

## **Governance Reform – Q&A**

**The following is a list of questions put forward by members of the public and answered collectively by Elected Members of Legislative Council.**

<b>Roles</b>
<b>What are the Speaker's roles and responsibilities?</b>
<p>The Constitution establishes the positions of Speaker and Deputy Speaker whose primary functions are the chairing of Legislative Council meetings. A Speaker is constitutionally seen as a neutral chair with no political or policy allegiances. Neither the Speaker nor Deputy Speaker vote in Legislative Council.</p> <p>A member of the public may put themselves forward to be Speaker or Deputy Speaker provided they are not already an Elected Member of Legislative Council. Councillors then vote to appoint a candidate to each office.</p> <p>The role of the Speaker and Deputy Speaker include the following responsibilities:</p> <ul style="list-style-type: none"><li>• Setting the Order Paper for Legislative Council meetings</li><li>• Chairing of Legislative Council meetings</li><li>• Upholding the Legislative Council rules on procedures and conduct</li><li>• Deciding on disagreements over procedures, motions and queries made by Elected Members</li><li>• Leading inquiries into Councillor misconduct claims and deciding sanctions.</li></ul>
<b>What is the role of the Governor in either system?</b>
<p>The role of the Governor would essentially remain as it is now under either a Revised Committee System or Ministerial System. The Governor would continue to chair Executive Council (ExCo) and would receive non-definitive advice in most of the areas of special responsibilities and definitive advice in most other matters generally requiring the Governor to act in accordance with that advice.</p> <p>In a Ministerial System that advice would be given by the Chief Minister elected by Legislative Council and the four Ministers appointed by the Chief Minister.</p> <p>In a Revised Committee System that advice would be from the five ExCo Members elected by Legislative Council.</p> <p>The Governor's 'special responsibilities' as outlined in the Constitution (except for the proposed removal of Shipping in the Ministerial system) will remain as they are. They are at present :</p> <ul style="list-style-type: none"><li>• Defence</li><li>• External affairs</li><li>• Internal security, including the Police</li><li>• The appointment of an person to any office in the St Helena Public Service (SHG)</li><li>• The administration of justice</li><li>• Finance</li><li>• Shipping</li></ul>
<b>Outline the powers of Committee Chairs and Ministers for each system.</b>
<p>Under a Revised Committee System, Chairs would be given a more direct responsibility for the standards or performance achieved in the delivery of services by a Directorate. Chairs would also be given a more direct responsibility for the distribution of funds and resources allocated by a Directorate to the services a Committee wants it to achieve.</p> <p>In a ministerial system, Ministers would have responsibility and accountability for all policies and services delivered by their Ministry.</p>

<b>How will co-opted talent be chosen to give advice to committee members?</b>
As in the current system, in a Revised Committee System the Governor may appoint members of a Council Committee; whether Elected Members, officials, advisors or members of the public. The Governor may also consent to a committee Chair appointing persons outside of the Elected Members to sub-committees.
<b>Why can the public not appoint the Chief Minister?</b>
<p>The Chief Minister needs to have the confidence (i.e. the support) of most members of Legislative Council in order to be able to govern effectively. Therefore, a Chief Minister must be chosen by the majority of Elected Members in order to be able to govern. The Elected Members are themselves of course chosen from the public.</p> <p>As there are no political parties in the St Helena political system at present, members of Legislative Council would demonstrate their support for the Chief Minister by voting for an Elected Member to take on the role during the first session of Legislative Council following the general election.</p>
<b>Where will staffing support for Ministers come from?</b>
Ministers will be supported by redeployment of clerical and secretarial personnel from within the SHG administration. If a new post is required then a commensurate efficiency elsewhere would be necessary. Similarly, costs for operating additional offices in directorates for ministers and any improved office facilities and clerical services for Councillors on Legislative Council should be covered through a redistribution of existing financial resources.
<b>Define the relationship between SHG and FCDO; how will this work in a new system for budget process, projects etc.</b>
<p>There will be no formal change in the relationship.</p> <p>There will continue to be an annual Financial Aid Mission (FAM) between the FCDO and SHG for the foreseeable future.</p>
<b>Confirm that Elected Members have full time roles and cannot have full time employment elsewhere; but can have private business ownership</b>
<p>It would be unusual to have any employment constraint on an Elected Members as elected office is frequently considered compatible with a 'second-job' (beyond not actively holding public service post or judicial office, being required to declare interests and with Elected Members' ultimately losing their seat if being absent without leave from formal sessions of council).</p> <p>A concern is that if you restrict employment but not private business ownership then you stop a large group of people from being part of Council. For example it would allow the shop owner to take part but not the shop employee.</p>
<b>Define the geographic districts for backbenchers.</b>
<p>The Island would be divided into seven constituent representation districts (or constituencies) and each of the non-ministers (legislators/backbenchers) would be allocated a district. The legislator for each district would be the first port of call for queries from residents in that area. The legislator would represent any issues from constituents in the constituency with the government, as required.</p> <p>The seven districts have not yet been decided. The Speaker would be responsible for allocating the districts to the backbenchers.</p> <p>Although a constituency representative would be a first port of call members are elected by an island-wide constituency and ultimately are councillors for all the island.</p>
<b>Define how manifestos and direction will be set?</b>

In the run up to an election candidates may have their own manifesto, or agenda, explaining to the electorate what they would want to achieve as an Elected Member. After the election the Chief Minister would appoint his or her Ministers and they would together compile a manifesto, or government agenda that would explain the priorities to be pursued for their term of office.

