee votes and substantive decisions, and the Committee's reasons for them, are made public in an accessible and timely manner.³⁴

3.2 Powers

- 3.2.1 Committees shall have the power to summon persons, papers and records, and this power shall extend to witnesses and evidence from the Executive branch, including officials.
- 3.2.2 There shall be a presumption that the Legislature will refer legislation to a Committee, and any exceptions must be transparent, narrowly-defined, and extraordinary in nature.
- 3.2.3 Committees shall scrutinize legislation referred to them and have the power to recommend amendments or amend the legislation.
- 3.2.4 Committees shall have the right and sufficient resources to consult and/or employ experts.³⁵

- 3.2.5 Committees shall seek and receive submissions from the public about the business before them and provide reasonable time for written submissions to be prepared.³⁶
- 3.2.6 Committees hear evidence from people who wish to be heard, if practicable, or at least ensure that hearings cover the diverse perspectives of submitters.³⁷
- 3.2.7 Committees hear evidence in public unless there is good reason to hear particular submissions in closed session.³⁸
- 3.2.8 Legislatures shall protect informants such as whistleblowers or public servants and witnesses presenting relevant information to Committees about corruption or unlawful activity.³⁹
- 3.2.9 Only Legislators appointed to the Committee, or authorised substitutes, shall have the right to vote in Committee.

4. POLITICAL PARTIES, PARTY GROUPS, CROSS PARTY GROUPS AND THE OPPOSITION

4.1 Political Parties

- 4.1.1 Any restrictions on the legality of political parties shall be narrowly drawn in law and shall be consistent with the International Covenant on Civil and Political Rights.
- 4.1.2 The public and private funding of political parties and candidates shall be transparent and accountable.⁴⁰

4.2 Party Groups

- 4.2.1 Criteria for the formation of parliamentary party groups, and their rights and responsibilities in the Legislature, shall be clearly stated in the Rules.
- 4.2.2 The Legislature shall provide adequate resources and facilities for party groups pursuant to a clear and transparent formula that does not unduly advantage the majority party.⁴¹

4.3 Cross Party Groups

4.3.1 Legislators shall have the right to form interest caucuses around issues of common concern.

4.4 The Opposition⁴²

4.4.1 The Legislature shall ensure adequate facilities and allocation of resources for the Opposition, including the leader.

5. PARLIAMENTARY STAFF

5.1. General

5.1.1 The Legislature shall have an adequate non-partisan professional staff to support its operations including the operations of its Committees.

5.1.2 The Legislature, rather than the Executive branch, shall control the parliamentary service and determine the terms of employment. There shall be adequate safeguards to ensure non-interference from the Executive.⁴³

5.1.3 The Legislature shall draw and maintain a clear distinction between partisan and non-partisan staff.

5.1.4 Members and staff of the Legislature shall have access to sufficient research, library, and ICT facilities.

5.1.5 The Legislature shall take measures to ensure that women are represented at all levels of administration.⁴⁴

5.2 Recruitment

- 5.2.1 The Legislature shall have adequate resources to recruit staff sufficient to fulfil its responsibilities. The rates of pay shall be broadly comparable to those in the public service.⁴⁵
- 5.2.2 The Legislature shall have transparent and objective recruitment procedures that shall not discriminate in its recruitment of staff on the basis of race, ethnicity, religion, gender, disability, or, in the case of non-partisan staff, party affiliation.⁴⁶

5.3 Promotion

- 5.3.1 Recruitment and promotion of non-partisan staff shall be on the basis of merit and equal opportunity.⁴⁷

5.4 Organisation and Management

- 5.4.1 The head of the parliamentary service shall have a form of protected status defined in legislation or in the Constitution to prevent undue political pressure.⁴⁸
- 5.4.2 The remuneration of the head of the parliamentary service shall be set by an independent body or mechanism.⁴⁹
- 5.4.3 The Legislature should, either by legislation or resolution, establish a corporate body responsible for providing services and funding entitlements for parliamentary purposes and providing for governance of the parliamentary service.⁵⁰
- 5.4.4 All staff shall be subject to a code of conduct.

III. FUNCTIONS OF THE LEGISLATURE

6. LEGISLATIVE FUNCTION

6.1 General

6.1.1 The approval of the Legislature is required for the passage of all legislation, including budgets.

6.1.2 The Legislature shall have the power to enact resolutions or other non-binding expressions of its will.

6.1.3 The Legislature shall scrutinize secondary, delegated or subordinate legislation including its authority and scope.⁵¹

6.1.4 The Legislature shall provide adequate resources for legislators to draft legislation or amendments to any legislation.⁵²

6.1.5 The Legislature shall encourage the process of equality impact assessment with respect to the development of legislation, policies and budgets.⁵³

6.2 Legislative Procedure

6.2.1 In a bicameral Legislature, there shall be clearly defined roles for each chamber in the passage of legislation.

6.2.2 The Legislature shall have the right to override an Executive veto.

6.2.3 The Executive shall transmit Bills and other documents for parliamentary action for timely distribution to Members.⁵⁴

6.2.4 The Legislature shall establish procedures for systematic monitoring of the effective implementation and consequences of legislation.⁵⁵

6.2.5 Only the Legislature shall be empowered to determine and approve the budget of the Legislature.

6.3 The Public and Legislation

- 6.3.1. Opportunities shall be given for public input into the legislative and Committee process, including the budget process.⁵⁶
- 6.3.2. Information shall be provided to the public in a timely manner regarding matters under consideration by the Legislature.

7. OVERSIGHT FUNCTION

7.1 General

- 7.1.1. The Legislature shall have legislation, a constitutional provision or practice that ensures the size of the Cabinet is in proportion to the size of the Legislature.⁵⁷
- 7.1.2. The Legislature shall have mechanisms to obtain information from the Executive branch sufficient to exercise its oversight function in a meaningful and timely manner. There shall be clear and effective procedures requiring the Executive to provide timely responses to oral and written questions and Parliamentary Committee reports and recommendations.⁵⁸
- 7.1.3. The oversight authority of the Legislature shall include effective oversight of the military, security and intelligence services.⁵⁹
- 7.1.4. The oversight authority of the Legislature shall include effective oversight of state-owned enterprises.⁶⁰
- 7.1.5. The oversight authority of the national Legislature shall include effective oversight of compliance with international treaties and obligations, including international human right instruments and the Sustainable Development Goals (SDGs).⁶¹
- 7.1.6. The Legislature shall establish a position of independent ombudsman, or similar office.⁶²

7.1.7 The Legislature shall establish a Human Rights Commission, or similar office, with the mandate to protect against human rights violations.⁶³

7.1.8 The Legislature shall receive annual reports and scrutinize the activities of all independent constitutional bodies, such as human rights commissions, anti-corruption bodies and ombudsmen and, where feasible, follow-up on issues arising from their reports.⁶⁴

7.1.9 The Legislature shall ensure that independent constitutional bodies receive adequate resources and the work of such institutions are not subject to political pressure from the Executive.⁶⁵

7.2 Financial and Budget Oversight

7.2.1 Budget approval and scrutiny procedures shall be clearly specified in the rules of procedure, the Constitution or relevant legislation.⁶⁶

7.2.2 The Legislature shall have a reasonable period of time in which to adequately scrutinize and debate the proposed national budget.⁶⁷

7.2.3 Oversight Committees shall provide meaningful opportunities for minority or opposition parties and independent MPs to engage in effective oversight of government expenditures.

7.2.4 In addition to the draft annual budget, the Legislature shall receive and assess medium-term and annual budget strategies and be informed of the main assumptions that underlie the annual budget's revenue and expenditure projections.⁶⁸

7.2.5 The Legislature shall receive regular in-year budget reports and an audited annual financial statement from the government within 12 months after the end of the fiscal year.⁶⁹

7.2.6 The Legislature shall have access to sufficient financial scrutiny resources and/or independent budget and financial expertise to ensure that financial oversight is conducted effectively.⁷⁰

- 7.2.7 There shall be an independent, non-partisan Supreme or National Audit Office whose reports are tabled in the Legislature in a timely manner.
- 7.2.8 The Supreme or National Audit Office shall be provided with adequate resources and legal authority to conduct audits in a timely manner.
- 7.2.9 All reports of the Supreme or National Audit Office shall stand referred to the Public Accounts Committee, or a designated Committee, for further report.⁷¹

7.3 No Confidence and Impeachment

- 7.3.1 In bicameral systems, only a popularly elected house shall have the power to bring down the government.
- 7.3.2 The Legislature shall have mechanisms to impeach or censure the Executive branch, or express no-confidence in the government.
- 7.3.3 If the Legislature expresses no confidence in the government, the government is obliged to offer its resignation. If the head of state agrees that no other alternative government can be formed, a general election should be held in an appropriate time frame that is clearly specified in the Constitution or in any other related law.⁷²

8. REPRESENTATIONAL FUNCTION

- 8.1.1 The Legislature shall be organised in such a way as to enable the substantive representation of women in its work.
- 8.1.2 The Legislature shall provide all legislators with adequate and appropriate resources to enable them to fulfil their constituency responsibilities.

