

# **Two Future Ways to Govern St Helena**

## **Report of the Views of the Governance Commission**

May/July 2020

28 July 2020

## Foreword

### Principles of Good Governance

Various elected members, public, media, commerce and officials have commented on several occasions the 'Present Committee' system is not performing as efficiently as many would prefer. Elected members and officials in the St Helena Government administration (SHG) work hard to prepare and implement new policies and laws under the Present Committee system. However, three issues for improvement frequently mentioned on St Helena are a desire for clearer individual political responsibility on taking decisions; clearer political accountability for the delivery of public activities; and speedier, less convoluted decision-making and implementation.

These three 'core improvements' form part of a wider set of responsibilities all governments in liberal democracies aspire to achieve. Various definitions on what constitutes a good governance system exist. One helpful definition is termed the Six Pillars of Public Administration Politics:

1. **Legitimacy/Representation** – consensus through a selection process and a political authority accepted by the public
2. **Transparency** - regular communications to inform the public, to encourage engagement in policy-making and to appraise the achievements of the political leadership and public administration
3. **Accountability/Integrity** - leaders and officials have defined procedures to account for delivering the obligations of their positions
4. **Rule of Law** - ensure at all times governance follows a lawful approach and the rule of law is upheld across the jurisdiction
5. **Responsibility/Responsiveness** - someone identified as being responsible for each decision
6. **Effectiveness** - make decisions promptly, adopt a rational political and administrative structure with efficient procedures, flexible operations, minimise costs and avoid too many layers of bureaucracy.

### The Purpose of the Governance Commission

The Governor established a short-term Governance Commission that met between May and July 2020. Its role was to examine and define locally workable options to improve the system of governance on St Helena. The Commission drew upon the extensive information and views gathered by Professor Sarkin from residents across the island in late 2019 and early 2020. The Commission referred to the public views expressed in the Professor's findings and considered the governance options he suggested.

**The role of the Commission was not to take a view one governance system or another was better for St Helena. That is a decision that lies ultimately with the people of St Helena. They did note the improvements possible from each alternative governance system compared to the present one. The Commission had differences of opinion amongst its membership on some topics. These differences are reflected in the views presented in the text.**

Most importantly, the Governance Commission members have endeavoured to present in more detail how each of the two alternative governance arrangements described in this report could operate, if adopted, on St Helena. Both options appear to offer improvements over the Present Committee system of governance. The degrees of improvement presented in this report are the qualitative views of the Commission.

The Governance Commission recognised the report covers the main institutions of governance and that governance structures include many interlocking layers, including developed systems of scrutiny, regulations, orders and guidelines. The Commission expects that these associated governance mechanisms, when addressed in detail, will follow the accepted principles of good governance; these include accountability, responsibility and transparency and openness.

## Executive Summary

During meetings held by Professor Sarkin it was frequently suggested to him three core improvements needed to be made compared to the Present Committee system:

- **Political responsibility** - Ensure someone is ultimately responsible and identifiable for making a political decision
- **Political accountability** - Ensure someone is accountable politically for delivering result
- **Timeliness in decision-making and implementation** - Ensure decisions and results should be achieved more promptly.

### Synopsis - Present Committee system of governance

Under the Present Committee system, the 12 Councillors are each elected to represent one all-island constituency. The Constitution defines this number of Councillors. Each Councillor sits in Legco as an independent member of the elected government and they are not required or expected to agree a collective political vision for their four-year term of office. Each Councillor has equal status as an elected member to the others and they will have their own views on the policies and topics the elected government should pursue as a priority. Each Councillor also serves on a range of committees, working groups and various other decision-making and oversight meetings, as well as attending public gatherings and events in an official capacity. Individual views on most topics could differ widely amongst the 12 Councillors.

Under the Present Committee system at the outset of a new term of office there is no formal creation of a shared, or majority view, on the set of policies the elected members on the Legco aim to pursue. This influences the subsequent proceedings of Committees, Exco and Legco, where there is an inclination to focus on a mixture of shorter-term issues. That is, those that attract some measure of popular attention at the time. Shaping and developing policies and laws that support longer-term, possibly contentious changes in the social or economic arrangements on the island can be harder to be progressed.

Prof Sarkin concluded the Present Committee system could not demonstrate an ability to achieve substantive change towards meeting any of the three core improvements. He and the Commission summarised the features of the Present Committee system.

#### *Political responsibility*

No one person is politically responsible for making a decision. Committees of 4 or 5 members take collective decisions and generally seek to achieve unanimity. Majority decisions are possible. Exco, Legco, other bodies endorse or vary decisions and endeavour to find an outcome on each subject that is acceptable to all.

### *Political accountability*

No explicit link is defined that confers an accountability upon Chairs (or Committees) for the (SHG) administration's delivery of services or its performance. Chairs do recognise the general expectation in the eyes of the community and therefore take on an honourable, not explicit, accountability by virtue of their role. The SHG administration recognises it operates services on behalf of Committees and the government of all elected Councillors. However, no individual Councillor has direct responsibility for the success or otherwise of the results achieved.

### *Timeliness*

There is a strong preference for consensus seeking in Committees. Ad-hoc, informal political fora such as caucusing and Chairperson's Assembly are also used to find consensus on decisions. Consequently, to resolve contentious topics it can take lengthy periods to establish a consensus.

## **Two alternative systems of governance**

Professor Sarkin outlined two alternative governance systems for further examination on their suitability for St Helena:

- A '**Revised Committee**' system (based on modifying the Present Committee system)
- A '**Ministerial**' system (similar to the approach used in several other OTs).

### Revised Committee system

Currently, the 5 Committees cover the education, health, economy, social and environment portfolios. The Commission considered this number to be sufficient. It provided sufficient distinction between portfolios without expanding the number of Chairs required or size of the elected membership of Legco.

The Commission thought that the current 4 or 5 Councillors on a Committee was too many. Decreasing the number of Councillors on a committee to say, 2 or 3 members was seen as more expedient for decision-making and possibly demonstrating clearer political responsibility.