The manifesto would outline the key areas of importance to the Chief Minister and their Ministers and government strategy would refer back to any commitments made in their manifesto. The public service would have a central role in helping the government to deliver these commitments.

It would be up to the Chief Minister and Ministers if they wanted to continue with existing SHG strategies and policies or develop new ones to reflect their priorities subject to financial constraints.

#### **Outline likely training for ministers if a ministerial system was adopted.**

As is already the case elsewhere there would be no formal 'training' or 'qualification' required to be a minister.

It is likely each Directorate would do an induction for their minister and ministers may seek training themselves or otherwise through the public service (SHG) and external providers, such as the Commonwealth Parliamentary Association, who have in the past provided training for members of Legislative Council.

#### **Capabilities**

#### **Outline the fact that politicians do not require qualifications and experience.**

There are no formal qualifications (e.g. GCSEs, A Levels) required for politicians to stand for election. However, there are certain criteria that need to be met, such as the minimum age to stand for election, not being under a sentence of imprisonment for 12 months or more and not being an undischarged bankrupt.

Politicians usually have a wide range of experience outside of politics, such as in the community, business, professions or the voluntary sector. Ultimately, it is up to the electorate to decide who they want to see, and the skills and experience they offer, in elected office through the ballot box.

#### **The public would like to see a new code of conduct and what that translates to for Elected Members in a committee or ministerial system.**

Elected Members serving under a new system of governance could create a new code of conduct, which would need to be approved by Legislative Council.

Any complaints about Elected Members in their conduct as members of Legislative Council would be sent to the Speaker, who would establish an Investigative Commission that would likely consist of the Deputy Speaker and two other members.

A Ministerial Code could also be considered to define the conduct in office Ministers should display.

#### **Define accountability for decision making, such as scrutiny committee roles?**

In either a revised Committee System or a Ministerial system the scrutiny work of Legislative Council will be assisted by the Public Accounts Committee as it is now.

In either system the Committee Chairs, or Ministers, would have more direct responsibility for the standards or performance achieved by the Directorates and greater accountability for funds spent by their respective Directorate.

In a Ministerial system this greater accountability could be scrutinised by Legislative Council holding question time sessions for ministers in much the same way as is done in the UK with Prime Ministers Questions or Ministers Question Time.

In the Ministerial System it is proposed that Elected Members who are not ministers from two scrutiny committees of Legislative Council.
<b>Administration</b>
<b>How the Chief Secretary appointed and what is their relationship with the Chief Minister?</b>
<p>The Chief Secretary is currently appointed by the Governor and this would continue.</p> <p>The Chief Secretary would remain as the head of the public service (SHG) and act as the principal adviser to the Chief Minister on all policy issues.</p>
<b>Outline how ministers will oversee a directorate and its budget and mechanisms for them taking action in their ministry</b>
<p>The Ministers would be expected to have a close working relationship with the officials in their respective ministries. The Ministers would be based in their Ministries and responsible for ensuring the ministry delivers on its statutory functions and implements policies, including policies set by the Chief Minister and Ministers in the manifesto. This includes taking policy decisions within the relevant ministry, based on advice received from the officials.</p>
<b>Who is responsible for removing senior civil servants from office?</b>
<p>In either a Revised Committee system or a Ministerial system the current arrangements would remain as below.</p> <p>The Governor has the power to appoint, suspend, dismiss, retire or terminate the employment of any person in the public service, as well as the power to take appropriate disciplinary action against public officials. For the most part this power is delegated to the Chief Secretary.</p> <p>The importance of public service appointments being retained by the Chief Secretary and ultimately the Governor is to ensure the public service remains non-political and able to serve and perform its duties without favour to any elected person.</p> <p>Directors' report to the Chief Secretary and their performance is measured in line with the performance management process of the public service, with an expectation that they are delivering their objectives.</p>
<b>Constitutional Changes</b>
<b>Outline specifically what parts of the Constitution would be changed</b>
<p>The proposed Revised Committee System would require no changes to the Constitution.</p> <p>The Ministerial System would require amendments to be made to the Constitution. Amendments are made by a UK Order in Council. Orders in Council are made by the Queen acting on the advice of the Privy Council. The Privy Council can only consider any amendments after certain procedures have taken place; including approval of the amendments from The Foreign &amp; Commonwealth Development Office (FCDO).</p> <p>Below are considered the most substantial proposed changes to the Constitution subject to be agreement with the FCDO:</p> <ul style="list-style-type: none"> <li>• Creation of the position of Chief Minister and four Ministers.</li> <li>• Process for Election of Chief Minister by Legislative Council and appointment by the Governor.</li> <li>• Process for Vote of No Confidence in Chief Minister by Legislative Council.</li> <li>• Power for Chief Minister to choose four Ministers for appointment by the Governor.</li> <li>• Allocation of Portfolios (Ministries) to Ministers.</li> </ul>