9. PARLIAMENTARY ASSISTANCE, NETWORKING AND DIPLOMACY

- 9.1.1 The Legislature shall have the right to seek and receive development assistance to strengthen the institution of Parliament.⁷³
- 9.1.2 The type of assistance, budget and the use of development assistance received by the Legislature shall be determined by the Legislature in a transparent and accountable manner.⁷⁴
- 9.1.3 Members and the staff of Parliament shall have the right to receive technical and advisory assistance, as well as to network and exchange experience with individuals from other Legislatures.

IV. VALUES OF THE LEGISLATURE

10. ACCESSIBILITY, OPENNESS AND ENGAGEMENT

10.1 Citizens and the Press

- 10.1.1 The Legislature shall be accessible and open to citizens and the media, subject only to demonstrable public safety and work requirements.
- 10.1.2. The Legislature shall be accessible and open to persons with disabilities.⁷⁵
- 10.1.3 The Legislature should ensure that the media are given appropriate access to the proceedings of the Legislature without compromising the proper functioning of the Legislature and its rules of procedure.
- 10.1.4 The Legislature shall have a non-partisan media relations facility.
- 10.1.5 The Legislature shall promote the public's understanding of the work of the Legislature.

10.1.6 The Legislature shall identify demographic groups whose perspectives are not well represented in parliamentary decision-making and make efforts to increase their participation.⁷⁶

10.1.7 The Legislature shall have a regularly updated and accessible website to enhance and promote information sharing and interaction with citizens and the outside world.⁷⁷

10.2 Languages

10.2.1 Where the Constitution or parliamentary rules provide for the use of multiple working languages, the Legislature shall make every reasonable effort to provide for simultaneous interpretation of debates and translation of records.

11. ETHICAL GOVERNANCE

11.1 Transparency and Integrity

11.1.1 Legislators should maintain high standards of accountability, transparency, responsibility and propriety in the conduct of all public and parliamentary matters including strict adherence to codes of conduct, and interest disclosure rules.⁷⁸

11.1.2 The Legislature shall approve and enforce codes of conduct, including rules on conflicts of interest and the acceptance of gifts.⁷⁹

11.1.3 Legislatures shall require legislators to periodically, fully and publicly disclose their financial and other relevant interests.⁸⁰

11.1.4 There shall be mechanisms to prevent, detect, and bring to justice legislators and staff engaged in corrupt practices.

11.2 Freedom of Information (FOI)

11.2.1 There shall be an effective FOI regime to give the public access to information held by public authorities.⁸¹

ENDNOTES

¹ In 2006, the Commonwealth was made up of 52 countries.

² The 2018 Study Group noted that some CPA regions had specified relevant international standards to be followed for genuine and transparent elections, for example those contained in the *Declaration of Principles for International Election Observation* and *Code of Conduct for International Election Observers*.

³ New Benchmark agreed by the 2018 Study Group. The Study Group noted the *Cost of Politics* study undertaken by the Westminster Foundation for Democracy (WFD), which highlights the risks and negative impact of high-cost politics (including fears concerning corruption, exclusion from the political process and the quality of democracy).

⁴ New Benchmark agreed by the 2018 Study Group to strengthen electoral integrity through the presence of strong institutional safeguards, including the authority to review and audit the financial reporting of candidates and parties.

⁵ Amended by the 2018 Study Group.

⁶ This section was amended by the 2018 Study Group to broaden the immunities section – one of the purposes of the freedom of speech privilege is to ensure that Parliament has all the information

it needs to do its work, and the Study Group agreed there was a good principled basis for expanding the 2006 Benchmarks.

⁷ The freedom of speech immunity is held by the Legislature itself and not individuals. It covers the words and actions not only of legislators, but also witnesses appearing before Committees and staff who provide services that directly facilitate the Legislature's proceedings. The test for whether or not the immunity applies in a particular case turns on whether the words or acts form part of proceedings or directly facilitate proceedings.

⁸ The judiciary can use parliamentary proceedings in judicial proceedings for some limited purposes, such as interpreting the will of the Legislature regarding a particular statute, or establishing a historical fact. Determining what constitutes an appropriate versus an inappropriate use of parliamentary proceedings is complex, and will always depend on the specific context. The main principle is that the judiciary should not “question or impeach” the Legislature's proceedings, because doing so would undermine the independence of the Legislature and the separation of powers between the two branches.

⁹ Ideally, this Benchmark should be realised by including provision in the rules of procedure for the Presiding Officer to consider such matters. For example, the rules of procedure can include a general prohibition on such references, subject to

the Presiding Officer's discretion. Members of the Legislature can then be required to provide written notice to the Presiding Officer of their intention to make such a reference and the justification for doing so. The Presiding Officer can then rule on the matter following due consideration, having regard to the public interest and the constitutional relationship between the Legislature and the judiciary. This should include specific consideration of the risk of prejudicing a matter awaiting or currently under adjudication by the judiciary.

¹⁰ Amended by the 2018 Study Group.

¹¹ New Benchmark agreed by the 2018 Study Group.

¹² New Benchmark agreed by the 2018 Study Group to ensure that new and returning Members receive some induction training in the rules of procedure.

¹³ New Benchmark agreed by the 2018 Study Group to encourage the continuous professional development of Members.

¹⁴ Amended by the 2018 Study Group to ensure resignations follow agreed procedures.

¹⁵ New section introduced by the 2018 Study Group.

¹⁶ New Benchmark agreed by the 2018 Study Group.

¹⁷ New Benchmark agreed by the 2018 Study Group.

¹⁸ New Benchmark agreed by the 2018 Study Group.

¹⁹ New Benchmark agreed by the 2018 Study Group.

²⁰ Amended by the 2018 Study Group to improve knowledge of the Legislature's work among the wider citizenry and to enable their participation.

²¹ Amended by the 2018 Study Group to recognise that, in some circumstances, Presiding Officers are appointed under the Constitution.

²² New Benchmark agreed by the 2018 Study Group.

²³ New Benchmark agreed by the 2018 Study Group. The Study Group felt that previous rulings or decisions of the Presiding Officer that have ongoing force and relevance should be accessible for Members and others to guide their participation in the Legislature's business. However, it was accepted that this might be a challenge for many small Parliaments.

²⁴ New Benchmark agreed by the 2018 Study Group.

²⁵ Amended by the 2018 Study Group.

²⁶ Amended by the 2018 Study Group to ensure that specific rules of procedure are followed whenever legislators vote to amend the proposed agenda for debate.

²⁷ New Benchmark agreed by the 2018 Study Group.

²⁸ New Benchmark agreed by the 2018 Study Group to ensure greater predictability and transparency in the scheduling of parliamentary business.

²⁹ The 2006 Study Group noted that one possible exception to this may be the election of officers. Amended by 2018 Study Group to ensure that plenary debates are open to the public.

³⁰ New Benchmark agreed by the 2018 Study Group.

³¹ Amended by the 2018 Study Group.

³² Amended by the 2018 Study Group as the Legislature can only form effective permanent and temporary Committees if it has sufficient resources.

³³ New Benchmark agreed by the 2018 Study Group.

³⁴ Amended by the 2018 Study Group.

³⁵ Amended by the 2018 Study Group.

³⁶ New Benchmark agreed by the 2018 Study Group.

³⁷ Agreed by the 2018 Study Group.

³⁸ New Benchmark agreed by the 2018 Study Group. The Study Group accepted that closed hearings may be necessary for reasons of personal safety, or the provision of sensitive information that is necessary to proceedings.

³⁹ Amended by the 2018 Study Group. The Study Group noted that a number of recent decisions by Maltese courts, including the Constitutional Court, had ruled on the applicable guidelines to witnesses appearing before Parliamentary Committees with the result that the Committee's power to summon witnesses has been curtailed.

⁴⁰ New Benchmark agreed by the 2018 Study Group. The Benchmark is designed to improve the transparency and accountability of political party funding (whether public or private) and safeguard the integrity and fairness of public decision-making. The Study Group noted that international instruments such as the *United Nations Convention against Corruption*, requires State Parties to “*enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.*”

⁴¹ The 2006 Study Group considered it best practice for Legislatures to provide party groups with funding allocations and to all each party group to make their own

decisions on the types of facilities they require. This Study Group also recognised the special circumstances of small and/or under-resourced jurisdictions.

⁴² The 2018 Study Group added a new section to highlight the important role of the Opposition in Parliament.

⁴³ Amended by the 2018 Study Group to restrict Executive interference in all cases (including instances where parliamentary services are drawn from the public service).

⁴⁴ New Benchmark agreed by the 2018 Study Group.

⁴⁵ The 2018 Study Group noted that the Maltese Parliamentary Service is finding difficulties in engaging employees such as IT and Finance primarily because it offers pay comparable to those in the public service.

⁴⁶ Amended by the 2018 Study Group.

⁴⁷ Rather than banning political activity by non-partisan staff, the 2006 Study Group recommended that all staff be subject to a code of conduct and that staff are assessed on their conduct annually. A code of conduct should make clear what is acceptable staff behaviour and serve to prevent staff from using their position to influence the functioning of the Legislature in a political manner.