The Commission generally accepted for a Revised Committee system to offer a distinct improvement over the Present Committee system, Committee Chairs need to be given greater 'executive' powers. More specifically, the power to take decisions on policy within Exco without prior Committee consent and given direct responsibility for the allocation of money and resources to the public services within their portfolio. The final decisions on handling overspends or poor achievements would then be the political responsibility of Committee Chairs to resolve with their SHG directorate(s). This would provide a clear political responsibility on who is answerable for judgements about the allocation of resources to public services whilst respecting budget and demand pressures. This connection currently does not appear to exist.

### *Political Responsibility*

Reducing the size of Committees to say, 2 or 3 members may make it easier for the Chair to assume a more prominent responsibility for decisions. Ad-hoc, closed-door political fora such as Chairpersons' Assembly would continue. Formal bodies of Exco and Legco would continue.

### *Political Accountability*

A Revised Committee system may be an opportunity to give Committee Chairs some measure of increased accountability for the level of services operated by the Administration on behalf of their Committees. It was recognised the committee system is not designed to expect an individual Councillor to have sole responsibility for the results achieved by the public service. This responsibility would remain a collective one between Committee members. However, the ability to demonstrate political accountability by a committee may be improved if SHG organised itself into 5 directorates that match the responsibilities of the 5 Committees.

### *Timeliness*

Consensus seeking within Committees might be easier if a committee had fewer members. Hence, some improvement could be foreseen in reducing the time taken to develop or deliver policies. The existing range of political fora debating decisions made by a Committee would probably remain, so resolving some contentious topics may continue to take lengthy periods.

### Ministerial system

The Commission saw a Ministerial system, with balance and scrutiny undertaken by Legco, as offering a larger advance in the core improvements of political responsibility, political accountability and timely decision-making.

The Commission considered 5 Ministers was an appropriate number that would not lead to an increase in the size of Legco. This number would also ensure there remains a majority of Legislators without ministerial responsibilities, thereby providing an effective counterweight to the increased decision-making powers conferred on Ministers. It is also consistent with the present number of Committees and the suggested reorganisation of the SHG administration into 5 new Directorates.

### *Political Responsibility*

In a Ministerial system, a Minister has a personal responsibility for deciding on the policies and nature of public services within their area of responsibility. A Minister would have a responsibility to the Chief Minister and other Ministers to set out a clear strategy and direction on the policies being followed. A Minister would also be expected to promote and defend the performance of their ministry in Exco, Legco,

public meetings and to the scrutiny processes led by other elected members (e.g. Public Accounts Committee, a suggested new scrutiny committee(s)).

### *Political Accountability*

In a Ministerial system, a single SHG Directorate would report directly to a Minister. This permits direct supervision and accountability by a Minister for the performance of the public services in their subject area. A Minister should be co-located within the Directorate (Ministry) for which they are the political head. This would facilitate regular interaction by the Minister with their senior public officials and subject specialists. A Minister would be advised and briefed by public officials, and in turn, officials would implement the policies and decisions made by a Minister. Political accountability by a Minister for the outcome of their policies should be clearer too. When seeking to progress difficult issues, a Minister would be expected to use their skills to garner political support in Legco for their intended policies or legislative programme.

### *Timeliness*

Ministers would have an individual responsibility for progressing the policies and decisions in their subject area. They also have a collective responsibility with all Ministers in Exco for the strategies and achievements to be delivered during their term of office. Legco would be the principal approval stage for political business (debates, motions, legislation, question time, etc) and have an expanded role in constructive scrutiny of the performance of Ministers and their SHG Directorates (Ministries). Under a Ministerial system the time between policy development, presentation to Legco and subsequent implementation of agreed measures should become shorter.

### **Next steps**

Any change in a system of government should have general public acceptance before its adoption. Sometimes this is described as the 'expression of public will'. The Commission expressed a strong opinion the best approach to determine the expression of public will should be for a period of public information and discussion across St Helena on the two alternative systems of governance before taking a vote in a consultative poll.

The next step is consideration of the alternate governance options by Councillors and timetable to seek an expression of public will (August 2020). Subsequently, the expression of public will can be demonstrated through open discussion within the general public in September 2020. Following this period, Legco should decide if a consultative poll or different form of public consultation exercise should take place, preferably in October 2020.

The Commission suggested the electoral register should be updated in August specifically for a consultative poll. Names could automatically be drawn from the

existing electoral register and an active drive to encourage those not inclined to put their name on a list of electors to sign up to a 'consultative poll only' list.

The Commission suggested an example of an appropriate form for a question if Legco opted for a consultative poll could be:

*Should Saint Helena continue with the Committee system or have a Ministerial system of government?*

A consultative poll would only address the question of which alternative governance systems should be used on St Helena in the future. Other topics considered by the Commission such as the powers of the Speaker; SHG restructuring; jury service lists; creation of scrutiny committees; constituent representation districts; and setting of remuneration levels, if taken forward, should be addressed by existing procedures and provisions in legislation.

A change to a Ministerial system of government would require amendments to specific clauses of the Constitution. These changes have to be agreed by the Privy Council. The changes described in this report for a Revised Committee system are unlikely to require an amendment to the Constitution.

The Governor's Office has assisted in the consideration of an alternative governance arrangement through the provision of independent expert advice from Professor Sarkin (funded by DFID) and the local refinement of the options by a Governance Commission. Once this report is issued, considered in Exco and Legco, and a way forward for a programme of public engagement is agreed with Councillors, the Governor's Office intends to step back. It is then for Councillors, Commission members, interested parties and the islanders of St Helena to discuss and decide during September and October on the governance system they would prefer for the future.



## **Preamble**

### An Open Question

In September 2019 the Governor published an Open Question (Annex A) to the residents of St Helena. In that publication the Governor set out the concerns expressed to him by several members of the St Helena community on the present governance arrangements:

*Since I arrived, I have heard numerous views, publicly and privately, on the weaknesses in our system of government. Councillors, businesses, administrators, community leaders and many of the people I meet in the streets have told me the present approach of committees, working groups, Legco and Exco all involved in trying to sort out policies and laws is confusing and too often tediously slow.*

*Above all, the present system of government means no one within the body of elected councillors is explicitly accountable for the performance of any part of government. (Extract)*

The Governor, following discussions in Exco and with various Councillors, decided there was sufficient interest across the island to explore if it would be appropriate to offer reforms in the governance system. Note was taken of the previous consultative polls in 2005 and 2012 to revise the governance arrangements. Reports and details of these previous periods of consideration were reviewed.