- Meetings of Ministers (Cabinet) to consider advice to be tendered to the Governor at Executive Council.
- Dismissal of Ministers at the recommendation of the Chief Minister.
- Removal of Shipping from Governor's Special Responsibilities.
- Creation of two Select (Scrutiny) Committees.
- Removal of the Chief Secretary and Financial Secretary as Members of Executive and Legislative Council.
- Removal of the Oath of Confidentiality.
- Removal of Council Committees.
- Transfer of certain current functions of the Financial Secretary to the Minister responsible for Finance.

**Clarify that once adopted, a new system can be easily relinquished?**

If a Ministerial system is chosen by the public, due to the expression of public will and constitutional changes required, it is unlikely that the system could easily be changed once adopted without repeating a similar lengthy exercise.

A Revised Committee system requires no such constitutional changes so could be relinquished more easily; but if the public will is for a Revised Committee system it is not likely that a Ministerial System would be considered again for quite some time.

**What happens if we cannot find a chief minister?**

If Legislative Council cannot find an Elected Member who commands the support of a majority of Elected Members to be the Chief Minister, then this would ultimately trigger a general election.

With 12 Elected Members of Legislative Council it may be that despite several attempts no members stand or accept election as Chief Minister. Alternatively it may be that a number of members stand and there is no clear winner in which case Legislative Council voting rules may allow for run off selections from among the candidates but if ultimately no Chief Minister can be chosen would have to trigger a general election.

In either case, triggering a general election sends the issue 'back to the people' who may elect different councillors.

**Define terms of office and mechanisms for removal from office, maximum consecutive terms, maximum number of no confidence mechanisms per term?**

As now, a general election would be held at least every four years from the last general election.

The term for ExCo membership for each Minister could be shorter than four years if the Chief Minister resigns or an individual Minister resigns, or if they are asked to leave their post by the Chief Minister.

Legislators can also bring a motion of no confidence in the Chief Minister, which if passed, would require the Chief Minister and all Ministers to step down.

There would be no limit to the number of terms served.

There are no proposed limits on the number of vote of no confidence except that a vote of no confidence cannot be considered if one has already been voted on in the last 3 months, unless the Council has sooner been dissolved.

**Define timelines for next steps and outline how the decision will be made between poll or consultation; explain why.**

A Consultative Poll will be held in March 2021. Eligible electors will be able to vote for or against changing the system of governance and express a preference for either a revised committee system; or ministerial government.

<b>Outline why council cannot be extended to allow more time for consideration</b>
<p>The process around governance reform commenced over eighteen months ago with the visit of Professor Sarkin and his subsequent report on governance options. These options were considered by the Governance Commission, the Progress Committee and Legislative Council, including a period of public engagement carried out by members of the Governance Commission last October.</p> <p>Constitutionally the current Council must be dissolved by early August.</p>
<b>Outline how this process works with regard to going to Privy Council; what does this mean?</b>
<p>If the public vote amounts to an expression of public will for a ministerial system, there are changes that will need to be made to the Constitution and these need to be agreed by the UK Government. This will involve confirmation with Legislative Council on amendments sought before referring the FCDO in London, and thereafter to the Privy Council for final approval. The aim would be to put the constitutional changes in place before the July Privy Council meeting or as soon as practicable thereafter.</p>
<b>Comparatives</b>
<b>Clarify what systems other OTs are using and how well they have worked</b>
<p>Most overseas territories have a ministerial system of government.</p> <p>It is not possible to make an assessment of how well the ministerial system works in each territory, as that depends on a number of factors and is largely dependent on the view of the individual citizens and the adherence to good standards of decision making and policy implementation by Elected Members and public officials.</p>
<b>Cost</b>
<b>Define the costs for the committee and ministerial system and what this means for salaries.</b>
<p>Feedback from the public engagement conducted by the Governance Commission indicated that remuneration for Councillors should be increased in line with the higher level of personal responsibility they will be required to accept. In both the Revised Committee and Ministerial systems of governance, Councillors, Ministers and non-ministers are likely to be expected to undertake additional duties with greater personal responsibilities.</p> <p>Under either system, Elected Members' remuneration would be set, as already required under the constitution; namely that remuneration be established by an ordinance, passed by Legislative Council but must not exceed a level of remuneration recommended by an independent body appointed by the Governor.</p>