⁴⁸ Amended by the 2018 Study Group.

⁴⁹ New Benchmark agreed by the 2018 Study Group, taking note of the recommendations of the CPA Study Group on *'The Financing and Administration of Parliament'*, held in Zanzibar, Tanzania from 25 to 29 May 2005.

⁵⁰ This 2006 Benchmark was taken directly from the recommendations of the previous CPA's Study Group on *'The Financing and Administration of Parliament'*, held in Zanzibar, Tanzania from 25 to 29 May 2005.

⁵¹ New Benchmark agreed by the 2018 Study Group to ensure that due attention and focus is given to delegated legislation, an area of increased importance and highlighted by many Legislatures as a gap in the original Benchmarks.

⁵² New Benchmark agreed by the 2018 Study Group to ensure that Private Members can fairly exercise their rights to initiate and introduce legislation.

⁵³ New Benchmark agreed by the 2018 Study Group.

⁵⁴ New Benchmark agreed by the 2018 Study Group.

⁵⁵ New Benchmark agreed by the 2018 Study Group to ensure that the legislative process places sufficient attention on the consequences and impact of legislation (post-legislative scrutiny).

⁵⁶ Amended by the 2018 Study Group to encourage Parliament to provide opportunities for civil society and the general public to engage in discussions about how public resources are raised and spent.

⁵⁷ New Benchmark agreed by the 2018 Study Group to ensure that a Parliament's oversight function is not restricted by the size of the Cabinet (a particular concern in small Legislatures). A small Cabinet ensures a larger parliamentary component for the oversight Committees and relieves pressure on backbenchers from the ruling party/parties. The Study Group noted that the *Government of Wales Act 2006* permits a maximum size of the Welsh Government of 12 Ministers, including Deputy Welsh Ministers, and the First Minister and the Counsel General (therefore 14 in total). In total, there are 60 Assembly Members.

⁵⁸ Amended by the 2018 Study Group to establish the expectation that the Executive provides appropriate information to enable effective and timely scrutiny and stresses the need for the Executive to respond oral and written questions and Committee reports and recommendations—a concern frequently raised by legislators.

⁵⁹ Amended by the 2018 Study Group.

⁶⁰ Amended by the 2018 Study Group.

⁶¹ New Benchmark agreed by the 2018 Study Group. The oversight of international treaties and obligations forms part of the Legislature's core responsibility. The SDGs, adopted by United Nations resolution in 2015, establish a clear set of indicators to measure progress towards sustainable human development, and form the basis of the Post-2015 Development Agenda. The Study Group noted that Points 6 and 7 of SDG 16 on Peace, Justice and Strong Institutions are particularly significant to the question of accountable governance and the role of Parliaments:

16.6 Develop effective, accountable and transparent institutions at all levels

16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels

⁶² New Benchmark agreed by the 2018 Study Group. The function and role of this office, as defined by the *International Ombudsman Institute*, is to protect a country's citizens "against violation of rights, abuse of powers, error, negligence, unfair decisions and maladministration" and to encourage the government and the public administration to be more accountable to the public and more open and transparent. According to *Transparency International*, the Ombudsman is one of the key pillars of a country's governance system, as considered by the National Integrity System Assessments.

⁶³ New Benchmark agreed by the 2018 Study Group.

⁶⁴ New Benchmark agreed by the 2018 Study Group to ensure that the Legislature sits at the apex of broad accountability structures in order to provide a framework for their activity, publicise their existence and use the information they provide to challenge Ministers. See *Report of the Hansard Society Commission on Parliament Scrutiny. The Challenge for Parliament: Making Government Accountable*, Vacher Dod Publishing Limited 2001.

⁶⁵ New Benchmark agreed by the 2018 Study Group.

⁶⁶ New Benchmark agreed by the 2018 Study Group to ensure regulations and laws are in place specific to Parliament budget scrutiny.

⁶⁷ Amended by the 2018 Study Group to focus on the principles of adequate notice and time to consider as means to the end of meaningful scrutiny and parliamentary control of public spending. The Study Group noted the work of the *International Monetary Fund (IMF)* and *Organisation for Economic Co-operation and Development (OECD)* in establishing international good practice in the area of Parliament and the budget, including the practice that the presentation of the draft budget should be no less than three months prior to the start of the fiscal

year and the budget should be adopted in advance of the new fiscal year.

⁶⁸ New Benchmark agreed by the 2018 Study Group to reflect recognised international good practice.

⁶⁹ New Benchmark agreed by the 2018 Study Group to facilitate parliamentary oversight of budget execution/implementation.

⁷⁰ New Benchmark agreed by the 2018 Study Group to ensure the Legislature is able to make the best use of information available to it through independent support whether through Committee staff, special advisers and consultants or a budget office or officer to offer independent advice on budgetary matters and to assist with budget-related research and analysis.

⁷¹ New Benchmark agreed by the 2018 Study Group, taking account of international good practice.

⁷² Amended by the 2018 Study Group to ensure that a general election is held as soon as practicable after taking into account factors such as the time required for election preparations which may differ between countries.

⁷³ Amended by the 2018 Study Group to ensure that the Legislature has the right to seek development assistance (and does not need to rely on the Executive).

⁷⁴ New Benchmark agreed by the 2018 Study Group.

⁷⁵ New Benchmark agreed by the 2018 Study Group.

⁷⁶ New Benchmark agreed by the 2018 Study Group as it was noted that the long-term legitimacy of Parliaments would depend to a great extent on improving the inclusion of all demographic groups in the Legislature (such as young people).

⁷⁷ New Benchmark agreed by the 2018 Study Group.

⁷⁸ Amended by the 2018 Study Group to reinforce the importance of high standards in the conduct of all public and parliamentary matters as well as the need for strict adherence to codes of conduct, codes of ethics and asset disclosure rules.

⁷⁹ Amended by the 2018 Study Group. The Study Group noted the *Recommended Benchmarks for Codes of Conduct applying to Members of Parliament*, developed by the Commonwealth Parliamentary Association in partnership with Monash University in Australia.

⁸⁰ Amended by the 2018 Study Group to ensure the regular disclosure of financial assets and business interests and demonstrate a clear commitment to protecting the integrity of the parliamentary institution. Guidelines released by the *Transparency and Accountability Initiative*, in support of *Open Government Partnership*, also state that MPs should be required to disclose systematic information on regular basis, including information on assets, liabilities, sources of income, gifts, and conflicts of interest.

⁸¹ Agreed by the 2018 Study Group to underlie the importance of Freedom of Information as a fundamental human right that serves as a cornerstone of democracy and good governance. Parliaments and Parliamentarians have a responsibility to the people to defend and promote this human right. The right to Freedom of Information has been recognised in numerous international instruments including the *United Nations Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *Inter-American Declaration of Principles on Freedom of Expression*, the *Inter-American Convention Against Corruption* and the *Commonwealth FOI Principles* adopted by Law Ministers in 1999.

Booklet designed and edited by the CPA Headquarters Secretariat editor@cpahq.org

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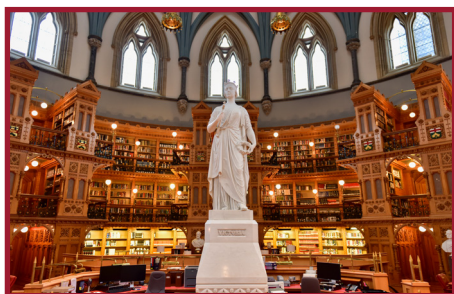
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CPA Recommended Benchmarks for Democratic Legislatures

Published by the Commonwealth Parliamentary Association (CPA)

First published 2006. Revised and updated 2018.



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St Helena Legislative Council Benchmark Assessment Report August 2021

Summary

The Legislative Council of St Helena is working reasonably effectively given its size and resource challenges. St Helena should be commended for improvements in governance. The Legislative Council has been investing in the skills and capacity of Members and staff. Members have benefited from sharing experiences as well as training and development with other parliaments. Some of the functions of the Council such as the Public Accounts Committee are providing effective, independent oversight. There are strong independent institutions such as Audit St Helena and the Equality and Human Rights Commission. Legislative Council staff were praised for their professional and confidential approach to their work.

But there are also governance challenges. There is currently some overlap between the roles of the executive and the legislature. This is making the Legislative Council less effective as it is sometimes trying to perform the roles of both the legislature and the executive. This causes confusion which slows or prevents decision making and reduces transparency and accountability. At the moment, there is not enough separation of powers between the legislature and the executive.

Constitutional reforms will move St Helena to a ministerial system. These are designed to increase accountability, transparency and speed up decision-making. These will provide clearer distinction between the roles of the executive and the legislature. It will allow the Legislative Council to focus on its functions of legislating, scrutinizing the executive and representing people. There will, for example, be government and backbench Members, Minister's Question Time and select committees to provide scrutiny and oversight. There will be more Legislative Council staff and these staff will work solely for the legislature and support Member's representational work.