### Core Improvements

The views received from residents had similar requests to previous reviews, i.e. any alternative system of government should deliver at least three core improvements:

- Ensure someone is ultimately responsible and identifiable for making each political decision
- Ensure someone is accountable politically for delivering results and services within their area of responsibility
- Ensure decisions and results are achieved more promptly.

### Professor Sarkin's Findings

To assist the process of gathering views from a wider range of people and organisations on St Helena, DFID funded two visits in November 2019 and January 2020 by Professor Sarkin. He is a specialist on systems of government and based at an academic institution in Lisbon. Importantly, Prof Sarkin concluded the Present Committee system was not fit for purpose and could not demonstrate a realistic ability to achieve any of the three core improvements. Therefore, these improvements requested by a wide range of people he met would require the island's system of governance to be reformed.

In addition to gathering and analysing an extensive range of views from islanders and organisations, he also outlined two potential alternative governance systems for further examination:

A 'Revised Committee' system (based on modifying the present Committee system. (A form of committee system with some similarities to those in the Falklands, Ascension and Tristan da Cunha); and

A 'Ministerial' system (a form of governance system used in most other OTs).

Copies of the two reports by Professor Sarkin are available on the SHG web site. A summary of the second report was issued by the Governor's Office in March 2020 (Annex B).

### Governance Commission

In March 2020, the Governor after consultation with Exco members agreed it would be constructive to explore in more detail the two alternative systems of government (Ministerial and Revised Committee) suggested by Professor Sarkin. Accordingly, the Commission looked in depth to see how they could be made to work on St Helena.

The Governance Commission was an ad-hoc body with no formal powers that met on a part-time basis over six weeks (Terms of Reference at Annex C). It was set up to advise the Governor, elected representatives and the wider community, on suggested workable arrangements to operate each of the two alternative governance systems. It was not intended the Commission would answer every possible query or put forward only one view where different viewpoints existed amongst the membership. An initial set of questions considered by the Commission was prepared before the first meeting to encourage discussion (Annex D).

The Commission comprised of five people, independent of the senior leadership of the SHG administration and not holding elected office. The participants gave their time freely and without remuneration. In addition, two youth representatives participated and there was constitutional support from the Attorney General's Chambers and secretarial support from the Governor's Office.

This report presents the Commission's views on possible ways to make the two alternate governance systems work on St Helena. It has been the intention of the Commission to share the final report with Councillors and islanders. Thereafter, it will be for the people of St Helena to decide, following public debate and a poll (if approved as appropriate by Councillors), as to which future governance system they would prefer.

## **Present Committee System**

### Present situation

During meetings with Professor Sarkin it was frequently suggested three core improvements were needed for the Present Committee system: Responsibility, Accountability and Timeliness.

Summarised below is the prevailing situation relating to the Present Committee system by Professor Sarkin and the Commission. They identified a need to achieve greater clarity in the following:

- **Political responsibility** - Ensure someone is ultimately responsible and identifiable for making a political decision
- **Political accountability** - Ensure someone is accountable politically for delivering results
- **Timeliness in decision-making and implementation** - Ensure decisions and results should be achieved more promptly

### *Political responsibility*

No one person is politically responsible for making a decision. It is one of the 5 Committees that develop the initial decision on a topic. Committees comprise 4 or 5 elected members who take collective decisions and generally try to achieve unanimity. Majority decisions are possible. Exco, Legco, other bodies endorse or may vary a Committee's decisions. Each one operates on the basis of endeavouring to find a final decision acceptable to all.

### **[Political responsibility improvement – None - Current system]**

### *Political accountability*

No explicit link is defined in the Constitution or legislation that confers an accountability upon Chairs (or Committees) for the administration's delivery of services or its performance. Chairs do recognise the general expectation in the eyes of the community and therefore take on an honourable not explicit accountability by virtue of their role. The SHG administration operates services on behalf of Committees and the government of all elected Councillors. Hence, no individual Councillor has direct responsibility for the success or otherwise of the results achieved.

### **[Political accountability improvement – None – Current system]**

### *Timeliness*

There is a strong preference for consensus, preferably unanimity, in the Committee system. Ad-hoc, informal political fora such as caucusing and Chairperson's Assembly are also used as intermediate gatherings to resolve differences and find

consensus on decisions. Consequently, it can take lengthy periods to establish a consensus in order to resolve contentious topics.

### **[Timeliness in decision-making improvement – None – Current system]**

#### Commission Observations on Present Committee System

- Not conducive to identifying accountability, openness or specific political responsibility
- No consistent political oversight and accountability for the level of public services possible
- Too many apparent layers of decision-making leads to a perception the Present Committee system is slow and cumbersome
- Present Committee system does not engender confidence in the effectiveness of the political process
- Rightly or wrongly, the general public perception is the SHG administration defines the priorities for political attention and not the elected representatives
- Too often elected members find it difficult and slow to agree the content of new policies
- General public assume the SHG administration is the ‘government’ making decisions on public services and elected members often appear to operate as an opposition to the administration rather than both being integral parts of the process of government
- Too many public officials sit on political-led committees leading to a confusion of roles.

#### Commission’s Further Considerations

##### *Structure*

Within the Present Committee system 12 Councillors are each elected through one all-island constituency. They are not required to agree a collective political vision for their four-year term of office. Each Councillor sits in Legco as an independent member of the elected government. Each Councillor has equal status as an elected member and they will have their own views on the specific policies and topics the elected government should pursue as a priority. Each Councillor is likely to serve on a range of committees and working groups. Individual views may differ widely amongst the 12 Councillors and reconciling differences can sometimes be difficult and time-consuming.

##### *Shared Vision Absent*

Under the Present Committee system at the outset of a new term of office there is no formal creation of a shared, or majority view, on the set of policies the elected members on the Legislative Council aim to pursue. This makes the subsequent proceedings of Committees and Legco more inclined to focus on a disparate range of the shorter-term issues. That is, those that attract some measure of popular attention at the time. Shaping and developing policies and laws that support longer-

term, possibly contentious changes in the social or economic status of the island can be harder to get progressed.