These reforms will increase the separation of powers, for example, with some officers of the St Helena administration no longer sitting on the Legislative Council. But the Attorney General will still be an ex officio Member of and legal advisor to the Legislative Council. As legal advisor to the Government, this is a conflict of interest. The Governor will appoint select committee chairs and will still appoint the Chair of the Public Accounts Committee. This function should be transferred to the Speaker who makes the appointment on behalf of the Legislative Council and the chairs should be backbench Members.

The Legislative Council needs more powers and investment to carry out its work more effectively. It should have parity with the executive and judiciary. Premises need to be smarter and more accessible. The office of the Speaker needs strengthening and expanding to include leading, representing and protecting the independence of the legislature, as well as creating an inclusive culture. A Parliamentary Services Commission or similar body would ensure that the

legislature is financially and administratively independent of the executive. It would manage a parliamentary service so the legislature can employ their own skilled advisors and administrators, as well as specialist advice, particularly independent legal advice. After the election there should be support and development for elected Members, committee chairs and Members, presiding officers and staff to fulfil their roles and to prepare everyone for the new Constitution.

There are concerns about transparency and openness. The processes of organising and reporting Legislative Council meetings should be followed rigorously. Meetings which are called at short notice, or with late papers are less effective as Members are not fully prepared and they can be perceived as excluding the media and public and hiding information. Closed or informal meetings also create suspicion. All Legislative Council meetings should be in public by default. There were concerns about the process of agreeing the constitutional changes in the Legislative Council. There is incomplete information on the Legislative Council website. This could cause a challenge to the legitimacy of the new Constitution. These records should be urgently made public.

There was evidence that some women (Members, staff and visitors) are treated less than equally in the Legislative Council. It is important that the leadership and membership of the Legislative Council ensure that every elected Member and all staff members are treated equally and respectfully.

Background

In 2018 the CPA completed a consultation and review process that resulted in the adoption of updated Recommended Benchmarks for Democratic Legislatures. The benchmarks provide a minimum standard and a guide on how a legislature should be constituted and function. They play an important role in developing the effectiveness of parliamentary institutions across the 180 parliaments and legislatures of the CPA and contribute to the implementation of the Sustainable Development Goals.

From July- September 2021, the Legislative Council of St Helena used the framework to conduct a self-assessment. The process allows the Legislative Council to measure the effectiveness and assess progress in achieving democratic and good governance standards by comparing their practices to the benchmarks that have been developed and adopted by Commonwealth parliamentarians and by extension the CPA.

The assessment was requested by The Speaker, Mr John Cranfield and organised by the Clerk of Councils, Mrs Connie Johnson. There was an initial self-assessment against the benchmarks by Members and staff. The CPA Headquarters Secretariat appointed Susie Latta to undertake a review. Because of the challenges of Covid19, she was unable to visit the island and the assessment was undertaken virtually through a series of online interviews and by reading key documents. From the Legislative Council, she met with the Speaker and Deputy Speaker and

Members as well as the Clerk of Councils and Assistant Clerk and many other stakeholders. A full list can be found in Appendix 2.

A review of key documents was also undertaken including the Constitution, key legislation and ordinance, the Legislative Council Standing Orders and other reports and materials. The report below is a summary of the main findings and recommendations of the assessment. A list of some of the constitutional and legal mandates for the Legislative Council can be found in Appendix 3.

While St Helena has a close partnership and is constitutionally linked to Ascension and Tristan da Cunha, this assessment does not include the democratic institutions on these islands.

Acknowledgements

The positive approach of the Legislative Council of St Helena to the assessment process and the focus on continuous learning and improvement are admirable. The benchmarks provide a basis for constructive comparison, learning and sharing experiences between parliaments across the Commonwealth, ultimately leading to stronger and better democracy.

The CPA Headquarters Secretariat thank all the stakeholders who took part in this Assessment. A special thanks must go to Carol George, Connie Johnson and Anita Legg for their organisation and help. A full list of all contributors can be found in Appendix 2.

Support and follow up

Following the publication and consideration of the findings of this report, and within the boundaries of financial constraints, the Commonwealth Parliamentary Association is committed to supporting the Legislative Council of St Helena in strengthening its democratic processes. As such, the CPA stands ready to enable the Legislative Council to take forward these recommendations where requested and appropriate.

Geographical, Political, Economic and Social Context

St Helena is part of the British Overseas Territory of St Helena, Tristan Da Cunha and Ascension. It is a very small island of 122 square km and 4500 people in the middle of the South Atlantic. First discovered by the Portuguese in 1502, it became one of the first British colonies in 1659. Until recently, the only way to get to the island was on the Royal Mail ship which took five days from Cape Town, South Africa. In 2017 an airport was opened for commercial flights, and there were bi-weekly flights to Johannesburg, but these ceased in March 2020 due to the covid-19 pandemic. Since then, repatriation flights have been organised to the UK, approximately at 6 weekly intervals, although some increase in flight numbers is anticipated between November 2021 and March 2022.

St Helena is self-governing for all domestic affairs with executive authority vested in the British Crown, represented on the Island by the Governor. The Governor chairs the Executive Council (or ExCo) which sets the direction for the Government of St Helena. The Governor has reserved powers for enacting legislation and for external affairs, defence, internal security, finance and shipping.

The Legislative Council or LegCo is unicameral and made up of 12 Members elected in elections every four years. There are three ex officio Members: the Chief Secretary, Financial Secretary and Attorney General. The Speaker and Deputy Speaker are registered voters who are elected by the Members of the LegCo. They do not have a vote.

The Island has great advantages including its climate, natural beauty, abundant wildlife and nature. It is English speaking, its currency is linked to the UK Pound, labour costs are low and it is a pleasant place to live. The Island has challenges around remoteness, lack of economies of scale, limited availability of land and shortages of skilled labour. It has an ageing population, a limited tax base, infrastructure challenges, a low average income and a heavy reliance on imports. Many islanders leave the Island to work in the Falkland Islands, Ascension Island or in the UK. A major source of income is remittances from overseas workers.

St Helena has significant economic challenges which means that public sector budgets are extremely limited. The British Government makes substantial aid payments to cover shortfalls in the budget on the island. St Helena has a plan¹ to reduce its economic dependence on UK aid by increasing investment, primarily in tourism, to make the most of the opportunities provided by the new airport. This has been slowed by Covid19. A new undersea fibre cable has arrived on the island and will be connected in 2022. It will increase the capacity and speed and reduce the high cost of the internet. This may provide digital opportunities.

¹ <https://www.sainthelena.gov.sh/wp-content/uploads/2018/05/SEDP-Final-April-01052018.pdf>

Constitutional and Governance Reforms

A recent review², was commissioned by the UK's Department for International Development to assess the current governance system on St Helena and compare it to other UK Overseas Territories and small jurisdictions. It found the current governance system on St Helena to be functioning 'reasonably effectively though slowly.' But 'there are a number of problems and the system is not as effective as it could be. It does not sufficiently promote transparency and accountability' and there is a need for more direction, vision and decisiveness.³ It also found that the roles of the ExCo, LegCo and committees are not well defined. This causes confusion about who has responsibility for decisions.⁴

It made suggestions about different governance systems which could increase the speed, transparency and accountability of decision making. A ministerial system was chosen for consultation and then put to a referendum. There was a majority in favour of the changes, but on a very low turnout. On this basis, it was agreed that St Helena should move towards a ministerial system and the Constitution has been amended accordingly.

The new system will have a Chief Minister chosen by the 12 elected Members of the LegCo. The Chief Minister will recommend to the Governor the appointment of four Ministers and together they will form the ExCo. They will create a manifesto to provide strategic vision for the island. The ExCo will be chaired by the Governor, who will also consult Members of ExCo on the issues which are reserved. The Chief Secretary and the Financial Secretary will be advisors to the ExCo but will no longer be ex-officio Members of the LegCo or ExCo. The Attorney General will remain a non-voting ex-officio Member of the LegCo and ExCo. The public service has been reorganised into five portfolios and each minister will be responsible and accountable to the LegCo for one of these portfolios. The Members of LegCo who are not Ministers, will be backbenchers and as well as their LegCo functions will have a geographical area of the island that they will cover. There is provision for Minister's Question Time and there will be at least two select committees which will oversee the work of the government.

On 2 August 2021, the LegCo was dissolved in preparation for the election. According to the Constitution⁵, the election will be called between six weeks and three months from this date. The new LegCo and ExCo will meet under the new governance arrangements.

This report assesses the current LegCo arrangements and notes any changes under the Constitutional reforms and makes recommendations, assuming these changes.

² [Governance Review 2019 & Follow up Report 2020](#)

³ <https://www.sainthelena.gov.sh/wp-content/uploads/2019/12/ReportStHelenaPoliticalGovernanceReviewReport191204.pdf> page 6 20

⁴ <https://www.sainthelena.gov.sh/wp-content/uploads/2019/12/ReportStHelenaPoliticalGovernanceReviewReport191204.pdf> page 8 27

COVID-19 Response

The island has taken advantage of its remoteness and limited connections to protect residents from Covid19. Life has continued Covid free and relatively normally through the pandemic. Quarantine is in place for those arriving on the island and there have been a reduced number of flights. There was praise for a quick and coordinated response in a difficult and fast-changing situation. There were some challenges around communication and public involvement in decision making but there was general support for the measures taken. The LegCo has not had to make significant changes to the way it works. The LegCo and Public Accounts Committee have a central role in scrutinising the government response to Covid 19 and learning lessons, particularly in how public money was spent.

I. GENERAL

Elections

Members of the LegCo are directly elected. Elections are held every four years and all citizens can vote in a free and secret ballot⁶. There have been discussions about reforms to election legislation including making registration mandatory, lowering the voting age, postal and proxy voting. None of these changes has been made for the 2021 election⁷.

The requirement for and costs of St Helenian status could be seen as restrictive with some long-term residents of the island unable to choose their representatives or stand for office. Candidates need to be 21 years old to stand for election. This is an unfair exclusion, of candidates based on age, and illogical given the voting age is 17. This should be rectified at the earliest opportunity.

There has not yet been an independent election observation mission in St Helena. This was planned for 2021 but Covid19 restrictions have prevented it. A virtual mission is planned, and a physical mission should be a top priority for future elections and election ordinance should be updated to allow this. As well as the observations highlighted in this report, senior stakeholders on the island should consider the recommendations from any observation mission/assessment when considering reforms to the electoral process.

St Helena does not have an electoral commission or independent electoral management body. While St Helena is small, some proportionate independent oversight of the conduct of elections should be considered to provide information and guidance for the registration and returning officer, voters and candidates about the rules, regulations and processes of elections. One area for consideration by an electoral commission would be to develop measures to increase electoral participation for all, but particularly to encourage the political participation of underrepresented groups.

⁶ [The Constitution of St Helena, Ascension and Tristan da Cunha 2009](#) sections 50 and 78

⁷ [Review of Election Ordinance](#)

There are no political parties on St Helena and candidates cannot claim expenses. Election campaigns are low key and low cost with face-to-face discussions, posters and radio time provided for all candidates, and people want election campaigns to stay this way. Changes could be considered to election law to make provision for limits on candidate expenditure to ensure that elections stay fair.

Recommendation 1

St Helena should look at independent assessment of elections to ensure they follow international law and conventions. Electoral reforms should include the establishment of an independent electoral commission or commissioner to oversee elections, provide information to voters, guidance to candidates and encourage wide participation. Electoral law should be changed to remove any anomalies such as candidates needing to be 21 to stand for election but only 17 to vote.

Separation of Powers, Immunity and Natural Justice

There is clear separation of powers between the judiciary and the legislature but there is a blurring of the roles and responsibilities of the executive and the legislature. There is an intention that this should improve under the new Constitution with for example separate staff for the ExCo and the LegCo. While the Chief Secretary and the Financial Secretary will no longer be Members of the LegCo under the reforms, the Attorney General will remain an ex officio, non-voting Member. As legal advisor to the government, this should be reviewed at the earliest opportunity to maintain the separation of powers.

Recommendation 2

The LegCo should identify ways to provide independent legal advice to the LegCo.

Members can swear oaths in a variety of formats. A previous requirement for Members to swear an oath of confidentiality to the Governor has been removed as part of the constitutional reforms. A duty of confidentiality is included in the draft Code of Conduct for Members⁸. While in some situations confidentiality is needed, openness and transparency should be the norm and reasons given for any secrecy.

The start of each sitting of the LegCo begins with prayers. This could be considered exclusionary to those of other faiths and none. Prayers could be optional, before the formal start of the meeting or replaced with a moment of quiet prayer or reflection for all.

⁸ <https://www.sainthelena.gov.sh/wp-content/uploads/2021/08/Code-of-Conduct-Legco-280721-draft-Aug-21-1.pdf> 4.2 (g)

Freedom of speech and immunity for the Legislature are protected by law⁹, with the Code of Conduct¹⁰ providing a method of redress to those who feel that adverse references have been made during proceedings.

Members Remuneration, Benefits and Professional Development

Members receive remuneration and expenses. This is provided for in the Constitution and law. There was a recent independent review of Members' pay and expenses. The review should be praised for attempting to bring legislator's salaries in line with those in the executive. The salaries of the Speaker and Deputy Speaker should take into account the responsibility of leading and being the representatives of the LegCo. The salary should be commensurate with other roles of similar responsibility and at least with legislators, if not with ministers¹¹. The results of the review were rejected by the LegCo. To determine the pay and benefits of Members there should be an independent body such as a Parliamentary Services Commission.

Recommendation 3

Establish an independent body such as a Parliamentary Services Commission to ensure the LegCo is financially and administratively independent of the executive. This body should oversee the independent process for determining the pay and benefits for Members. Salaries for Speaker and Deputy Speaker should be commensurate with the responsibility of leading and representing the Legislature. (see also Recommendation 13).

Members were positive about the professional development opportunities they had received to help them in their roles. While Covid 19 has caused many problems, the move to virtual events has been a benefit for a remote island. New Member induction and other parliamentary capacity building events provided Members with much-appreciated opportunities to learn from others. The support provided to the Public Accounts Committee to strengthen public financial management was also welcomed. With the forthcoming election and significant proposed changes, there is a need for initial and ongoing professional development and support for new and returning Members. The Speaker and those taking on new roles such as select committee chairs, Members and clerks should have extra, specialist support. There should also be support for Members who join at by-elections.

Recommendation 4

There is an urgent need for support for new and returning Members after the election, as well as support for the new skills and knowledge needed to fulfil the LegCo's changing role, as part of the constitutional changes. New Members should be supported to develop a network of Members in other jurisdictions who can provide peer support and advice.

⁹ [Legislative Council Proceedings Ordinance 1974](#) 3

¹⁰ Legislative Council Code of Conduct 7

¹¹ <https://www.sainthelena.gov.sh/wp-content/uploads/2021/08/Sessional-Paper-39-2021.pdf>

Infrastructure, Organisation and Management

The LegCo has inadequate infrastructure to do its work effectively. The Chamber is not of the required standard for the stature of the institution and does not inspire confidence and respect. The space for the legislature should be comparable with court and judicial buildings. It currently does not have sufficient space for the public or access for people who use wheelchairs. A dedicated building, with its own entrance, easy public access, including for wheelchairs would be an aspiration, but on a small island with limited space, resources and listed buildings, this is unrealistic. A building shared with the executive is a suitable compromise although ensuring access for all is a high priority. Care should be taken to make the executive and legislative functions separate and distinct. Under proposed constitutional changes, there will be more and improved office space for Members and staff than the current office arrangements. And Ministers will be based in their respective Portfolio Directorates, so will not be required to share an office with the 7 non-Ministers.

Recommendation 5

There should be improved facilities to give the LegCo increased stature and make it a distinct and separate institution from the government. There should be a review of access to the chamber and any other meeting space to see if reasonable adjustments could be made to make them accessible to all.

II. ORGANISATION OF THE LEGISLATURE

2. Procedures and Sessions

Rules of Procedure

The LegCo has the right to make its own rules and procedures, according to the Constitution¹². Members and officers feel that the rules of procedure reflect practice and culture. They have not been changed since 2010 and good practice suggests they should be reviewed in each parliamentary term. They are currently being reviewed to incorporate the governance changes but should be reviewed again before the end of the term to ensure they are relevant. The language could be simplified and rules modernised for example to reflect the use of electronic devices. It is also good practice for gender-neutral terms to be used such as chair or chairperson rather than chairman¹³ as has recently been adopted by Anguilla in its 2021 Rules of Procedure. Currently, changes to standing orders are passed on a simple majority. This should be unanimity or a two-thirds majority of all Members.

Recommendation 6

Standing orders should be reviewed at least once a term. The review should consider simpler language, gender-neutral terms and updated practices. The rules for changing standing orders should require at least a two-thirds majority of all elected Members.

¹² [The Constitution of St Helena, Ascension and Tristan da Cunha](#) 2009 68

¹³ <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx> article 7

Presiding Officers

The Speaker and Deputy Speaker are elected by the Members of LegCo. However, they are not elected by Saints and do not have a vote in LegCo. To attract candidates to apply for these roles there should be an awareness campaign around the skills, experience and qualities needed. The LegCo should aim to continue with a gender balance in the two roles. The Speaker and Deputy Speaker roles are focused on the functions around chairing sessions of the LegCo and were praised for providing high quality procedural advice to Members. The leadership and representational aspects of the role should be strengthened and developed to allow the Speaker to promote the independence of the LegCo and ensure it has the powers and resources it needs to represent the people, legislate, and hold the government to account effectively. The Speaker or Deputy Speaker should have a role in any Parliamentary Services Commission and other independent management body of the Legislature.

The Speaker and Deputy Speaker should have support and training for their role. This support could be provided by peers in other legislatures or experienced former presiding officers and Members.