Absence of a shared view on policies to be pursued leads to a corresponding impact on the effectiveness of the public services operated by the SHG administration. Whenever there is an absence of a policy on a particular subject under the Present Committee system, SHG officers may have to make ad hoc, short-term decisions about changes on the level of public services they are mandated to deliver. Over time, this can lead to a misalignment of Councillors' understanding and the operational approach taken by public officials. Where this occurs, it may lead to tensions, lack of clarity over accountability and a blame-focussed relationship.

In other jurisdictions, it is common for the elected politicians in control of government business to present a shared vision on the policies they will follow over their term of office. This may involve difficult discussions between a coalition of political parties or between independent politicians before a pragmatic compromise is established. This type of collective agreement defines the social and economic outcomes politicians are aiming to pursue during the lifetime of their 'parliament'. This shared vision on policies to be followed at the beginning of a term of office is known sometimes as a manifesto or coalition agreement.

### *Policy Ownership*

In the Present Committee system to the external observer, and mentioned by Professor Sarkin, it is unclear who is responsible for owning the process of policy-making before the final content of a policy is decided upon. Examples such as road traffic, immigration, land development and tobacco policies highlight the slowness in creating new or refreshed policies and the lack of clarity who is in the driving seat bringing the work to completion. Formally, one of the five Committees is the 'owner' of every policy and therefore the nominal leader for the development of new policy. The absence of a Manifesto means it is sometimes misunderstood within government at the outset of a new piece of work what contents precisely all or a majority of Councillors seek in a new policy.

Typically, SHG administration officials write the text of a new policy for a Committee or, if created, its topic-orientated Committee 'working group'. A Committee does not always provide a brief on what the new policy should include, instead there may only be a general expression of what should change. Consequently, early drafts from officials can include a variety of assumptions that are subsequently critiqued by the Committee or working group. This results in some policies cycling through several iterations before a Committee is satisfied and passes them on to Exco, Chairperson's Assembly, caucusing and/or Legco for further consideration and ultimately, agreement. It is only after policies are agreed should new legislation, system changes or other measures be started by the SHG administration. Cumulatively, the process followed is time-consuming

### *Layers of Committees*

The Commission noted there appeared to be several formal and informal 'layers' of bodies involving Councillors, i.e. Committees, Working Groups, Exco, Chairperson's

Assembly, caucusing and Legco. The need for and roles of each of these bodies were not well understood by most of the general public.

### *Committee Chairs' Powers*

The Commission understood the Chairs of the five Committees are members of Exco. The Commission also recognised Exco is the senior decision-making body whose role chiefly is to address topics of major impact on St Helena. For these topics, it has to define a way forward for Committees and SHG administration to pursue or intervene when other parts of government are unable to resolve a problem.

Beyond, Exco participation Committee Chairs had until recently no explicit seniority in decision-making within their committees. To progress topics in their committee they endeavour to find compromise amongst the 4 or 5 Committee members to achieve agreement with each decision. The natural tendency is for a Chair to seek unanimity, which can take time if views amongst Councillors are in wide disagreement.

Overall, the Sarkin reports and Commission found the powers of Committee Chairs to give firm leadership of their subject area were too constrained. Recently, in 2020, Chairs received modest new powers to make decisions without prior reference to their Committees when an important situation arises. Subsequently, the Chair has to report to the Committee on the decision taken. Other committee members can still seek to reverse the decision by appealing the decision made by the Chair to the Governor.

### *Allocation and Responsibility of Public Funds*

The Commission identified neither a Chair or a Committee have any formal accountability for the expenditure by the SHG administration to deliver those public services for which they have political oversight. This disconnect occurs because a Committee can take a political decision about the type and nature of public services they want implemented but have no responsibility to ensure the SHG administration has sufficient funds and resources to fulfil a political decision. This disconnect leads to confrontational situations where Committee members are in disagreement with SHG administration officials about the achievability of political decisions. It is a situation that creates an unclear accountability for the delivery of services.

A better approach would be for Committees and SHG administration to change the present system to be able to work more cooperatively. Committees should be made formally responsible for the funding of all services within their portfolio. In this way there would be clearer accountability for the Committee to decide on public services and changes to be delivered when resources are insufficient to meet all of a Committee's ambitions.

## Revised Committee System

### Core Improvements

Core improvements the Commission noted are potentially possible over the Present Committee system in a Revised Committee system to achieve better clarity in political responsibility, accountability and timeliness:

- **Political responsibility** - Ensure someone is ultimately responsible and identifiable for making a political decision
- **Political accountability** - Ensure someone is accountable politically for delivering results
- **Timeliness in decision-making and implementation** - Ensure decisions and results should be achieved more promptly

### *Political Responsibility*

Committees could be reduced to say, 2 or 3 members. This may make it easier for the Chair to assume a more obvious responsibility for decisions. Ad-hoc, closed-door political fora such as Chairpersons' Assembly would continue. Formal bodies of Exco and Legco would continue.

### **[Political responsibility improvement – Moderate]**

### *Political Accountability*

A Revised Committee system may be an opportunity to give Committee Chairs some measure of increased accountability for the level of services operated by the Administration on behalf of their Committees. It was recognised the committee system is not designed to expect an individual Councillor to have sole responsibility for the results achieved by the public service. This responsibility would remain a collective one between Committee members. The ability to demonstrated political accountability by a committee may be improved further if SHG organised itself into 5 directorates that match the responsibilities of the 5 Committees.

### **[Political accountability improvement – Moderate]**

### *Timeliness*

Consensus seeking within Committees might be easier if committees had fewer members. Hence, some improvement could be foreseen in reducing the time taken to develop or deliver policies. The existing range of political fora debating decisions made by a Committee would remain, so resolving some contentious topics may continue to take lengthy periods.

### **[Timeliness in decision-making improvement – Minor]**

## Commission Observations on a Revised Committee System

- Committee Chairs must be seen as the leaders of their subject area and more accountable for the success or otherwise of the policies being followed. This could be achieved by:
  - Reducing the number of members on each Committee
  - Giving the Chair a casting vote if consensus is not possible
  - More precise procedural rules that Committees must follow to be accountable
- Committees made responsible for the budgets for their areas of government services
- All elected members should still have a role in determining government policies
- The number of committees should be determined and linked to the same number and roles of the SHG administration directorates
- In any revision of the Committee system, the SHG administration should be viewed more accurately as the civil service serving the Committees. There should be clearer lines of reporting to Committees. Chairs must be prepared to accept a formal responsibility for the achievements or otherwise of the public services in their area of responsibility, including when there may be insufficient resources to achieve all ambitions
- Chairs and Committees should ensure they do not announce decisions on implementing new activities that are not adequately resourced
- Committees, Councillors and Speaker need more support to understand and manage their commitments
- The Speaker's role in Legco needs to be redefined and made more clearly responsible for setting the agenda, ensuring tighter management of the conduct of business and enforcing discipline and security of proceedings
- The success of the implementation of new legislation and policies should be scrutinised by Councillors

## Commission's Further Considerations

### *Size and number of Committees*

Currently, 5 Committees cover the education, health, economy, social and environment portfolios. The Commission considered this number to be sufficient. It provided sufficient distinction between the portfolios without expanding the number of Chairs required of size of the elected membership of Legco.

The Commission thought the current complement of 4 or 5 Councillors on a Committee was too many. This they believed could contribute to delays in decision-making and dilution of clarity on who is responsible for making political decisions on policies. Decreasing the number of Councillors on a committee in a Revised Committee system to say, two or three members could be more expedient for decision-making and possibly clearer on who is politically responsible.



To ensure smaller Committees were able to take informed decisions Chairs should have the authority to co-opt temporarily non-voting talent from outside of the elected membership.

### *Consensus-building*

The Commission recognised a significant part of the political process is to build agreement to take effective decisions. Four layers of decision-making in the present Committee system was identified:

1. Committees and their ad-hoc Working Groups;
2. Chairperson's Assembly and caucusing informal meetings to coordinate elected members' views on decisions;
3. Exco approval for strategic or high profile topics; and
4. Legco approval stage involving all Councillors. This layered approach to decision-making is not likely to change under a Revised Committee System.

### *Policy Ownership*

The Committee system does not explicitly identify a Councillor as an individual policy owner. A Committee Chair ought to be regarded as the political owner of a policy and therefore answerable for its success or otherwise. Instead, the committee system operates on a basis of collective ownership within a whole Committee. Hence, considerable effort is made to find consensus. Without consensus, a collective policy ownership is a difficult concept to explain to the public who is actually responsible for decision-making.

### *Powers of Committee Chairs*

The Commission generally accepted for a Revised Committee system to offer a distinct improvement over the Present Committee system, Committee Chairs have to be given greater 'executive' powers. More specifically, the power to take decisions on policy within Exco or Legco without prior Committee consent and given direct responsibility for the allocation of money and resources to the public services within their portfolio. Overspends or poor achievements would then be the political responsibility of individual Chairs to resolve with their SHG directorates. This relationship currently does not exist.

### *Legco*

The Commission considered maintaining the membership of Legco at 12 Councillors, of which 5 would be Committee Chairs in a Revised Committee system. The other 7 would participate in the reduced sized Committees and/or scrutiny functions performed by the Public Accounts Committee and Finance Committee.

Varied views were expressed by members of the Commission about maintaining 12 Councillors, i.e. Chairs and 7 non-Chair Councillors. One view was this provided more inclusive governance and meant Chairs had to work pragmatically with other Councillors to achieve their Committee's policy and legislative programme. It was

also argued that, for example, a private members bill (that is a bill introduced into Legco by a non-Chair member) would be considered more fully with 12 Councillors and be harder for Chairs to avoid considering it if others viewed it to be in the best interests of the island as a whole.

Other views expressed a willingness to consider reducing the number of Councillors to 11 (as suggested by Professor Sarkin) or 10. It was noted even at 10 Councillors the 5 Chairs would still not have a majority if all of the other Legislators decided to vote against a motion. A tied vote represents a motion in Legco is not passed.

Any move away from 12 elected members on Legco would require a further change to the Constitution.

The Constitution states LegCo must meet at least three times a year. In practice, Formal Legco meets four times a year. Formal Legco could meet more frequently as a means to progress government business more speedily. More frequent formal meetings were suggested by the Commission could lead to shorter meetings and allow constituents' views to be represented more often.

The Commission briefly debated on the strengths and weaknesses of a two-tier governance system compared to a one-tier system (such as on Ascension and Tristan da Cunha). The majority view in the Commission was the two-tier system has advantages given the wider range of issues St Helena has to address compared to the other islands. It was also recognised to be effective a two-tier governance system has to ensure there is a clear distinction between the roles of each tier, i.e. Exco and Legco. At present on St Helena, there appears to be too much overlap. Therefore, in any alternate governance system for the island the difference in roles should be made clearer to all.

## **Ministerial System**

### Core Improvements

Core improvements the Commission noted are potentially possible over the Present Committee system in a Ministerial system to achieve better clarity in political responsibility, accountability and timeliness:

- **Political responsibility** - Ensure someone is ultimately responsible and identifiable for making a political decision
- **Political accountability** - Ensure someone is accountable politically for delivering results
- **Timeliness in decision-making and implementation** - Ensure decisions and results should be achieved more promptly

### *Political Responsibility*

In a Ministerial system, a Minister has the direct personal responsibility for taking decisions on the policies and public services within their area of responsibility. A Minister would have a responsibility to the Chief Minister, other Ministers, Exco and Legco to set out a clear strategy and direction on the policies to be followed. A Minister would also have to defend and explain the decisions taken to the public, Legco and the suggested new scrutiny process led by other elected members.

### **[Political responsibility improvement – Large]**

### *Political Accountability*

In a Ministerial system, a single SHG Directorate would report directly to a Minister. This permits direct supervision and accountability by a Minister for the performance of the public services in their subject area. A Minister should be co-located within the Directorate (Ministry) for which they are the political head. This would facilitate regular interaction by the Minister with their senior public officials and subject specialists. A Minister would be advised and briefed by public officials and in turn, officials would implement the policies and decisions made by a Minister. Political accountability by a Minister for the performance of the policies followed should be clearer. It would be for the Minister to garner political support in Legco and other fora for their policies and legislative programme.

### **[Political accountability improvement – Large]**

### *Timeliness*

Ministers would have the individual responsibility for progressing the policies and decisions in their subject area. They also have a collective responsibility with all Ministers in Exco for strategies and achievements to be delivered during their term of office. Legco would be the key approval stage for political business (debates, motions, legislation, question time, etc) and have an expanded role in constructive

scrutiny of the performance of Ministers and their SHG Directorates (Ministries). The time between policy development, presentation to Legco and subsequent implementation of agreed measures should become shorter.