Recommendation 7

Promote the role of Speaker and Deputy Speaker, to encourage a range of candidates to stand. Continue to have a gender balance in the presiding officer team. Provide time and resources for the Speaker to fulfil the roles of leading, representing and ensuring the independence of the LegCo, including chairing any independent management body. Support should be sought to ensure that presiding officers have the skills needed.

Convening Sessions, Setting the Agenda, Debate and Voting

The LegCo meets regularly, and this is provided for in the Constitution¹⁴. Council also has the power to call itself into special session. Debates are generally agreed to be orderly and disciplined, although parliamentary leadership and Members need to ensure there is respectful behaviour by all (see recommendation 18). Debates can be passionate and lively, but the Speaker and Members felt that Standing Orders and the Code of Conduct are sufficient to maintain order. Under new constitutional arrangements, debates may be more adversarial than the current system, which aims for consensus. Consideration should be given to how to promote high-quality debate which allows all Members to have their say in a time-efficient way and to ensure that oversight and scrutiny are given and received constructively and positively. Presiding officers are guided by precedent in decision making. Members can vote to amend the agenda, raise points of order and propose legislation. With the proposed constitutional changes, the LegCo should ensure that sufficient time is set aside for debate and the business of non-Government Members. According to the Constitution only elected Members can vote in LegCo but individual votes are not currently recorded. All votes should be recorded and made public to increase transparency and accountability, current only division votes are recorded.

Recommendation 8

¹⁴ [The Constitution of St Helena, Ascension and Tristan da Cunha 2009](#) 61

Ensure that non-Government Members have time for their business, including the opportunity to initiate legislation. Votes in LegCo should be recorded and made public.

Petitions

There is currently no provision for public petitions to the LegCo. Members can present petitions and they are passed to the ExCo. A simple, accessible and transparent system for members of the public to set up and sign petitions, online, with a paper option, can provide an effective way for the public to raise issues of concern with the Legislature and for Members to gauge public support for an issue. Thresholds can ensure that only the most important issues get discussed. A panel or committee of Members can oversee the suitable response to a petition.

Recommendation 9

Establish a system of public petitions to allow the public to raise issues of concern with the Legislature.

Records

There are significant gaps in the public records of the work of the LegCo. For example, on an issue of great public interest, the constitutional changes, there is no public record of the debate by the LegCo, the amendments made by Members or how Members voted. The lack of up-to-date records makes it harder for the public to engage with the LegCo and hold representatives to account. It also makes it harder for the judiciary to apply legislation. Technology, such as voice recognition software, can provide quicker and cheaper ways to produce Hansard and other records for small legislatures. Members should be reminded to use microphones to ensure everything said is captured.

There should be an annual parliamentary calendar of regular meetings on the legislature's website to promote transparency. Meetings are sometimes called at short notice. This makes it hard for Members to prepare and for the public and media to engage. It can lead to perceptions of secrecy and exclusion. There should be a planned programme of legislation and scrutiny, with well-publicised meetings arranged with all papers available with not less than five working days' notice.

Recommendation 10

Records should be produced and made public in a timely manner. At a minimum, records of proceedings and Hansard should be available with the agenda and papers for the next sitting. There should be an annual parliamentary calendar and programme of legislation and scrutiny available on the website to promote transparency and allow greater engagement. There should be at least five working days' notice of meetings and all papers available five working days before meetings.

3. Committees

The LegCo has the right to form committees. Under the current system, committees are for decision making and the consideration of Bills. Under the new Constitution, there is provision

for at least two select committees for oversight and these will be key checks and balances on government power. The functions, responsibilities, procedures and membership of these committees will be decided by order of the Governor¹⁵. All of these powers should be transferred to the LegCo at the earliest opportunity. Good practice is that committee chairs and Members are appointed by the Speaker after consultation with or election by Members of the LegCo.

Select committees should reflect the portfolio structure of the executive and, if possible, there should be provision for one select committee for each portfolio. Ministers should appear before not sit on select committees. Committees should have clear roles to avoid overlap and to ensure they can work well together. There should also be consideration of all the functions of the executive to ensure that between all the committees there is democratic oversight of all aspects of their work. The membership should be kept small. As with the Public Accounts Committee, the membership could be supplemented with lay Members with expertise or to increase the diversity of the committee.¹⁶

Committees should meet in a regular and timely way, publicising their meetings. All meetings should be open to the public and arranged with sufficient notice and papers. At the moment, committees work on consensus and so votes are not taken, but under the new system votes and decisions should be recorded and made public. Select committees should have powers similar to the Public Accounts Committee, ‘to summon persons, papers and records’ and this should include witnesses and evidence from the executive, including officials.

Recommendation 11

The new select committees need to be appointed by and have their powers determined by the LegCo. There needs to be investment in skills, capacity and capability of chairs and Members and officers so they can scrutinise proposed legislation and policy fully. Select committees need to have powers similar to the Public Accounts Committee ‘to summon persons, papers and records’. Meetings should be held in public, by default, and votes recorded.

Committees should be given the time and resources to scrutinise legislation, government policy and hold Ministers to account. Increased staffing is proposed under the administrative reforms supporting the constitutional changes (see section 5 below.) Committees should have small budgets to allow for costs such as fact-finding visits. They should be able to call on independent research and advice, particularly on financial, legal and technical issues. There is currently provision to receive submissions from the public. This should be promoted and views sought more widely. Stakeholders wanted the LegCo to recognise the range of knowledge and wisdom on the island that can be called on, particularly about how island life works. Committees should consult and call a range of people as witnesses. There is a balance to be struck between Members (elected and lay) who have a conflict of interests and those who can provide useful

¹⁵ <https://www.sainthelena.gov.sh/wp-content/uploads/2021/06/23-St-Helena-Ascension-Tristan-da-cunha-Constitution-amendment-order-2021.pdf> section 69A

¹⁶ [CPA Handbook on Lay Members for Commonwealth Parliaments](#)

experience and background for decision-making. Sometimes a declaration of interest is enough. Other times Members need to remove themselves from discussion and decision-making, if they gain a personal or business advantage.

There is currently no whistleblower policy or protection for informants who approach committees. There is a policy for the St Helena Government, Audit St Helena and the Equality and Human Rights Commission. Whistleblowing protection should be extended to those who bring evidence to committees.

Recommendation 12

Committees should hear broad and diverse views from advisors, witnesses and public consultations to form a balanced view. A whistleblowing policy should be developed for people who approach committees. Committees should have small budgets for visits and to source expert advice, when needed.

4. Political Parties, Party Groups, Cross-Party Groups, and the Opposition

Currently there are no political parties on St Helena. There is the right to caucus, and this has been used to build consensus and improve decision-making. With the new system there may be a move towards party politics. There should be a reflection on what is needed and wanted so that St Helena chooses the system rather than responding to emerging events for example on political funding and access.

With the proposed changes to a ministerial system some support on political leadership skills such as agreeing a manifesto and turning it into policy might be useful.

5. Parliamentary Staff

There are currently two parliamentary staff members, the Clerk of Councils and the Assistant Clerk of Councils, who is currently the Clerk to the Public Accounts Committee and provides support to Members. Some support is also provided by the Head of Administration Central Support Service at St Helena Government who, as a former Clerk of Councils, brings valuable institutional knowledge. Members were complimentary about the work of staff finding them professional, knowledgeable and respectful of Member's confidences.

The Clerk of Councils currently also provides support to the ExCo. This arrangement is not sufficient and does not provide the separation from the executive which is essential for the LegCo to work effectively and independently. Under the new system of governance, there will be a Secretary to the ExCo who will be separate from the Clerk of Councils, this should increase the separation from the executive.

The head of the parliamentary service/clerk must be independent and of the appropriate seniority to carry out their role as advisor to the Speaker and Members. The Clerk of the Legislature should have parity with the Secretary to the ExCo and the Clerk to the Courts/ Courts Manager.

Staffing for the LegCo will be increased under the proposed constitutional changes. Three staff members will provide clerk services exclusively to the LegCo, supporting meetings, select committees and the seven backbench Members. Staff may need training and development for the new roles.

Recruitment, Promotion and Management

LegCo staff are currently employed by the St Helena Public Service. Pay and conditions, as well as recruitment and promotion policies, are all those of the St Helena Government. This arrangement has benefits including cover for absence and a career path for staff, but it also means the staff of the legislature are not independent of the executive. The LegCo should have an independent body such as a Parliamentary Services Commission to manage its operations, financing and administration and employ its public servants.¹⁷ This is fundamental to the independence of the Legislature. It should be proportionate to the requirements of a small legislature, be chaired by the Speaker, have the Clerk as Secretary and could have elected and lay/independent Members. (see also recommendation 3) The Clerk should also have protected status in legislation and there should be a LegCo code of conduct for staff.

The Legislature and the St Helenian Government should be commended for the number of women in senior roles. All the staff of the LegCo and many senior staff in the public service are women.

Recommendation 13

The Clerk of Councils and other LegCo staff should be employed by an independent body such as a Parliamentary Services Commission and have protected status in law. All staff should be given the skills and support they need to be able to perform their roles fully.