### **[Timeliness in decision-making improvement – Moderate]**

#### Commission Observations on a Ministerial System

##### *Selection of Ministers*

- The Commission suggested changing the name of Councillors to ‘Legislators’. There should continue to be 12 Legislators forming Legco
- There should be a Chief Minister and 4 Ministers leading five re-organised SHG Directorates (possibly called ‘Ministries’)
- The 12 Legislators at the first meeting of Legco after a general election should elect the Chief Minister or within a defined period after a general election if a period of canvassing for support amongst the Legislators by prospective candidates was considered more appropriate. The interregnum before a Chief Minister was appointed would probably limit decision-making by Legco during that period.
- An alternative option mentioned in the Commission’s discussions was for prospective Chief Minister candidates to declare their interest during their general election campaigning. The ballot paper could then contain a second, non-binding, ‘opinion poll’ vote to allow each voter to express a preference for one prospective Chief Minister or another. This would give Legco members an insight to public sentiment when subsequently deciding upon the Chief Minister.

##### *Ministerial Responsibilities*

- The Chief Minister would select the 4 Ministers and assign them their ministerial portfolios. They should be co-located within the offices of their Ministries to ensue regular engagement with their public officials
- Each Minister should be supported with a Private Secretary
- The Chief Minister should have the discretion to change Ministers and their portfolios at any time
- The Chief Minister should set out their vision and policies to be progressed during the term of office in a manifesto. The Ministers will be collectively responsible for the delivery of the Chief Minister’s manifesto
- The Chief Minister and Ministers should be individually responsible and accountable to Legco for all policies and services delivered by their ministries
- The Chief Minister, 4 Ministers, Governor, Attorney General and Chief Secretary would form a restructured Exco. Other participants may be invited on an as-needed basis
- All strategic and major policy decisions in Exco (except for reserved functions) should be decided by Ministers with the Chief Minister having a casting vote if unanimity or a majority cannot be achieved

- The Governor would continue as a non-political chair of Exco and focus primarily on maintaining the proper handling of responsibilities reserved in the Constitution
- The Chief Minister should be allowed the discretion to appoint deputy ministers from amongst the Legco elected members to cover for lengthy (not short) periods of absence by a Minister
- The possibility was discussed by the Commission of unpaid 'junior' ministers, appointed by Chief Minister and who could be used the help with the political workload in larger ministries, but views varied in the Commission on the practicality of this option or its risk of an adverse impact on Legco
- The Chief Minister should have the final agreement on the allocation of budgets to Ministers. Ministers are then accountable to the Chief Minister and Legco to deliver the services expected within the budgeted sum available.

### *Legislator's Functions*

- 7 Legislators in Legco would not hold ministerial portfolios.
- These Legislators would continue to:
  - Review and approve proposed legislation
  - Lobby for action on personally important issues
  - Examine and approve the government's budget and expenditures
  - Debate and question policies presented by the Chief Minister/Ministers
  - Scrutinise Ministers' actions and performance of their ministry
  - Represent constituents concerns
  - Comment externally since not necessarily bound to the Chief Minister by collective responsibility
- There could be two Scrutiny Committees (SCs) made up of Legislators without ministerial portfolios. 'Committee 1' should scrutinise the two larger ministries and 'Committee 2', the other three ministries
- In addition, Legislators without ministerial portfolios should participate in the Public Accounts Committee (PAC)
- Both the SCs and PAC should be permitted to co-opt specialists to provide specific additional expertise
- Legco proceedings should be re-organised to have a weekly Chief Minister Questions period, where Legislators can address the Chief Minister directly. Ministers Questions periods for the other Ministers should be arranged on say, a monthly basis
- Legislators without ministerial portfolios should be given time in Legco to hold debates on subjects of personal importance to a Legislator and the opportunity to present private members' bills. These should be in addition to the time permitted in Legco for the Chief Minister and Ministers to hold debates on their own topics
- Legislators without ministerial portfolios should each have assigned post-election a geographical district on St Helena and will become the sole Legislator representing the constituents within their district. The constituency districts should be agreed in advance of a general election.
- The Speaker should preside over which Legislator goes to each constituency.

- Legco should become a purely political forum. No public official (e.g. Chief Secretary, Financial Secretary) should be a member of Legco. [Note: The Attorney General may need to remain as a non-voting member to ensure appropriate legal advice is available.]
- Legislators without ministerial portfolios should collectively have clerical support and/or funded secretarial support.

## Commission's Further Considerations

### *Ministers*

The Commission noted the Ministerial system was considered as a possible governance system for St Helena in the past. At that time, the community decision was not to proceed ahead with its adoption. The Commission saw the potential of a Ministerial system, with the balance and scrutiny offered by Legco, as offering the strongest potential to achieve change in the core improvements of political responsibility, political accountability and timely decision-making.

The Commission considered 5 Ministers was an appropriate number that would not lead to an increase in the size of Legco. This was to ensure there would remain a majority of Legislators without ministerial responsibilities thereby providing an effective counterweight to the increased personal powers conferred on Ministers than in the Present Committee system. It is also consistent with the present number of Committees and the expected reorganisation of the SHG administration into 5 new Directorates.

### *Ministers' Relationship with Public Officials*

The Commission recognised the Ministerial system requires a closer and more frequent engagement between the Minister and their public officials. The dynamics of the relationship between a Minister and their public officials would be different from the present governance system. Public officials in the ministry would be routinely advising and briefing a Minister on all aspects of policy development and delivery of services in their portfolio. In turn, the Minister would be expected to give direction to the public officials on the major aspects of the activities of the ministry. Public officials are then responsible for implementing the policy and operational service requirements within the constraints of the resources available.

The Commission noted that with a closer Minister involvement with their public officials remains important to maintain the separation of roles between the 'legislature' (i.e. Minister) and the 'executive' (i.e. public officials). Consequently, a Minister should not become involved in issues such as the recruitment, operational activities in their post or performance management of public officials. There are the responsibility of a ministry (Directorate) Director and ultimately, the Chief Secretary.

### *Legislators*

The Commission believed it was very important to ensure the ministerial system included a clear set of substantive roles for those Legislators without a ministerial

portfolio. This would replace the ending of their involvement in Committees. Legislators' traditional Legco roles are debating political issues and passing legislation. In the Ministerial system, it is foreseen Legislators would have three enhanced roles:

1. Constituent Representation - each elected member represents solely constituents from a specific geographical area;
2. Scrutiny – participation in two new scrutiny committees, in addition to the Public Accounts Committee, reviewing the achievements of the five ministries; and
3. Question Time – weekly opportunity to question the Chief Minister directly on government issues and a monthly opportunity for other Ministers.

#### *Post-election Constituent Districts*

The Commission discussed the options for establishing post-election constituent representation districts for 7 Legislators without ministerial portfolios. The Chief Statistician described the population data available for St Helena and the Commission was satisfied 7 districts could be identified with a reasonably equable distribution of inhabitants.

Linking constituents in one district to a Legislator was regarded by the Commission as a beneficial development to improve constituent representation. It should help constituents to get more dedicated representation than the present system where some constituents engage with several Councillors. This is known to lead to multiple and overlapping burdens on public services and resources and confusion for constituents.

#### *Scrutiny Committees*

The Commission believed the creation of two scrutiny committees would be an important counterweight for Legislators on Legco to the increased personal power conferred on Ministers. It is foreseen the scrutiny committees should meet regularly, e.g. monthly to question ministers and officials on specific issues. They could possibly also have the authority to institute say, up to two short term inquiries per year on topics of public interest.

## Public Administration

SHG is not the government. It is the public service that administers public services and implements, with the resources available, the political decisions of the Councillors through the policies and legislation they approve. It would be more accurate to view SHG as one part of the government system of St Helena alongside the role of elected Councillors and the political fora of Exco and Legco.

### Commission's Observations on Public Administration

#### *Present Situation within SHG*

The present public service structure is very flat, with several directorates and units all answering to the Chief Secretary. The structure encourages silo working and makes it difficult to create efficiencies. A more streamlined and simplified corporate structure should facilitate more efficient working practices and flexibilities in the deployment of personnel. Particular issues with the current system noted by the Commission are:

- **Senior managers not able to focus on strategic direction** - a plethora of small teams lack resources and time to delegate effectively. This leads to a confused system of managing issues that concentrates most senior effort on dealing with immediate problems and enquiries. Consequently, little capacity is available to focus on longer term improvements within their departments and services.
- **Inefficient corporate support** – where individual support staff are co-located this reinforces the tendency to continue to work in silos. Some directorates and units are not directly linked to a single Committee. This leads to duplication of reporting and work across the Directorates.
- **Inefficient policy-making** – occurs when legislation is drafted without a clear politically agreed policy from a Committee or consideration of other departments related work. This leads to an increase in changes and legislative amendments later, which requires more time. A revised governance system should have a greater focus on the preparation of policy rather than the perceived present tendency of drafting to legislation in the first instance before the policy is available on what and how an issue should be handled.
- **Not enough administration support for Councillors.** This means they are less prepared to focus on strategically important issues, and instead tend to focus more time on narrow, shorter-term issues.
- **SHG should not be operating services that could be better performed by the private or on-for-profit sectors**

There was general agreement in the Commission it is not practical to continue operating the public administration in the current manner. There needed to be a move towards a tighter and synergistic system that is more efficient and aligns its directorates with a governance system of 5 new Committees or Ministries.



## *Reforming SHG*

The Commission noted the Chief Secretary was in the process of developing proposals to restructure SHG. These were not yet ready so the Commission focussed on the types of improvements that should be possible over the timescale of the proposed changes to the governance system.

The Commission suggested SHG should change their name to St Helena Public Service (SHPS) to avoid the prevailing confusion that SHG alone constitutes the government of the island. Similarly, there was agreement that the public service should remain impartial and not subject to political management of the day-to-day implementation of policies and delivery of services. This is the standard position for public services in the UK and the British overseas territories. In this way, public officials and directorates are able to provide a continuity of service to the elected members independent of changes in the political leadership of the island.

There should be a rationalising of the existing 12 directorates and separate teams into a 5 directorate + corporate support organisational structure.

Under a Ministerial system or Revised Committee system, the Minister/Chair would sit within the Directorate that aligns to their portfolio at their location. There should be a Private Secretary to each Minister. A Private Office/Clerk function should also be created to serve collectively Chairs and other Legco members. Staffing for these roles should be by reallocating people from within the existing complement of SHG.

The Chief Secretary role in a revised organisational structure should include the following:

- Advise Ministers and ExCo and act as an interface with the public services to maintain the distinction between the role of the legislature (Councillors/Legislators) and the executive (Administration). This should help ensure there is no direct interference in operational decisions by others.
- Set an agenda with Ministers and ExCo based on an agreed work programme for each portfolio. This should be aligned to the strategic direction set out by the Chief Minister in their manifesto at the start of the term of office of the new government.
- Lead on ethics, discipline and the effective implement of a government's priorities
- Line manage the strategic executives and ensure cohesive working and a focus on delivery and managing major risks
- Encourage innovation, learning and development within the public service as well as representing the public service externally (e.g. Scrutiny Committees, Public Accounts Committee).

A new organisational structure for the public service should include the ability for staff members to move easily and flexibly to other roles in other directorates.

The design of a new system should actively empower public officials at all levels to take decisions. This is necessary to overcome the present tendency to escalate most decision-making up to senior staff, so as to avoid a perceived blame culture amongst stakeholders. An emphasis in delegated decision-making would require a cultural

change with staff members encouraged to feel confident and supported to make decisions.

A revised public service organisation should be focussed on providing only those services that cannot be delivered by other means. To assist in economic development particular services, such as those connected to the SEDP, should be no longer undertaken or contracted out where practicable and economic to the private or not-for-profit sectors. This is consistent with some other jurisdictions where the public administration concentrates on areas regarded as most central to the provision of public service (e.g. health, education, police).

In discussing the current Directorates that fall under the remit of the Governor (e.g. Police), the Commission suggested it was important that such “directors” did not have two “masters”. It was recognised that internal and external security is a key Governor function, as such it was suggested by Professor Sarkin the Governor more explicitly delegates particular policy roles and responsibilities to SHPS. The Governor could retain powers to clawback decision-making and supervision as necessary. The Governor’s Office commented changes to the present arrangements are worthy of discussion but any proposals on the issue of internal (public) security would have to be referred to London for advice.