III. FUNCTIONS OF THE LEGISLATURE

6. Legislative Function

The approval of the legislature is required for the passage of all legislation made on the island, including budgets. This is provided for in the Constitution. When the LegCo has passed legislation, the Governor has to give his assent for it to pass into law¹⁸. Some UK laws are applied to St Helena¹⁹.

There are significant delays in passing legislation, for example road traffic²⁰ legislation. It is hoped that the constitutional changes will allow law-making to be more focused on the

¹⁷ [CPA Model Law for Independent Parliament: Establishing Parliamentary Service Commissions for Commonwealth Parliaments.](#)

¹⁸ The Constitution of St Helena, Ascension and Tristan da Cunha 2009 74

¹⁹ <https://www.sainthelena.gov.sh/wp-content/uploads/2021/04/UK-Laws-Applied-to-St-Helena-Ascension-and-Tristan-da-Cunha-Updated.pdf>

²⁰ [HMICFRS Inspection of St Helena Police 2020](#) Pg 14

priorities of the government and so speed the passage of legislation. Members should have access to independent legal advice.

Legislation is not formally assessed for its impact on equality due to lack of capacity. The legislature could develop its own process to assess the impact of legislation on equality or seek evidence from independent bodies such as the Equality and Human Rights Commission. There are also no procedures for monitoring the effectiveness and consequences of legislation or of scrutinising secondary or delegated legislation. These could be functions of the new select committees. Draft legislation is published on the website²¹ and there are details of how to comment, but there is no formal process or any updates about the progress and discussion of Bills. When enacted, legislation is simply and clearly organised on the St Helena Government website²².

Recommendation 14

The LegCo should have a formal process by which the public can input into proposed legislation and information should be published about the progress of any bill under consideration. Those with professional expertise in the area, such as the Equality and Human Rights Commission, could be invited to advise on Bills under consideration and support the equality impact assessment of legislation. Members should have access to independent legal advice.

7. Oversight Function

Currently five out of 12 of the elected Members of the LegCo are elected to form an ExCo. Some Members and officers thought that currently there is a lack of clarity of roles between the executive and the legislative and so, there is a lack of clarity about who was making decisions and who was overseeing them. Standing orders currently provide for oral and written questions but some Members felt that answers to their questions were not forthcoming, slow or incomplete.

Under proposed constitutional reforms there will be a cabinet of a Chief Minister and four Ministers. The new constitutional arrangements provide for ministerial question time in the LegCo sittings. The proposed select committees will also be valuable mechanisms for oversight. With these changes should come support for Members to ensure they understand and have the skills for their new roles so the LegCo can provide effective oversight. (see recommendation 4)

Military, security and intelligence services are powers reserved by the Governor and so oversight of these is provided by the UK Parliament. Similarly, the legislature does not have oversight over international treaties and obligations such as the SDGs. Currently there are no powers for the LegCo to provide oversight for state-owned enterprises or those where the state has majority control. Members of the Public Accounts Committee would like these powers,

²¹ <https://www.sainthelena.gov.sh/government/legislative-council/bills-for-an-ordinance/>

²² <https://www.sainthelena.gov.sh/government/legislation/laws-of-st-helena/>

others argue that the LegCo can oversee the investment of public money in state-owned enterprises through scrutiny of the executive rather than by calling the enterprises directly.

Recommendation 15

The LegCo should be given the powers to scrutinise all bodies benefiting from public money including state-owned enterprises.

St Helena should be praised for its independent Equality and Human Rights Commission (EHRC) which reports annually to the Legislature. It receives sufficient funding to do its work and values its network with and support from other Equality and Human Rights Commissions. Currently Commissioners are appointed by the Judicial Services Commission. While this provides independence, the EHRC should be an institution answerable to the LegCo who should appoint and receive the reports of the commissioners.

Other independent bodies could also be established including a permanent complaints commissioner, appointed by the LegCo to provide an important protection and investigative function for citizens who have complaints against the executive.

Recommendation 16

Establish a permanent Complaints Commissioner with a mandate to investigate complaints from citizens about the work of the executive. That the appointment process for commissioners for all independent bodies is reviewed to ensure independence and support the Legislature's oversight of the executive.

There is constitutional provision for the LegCo to approve and scrutinise the budget although the complexity of agreeing grant in aid settlements with the UK Government can slow the process and so leave limited time for scrutiny and debate. Under the new constitutional arrangements, the LegCo may wish to consider a budget committee to provide detailed scrutiny of the budget. There is scrutiny of the medium-term and budget strategies although one-year budget settlements make long term planning hard and so the oversight of longer-term strategies difficult.

St Helena has a strong and respected Public Accounts Committee. They are well briefed and prepared, ask relevant and challenging questions and records are up to date. Their recommendations are acted on by the Government. The Chair of the Public Accounts Committee is currently appointed by the Governor but should be appointed by the LegCo to ensure independence from the executive. Good practice is that they are elected by the elected Members.

Recommendation 17

The Chair of the Public Accounts Committee should be appointed by the LegCo.

There is an independent Chief Auditor²³, with constitutional authority and sufficient resources. The LegCo receives Chief Auditor's Management letters and audited annual statements of accounts²⁴. The Government of St Helena should be praised for an unqualified audit of accounts and for all accounts being up to date.

The Legislature has benefited from support from the Chief Auditor as well as from support provided by CPA UK on the oversight of public financial management, and the networks developed with other public accounts committees. Legislators would benefit from budget and financial oversight training to support the oversight of the national budget or financial statements. (see recommendation 4.)

Members can bring a motion of no confidence in the government and this power is strengthened under the new Constitution²⁵ whereby the government is obliged to offer its resignation and if no alternative government is formed, a general election is called.

8. Representational Function

There is currently limited staffing to support Members' representational and constituency work. Administrative support will be increased with the proposed reforms for each backbench Member who will be taking responsibility for a 'constituency'.

Currently the LegCo has two elected women Members and a woman Deputy Speaker. There have been up to five women Members. Until representation is 50%, ways should be found to increase the number of women Members and to seek the views of women into the business of LegCo (for example by calling them as witnesses, consulting women's groups or appointing women as lay committee Members.) There were concerning reports that sometimes women were not treated equally and respectfully in Council and committee meetings and sometimes felt bullied. There was one allegation of sexual harassment which was not reported at the time. There should be policies and processes in place whereby these issues can be raised by Members and staff in confidence. Zero tolerance of sexual harassment should be included in the code of conduct for Members and officers.

Recommendation 18

Policies, processes and practices should be reviewed to ensure that women Members, staff and the public feel equally safe, welcome, respected and represented in the LegCo.

9. Parliamentary Assistance, Networking and Diplomacy

Parliamentary networks and assistance are highly valued by St Helena, particularly that provided by the CPA. Many Members had benefited from training, exchange visits, conferences and workshops. The online training and technical assistance provided by CPA, including

²³ <https://audit.gov.sh>

²⁴ The Constitution of St Helena, Ascension and Tristan da Cunha 109

²⁵ <https://www.sainthelena.gov.sh/wp-content/uploads/2021/06/23-St-Helena-Ascension-Tristan-da-cunha-Constitution-amendment-order-2021.pdf>

microphones and other equipment for the Council Chamber has been much appreciated. Members stressed the need for support for new and returning Members after the election, as well as support for the new skills and knowledge needed to fulfil the LegCo's changing role, as part of the constitutional changes (see Recommendation 4.) Members thought that even more benefit could be gained by sharing knowledge and experience and by Members making better use of what is available for example with online courses.

Formal and informal networks such as contacts across the UK Overseas Territories are valuable to Members and staff alike and provide simple and cost-effective methods of support and capacity building. These will only get easier with improvements in technology, internet capacity and the increase in online events/ meetings. Covid19 has allowed Members to join virtual events they were never able to go to before and meet a wider range of people, but physical events are valued highly too.

IV. VALUES OF THE LEGISLATURE

10. Accessibility, Openness and Engagement

Citizens and the Media

There are open meetings of LegCo to which the public and media can attend but there are also closed and informal meetings. All meetings should be in public by default and closed meetings should be rare, with the reasons given and outline minutes and decisions provided. Informal meetings should be used for administration, planning and briefing only.

Recommendation 19

All meetings should be open to the public and media by default and any reasons for closed meetings be given.

The media and public are frustrated by their lack of access to information, and this is causing suspicion. The media feel that responses to requests for information can be too slow to meet reporting deadlines or do not fully answer questions. The LegCo should have its own relationship with the media. Currently all formal requests for information go through the executive. LegCo sessions are broadcast live on the radio and these are popular with the public.

There should be a formal programme to promote the work of the LegCo and increase public understanding, led by the Speaker. This could include using traditional and social media, public meetings and public visits or LegCo open days. There should be more work to include under-represented groups in decision making. A good example of this would be the recent Youth Parliament run in conjunction with schools.

The LegCo has a section on the website of the St Helena Government website. The LegCo should have its own website. This is a vital aspect of the independence of the legislature. There

should be details of the Speaker and Deputy Speaker in a prominent place on the website. It should be used to promote public understanding of the work of LegCo and how people can become involved and contact the Legislature.

The information currently on the website is simple and clearly laid out but there are gaps with for example no Hansard for 2021 and only one record of proceedings. For example, there is a concerning gap in the information about the LegCo's discussion and agreement of the new constitutional arrangements. On the website there is a sessional paper with the proposed new constitutional arrangements²⁶ and an order paper indicating this was on the agenda of the sitting on 4 June 2021²⁷. The revised Constitution went to the UK Parliament as a statutory instrument²⁸ saying that the changes were agreed by LegCo on 4 June 2021²⁹ but there are no records of that meeting. There are differences between the two versions of the Constitution (for example in section 69A). This issue was raised by a number of stakeholders and is causing mistrust and suspicion. It could cause a challenge to the legitimacy of these important constitutional changes.

There is a Public Access to Information Bill which was recently passed by the LegCo meeting, but it has yet to come into force³⁰. It replaces a current code of practice for access to information.

Recommendation 20

There should be media support provided by the LegCo. The LegCo should have its own website and have a programme to promote public understanding of its work. Records should be up to date. The bill for public access to information should be brought into force.

11. Ethical Governance

Transparency and Integrity

Members of the LegCo are aware of the standards of transparency and integrity to which they need to adhere according to the Constitution and Code of Conduct. Each Member has completed a register of interests which is available on the website. Members declare interests in meetings and step down from discussions if there is a conflict of interest. The Speaker and other Members feel confident to remind a Member if they notice a conflict of interest. An independent Registrar of Interests can provide impartial advice to Members and can investigate

²⁶ <https://www.sainthelena.gov.sh/wp-content/uploads/2021/06/23-St-Helena-Ascension-Tristan-da-cunha-Constitution-amendment-order-2021.pdf>

²⁷ <https://www.sainthelena.gov.sh/wp-content/uploads/2021/06/Order-Paper-4-June-2021.pdf>

²⁸ <https://www.legislation.gov.uk/uksi/2021/895/article/2/made>

²⁹ https://www.legislation.gov.uk/uksi/2021/895/pdfs/uksiem_20210895_en.pdf 7.2

³⁰ <https://www.sainthelena.gov.sh/wp-content/uploads/2021/06/Public-Access-to-Government-Information-Ordinance-Not-in-force-yet.pdf>

any complaints. There is a code of conduct which has been used a few times recently to resolve issues. It is being revised to include more detail about the appeals process. The results of all investigations should be reported to LegCo promptly.

Appendix 1: Recommendations

Recommendation 1

St Helena should look at independent assessment of elections to ensure they follow international law and conventions. Electoral reforms should include the establishment of an independent electoral commission or commissioner to oversee elections, provide information to voters, guidance to candidates and encourage wide participation. Electoral law should be changed to remove any anomalies such as candidates needing to be 21 to stand for election but only 17 to vote.

Recommendation 2

The LegCo should identify ways to provide independent legal advice to the LegCo.

Recommendation 3

Establish an independent body such as a Parliamentary Services Commission to ensure the LegCo is financial and administratively independent of the executive. This body should oversee the independent process for determining the pay and benefits for Members. Salaries for Speaker and Deputy Speaker should be commensurate with the responsibility of leading and representing the Legislature. (see also Recommendation 13).

Recommendation 4

There is an urgent need for support for new and returning Members after the election, as well as support for the new skills and knowledge needed to fulfil the LegCo's changing role, as part of the constitutional changes. New Members should be supported to develop a network of Members in other jurisdictions who can provide peer support and advice.

Recommendation 5

There should be improved facilities to give the LegCo increased stature and make it a distinct and separate institution from the government. There should be a review of access to the chamber and any other meeting space to see if reasonable adjustments could be made to make them accessible to all.

Recommendation 6

Standing orders should be reviewed at least once a term. The review should consider simpler language, gender-neutral terms and updated practices. The rules for changing standing orders should require at least a two-thirds majority of all elected Members.

Recommendation 7

Promote the role of Speaker and Deputy Speaker, to encourage a range of candidates to stand. Continue to have a gender balance in the presiding officer team. Provide time and resources for the Speaker to fulfil the roles of leading, representing and ensuring the independence of the LegCo, including chairing any independent management body. Support should be sought to ensure that presiding officers have the skills needed.

Recommendation 8

Ensure that non-Government Members have time for their business, including the opportunity to initiate legislation. Votes in LegCo should be recorded and made public.

Recommendation 9

Establish a system of public petitions to allow the public to raise issues of concern with the Legislature.

Recommendation 10

Records should be produced and made public in a timely manner. At a minimum, records of proceedings and Hansard should be available with the agenda and papers for the next sitting. There should be an annual parliamentary calendar and programme of legislation and scrutiny available on the website to promote transparency and allow engagement. There should be at least five working days' notice of meetings and all papers available five working days before meetings.

Recommendation 11

The new select committees need to be appointed by and have their powers determined by the LegCo. There needs to be investment in skills, capacity and capability of chairs and Members and officers so they can scrutinise proposed legislation and policy fully. Select committees need to have powers similar to the Public Accounts Committee 'to summon persons, papers and records'. Meetings should be held in public, by default, and votes recorded.

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Recommendation 20

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Appendix 2: Stakeholders

Thank you to all the people who contributed their time and views to this Assessment:

LegCo

Mr Speaker, Mr John Cranfield
Deputy Speaker, Mrs Maureen Thompson

Members of the LegCo until 2 August 2021

Mr Cruyff Buckley
Hon Clint Beard
Mr Jeffrey Ellick
Dr Corinda Essex
Mr Anthony Green
Mr Lawson Henry
Mr Cyril Leo
Ms Christine Scipio
Mr Derek Thomas
Mr Russell Yon

Other former LegCo members

Mrs Pamela Ward Pearce

LegCo Staff

Mrs Connie Johnson, Assistant Secretary Councils/Clerk of Councils
Miss Anita Legg, Assistant Clerk of Councils

St Helena Government

Dr Philip Rushbrook, Governor of St Helena
Mr Greg Gibson, Head of the Governor's Office

Mr Allen Cansick, Attorney General
Mrs Susan O'Bey, Chief Secretary
Mr Dax Richards, Financial Secretary
Mrs Gilly Francis, Deputy Chief Secretary

Mrs Carol George, Head of Corporate Support and Election Registration and Returning Officer
Mrs Kedell Worboys, St Helena Representative to the UK
Mrs Kerisha Yon, Head of News

Foreign Commonwealth and Development Office

Ms Lisa Jennians, St Helena Desk Officer, UK Overseas Territories Department

Independent Constitutional Organisations

Mr Brendon Hunt, Acting Chief Auditor, Audit St Helena

Mrs Catherine Turner, Chief Executive and Manager, Equality and Human Rights Commission, St Helena (also Women in St Helena (WISH))

Media

Mr Mike Olsson and Mr Vince Thompson, The Independent

Mr Andrew Turner, South Atlantic Media Services

Mrs Tammy Williams, Saint FM

Non Governmental Organisations

Mrs Julia Benjamin and Ms Teeny Lucy, Creative St Helena

Mr Nicholas Stevens, New Horizons

Candidates running for Legco

Mr Keith Brinsden

Mr Mark Brooks

Mr Paul Laban

Mrs Julie Thomas (also Secretary and Communications Officer for the St Helena Commercial Fishermen's Association and small business owner)

Mr Peter Young

Other residents of St Helena

Andrew Pearce

Appendix 3: Constitutional and Legislative Mandates for the Legislative Council of St Helena

Constitutional and Administrative Law

Census Ordinance, 1986

Commission for Equality and Human Rights Ordinance, 2015

Commissions of Enquiry Ordinance, 1926

Constitution of St Helena, Ascension and Tristan da Cunha, 2009

- Council Committees (Rules of Procedure) Order, 2010
- Provision made by Governor for enabling Public Officers to be qualified to be elected (see Elections Ordinance, 2009)

Elections Ordinance, 2009

- Elections Regulations, 2009
- Registration of Electors Regulations, 2009
- Elections (Electoral Districts) Regulations, 2013
- Provision made by Governor for enabling Public Officers to be qualified to be elected (made under the Constitution)

English Law (Application) Ordinance, 2005

- Application Orders and Disapplication Orders

European Union Withdrawal Agreement (Limited Application) Ordinance, 2020

Interpretation Ordinance, 1968

- Change of Title Notices

Legislative Council Proceedings Ordinance, 1974

Legislative Council (Remuneration and Allowances) Ordinance, 2010

Pensions Ordinance 2012

- Pensions Regulations, 2012

Public Access to Government Information Ordinance, 2021 (not yet in force)

Statistics Ordinance, 2000

A full list and links to all legislation can be found here

<https://www.sainthelena.gov.sh/government/legislation/laws-of-st-helena/>

UK Full list of UK laws that apply to St Helena can be found here

<https://www.sainthelena.gov.sh/wp-content/uploads/2021/04/UK-Laws-Applied-to-St-Helena-Ascension-and-Tristan-da-Cunha-Updated.pdf>