The Commission noted that to free up more time for senior management to deliver and set strategic direction, Legco needed to change and be more systematic. Questions from Legislators should change from being randomly raised during AOB items in various meetings to a more organised system of tabling questions in advance. A modest limit on the number of questions per month an individual Councillor/Legislator may ask would also be sensible.

Restructuring of the public service, including the creation of Private Secretaries and support to Councillors/Legislators, the Commission was adamant it should not lead to an increase in the cost or headcount of running the administration.

### *Sponsorship*

A restructuring of the SHPS should also include establishing a new relationship with government funded agencies and arms-length bodies. The Commission was interested in the idea that each public body should be ‘sponsored’ annually in the future by an SHPS directorate. The annual sponsorship letter from SHPS should set out the precise oversight relationship and standards of service expected to be delivered by the agency/body, set limits on their use of public funds received from the administration, and require specific boundaries on the scope of activities the agency/body can undertake using public funds. There are parallels to this approach in other jurisdictions.

## **Other Suggested Changes to Improve Governance**

### Commission's Observations

#### *Voting – consultative poll*

The Commission thought that for a consultative poll, a separate register of voters should be compiled that was only applicable to this poll. It would be drawn from the existing electoral roll. Any other person not on the electoral roll should be actively encouraged to sign up to a consultative poll only voter registration list.

#### *Voting – future general election*

The Commission recognised the longer-term need for all people on St Helena who are eligible to vote to be on an electoral register. A future register next year in time for general election should be compiled on a different basis to that at present. The Commission suggested:

- Registration for voting of all persons over 17 years old should be compulsory but it should not be compulsory to vote in an election
- The same voting eligibility should continue, i.e. 17 years of age or older and resident on St Helena. Proxy voting should be permitted providing it can be organised effectively within the time available to stage an election. Postal voting was not seen as a practical option.
- It should be a decision of Legco to decide if it is practical for St Helenian residents temporarily off-island to take part in a consultative poll. If so, the Electoral Office should suggest the pragmatic criteria for eligibility and the maximum time period since leaving the island that would be most appropriate. The Commission thought this should be a relatively short time period, say two years. A decision to include or otherwise off-island residents would need to consider the practicalities of organising a proxy or in-person overseas voting arrangement.

#### *Jury Service*

The Commission noted there was anecdotal evidence some people omitted to register for voting at present due to a reluctance to be called for jury service. The likelihood of serving on a jury was remote. For example, in the last year there was only three jury trials. Nevertheless, the Commission was concerned an aversion to jury service may dissuade some people to participate in a consultative poll. The Commission suggested:

- The jury system should be retained but registration for voting in an election should be separated from jury service.
- Everyone could be automatically registered for jury service when they undertake mandatory registration for voting in an election but there should be a mechanism for individuals to opt out subsequently from jury service.
- Opt out could be a box on the registration to vote form or, for example, by contacting the electoral registration officer
- The Commission did not see any reason to suggest a change to the jury service age limitations (18 to 70 years old). It was noted that all St Helena

residents (including those that do not hold St Helenian status are eligible to be called for jury service).

### *Revised role for Legco Speaker*

The Speaker is appointed from the community. The person does not occupy an elected post. People apply for the role and Councillors decide on the appropriate candidate. The Governor then appoints the Speaker to their office on the recommendation of the Councillors' choice.

The Speaker performs the function of a neutral chair who presides over the proceedings of Legco and mediates its conduct and differences of opinions amongst Councillors. The Speaker has the important roles of controlling the progress of debates, scheduling the agenda and business of Legco, ensuring the business of Legco progresses without undue delay, administers the disciplines of the code of conduct on Councillors, and administers oaths of office and the fulfilment of the solemn promises they contain.

Discussion within the Commission focussed on whether the Speaker should hold an elected office or remain a member of the community. The Commission suggested there is no added benefit to be achieved by making this role an elected one. A Speaker constitutionally is a neutral figure with no political or policy allegiances so as to avoid impinging on their neutrality.

The Commission had specific views on the Speaker's role:

- Speaker's Office needs to be more prominent. It needs to be separate and have its own budget and more accountable to the public
- Speaker should ensure they enforce standing orders more vigorously
- Speaker needs to ensure adequate documentation of Legco discussions. There may be a need to look at improved IT or recording capabilities to achieve a near verbatim record of Legco proceedings, similar to the Hansard system in the UK Parliament
- Speaker should lead on allocating the non-ministerial Legislators to the 7 constituencies, through consultation with them. To be done within the first few days of a new term of office after a general election or by-election.

### Remuneration views

Currently, ExCo Councillors are paid £19,000 pa and the other Councillors on Legco are paid £15,000 pa.

### *Revised Committee system remuneration*

In a Revised Committee system, the Commission suggested remuneration for ExCo members should remain at £19,000 pa and for LegCo members remain at £15,000 pa. No strong arguments were identified for increasing the remuneration above the values for the Present Committee system.

It was discussed within the Commission if increased remuneration may entice more people with complementary skills to run for election. However, the collective nature of the committee system means they have limited opportunity to lead and influence in a manner envisaged under the Ministerial system. Therefore, an increased remuneration was not regarded as appropriate.

### *Ministerial System Remuneration*

The Commission suggested the Chief Minister and 4 Ministers should be paid more than the current remuneration for ExCo Councillors. An increased salary would reflect the greater individual responsibility and accountability attached to the Chief Minister and Minister roles.

For the Ministerial system to be effective, the Commission considered it needed to attract people who would be prepared to take on the greatly increased ministerial responsibilities to set the direction, deliver, lead, promote and motivate. Therefore, remuneration should be set at rates that would encourage people to put themselves forward for election to these more prominent roles.

The type of capabilities a Chief Minister should demonstrate include:

Leadership; Take responsibility; Innovative; Drive; Initiative; Charisma; Spine; Confidence; Experience; Strategic vision; Good Communicator; Diplomatic; Authoritative; Management experience; Politically aware; Delegation skills; Good appreciation of economics and finance; Dignity; Respectable

Similar credentials should be required for Ministers but the Commission recognised Ministers and their degree of responsibility for the government's programme of business would inevitably be subordinate to a Chief Minister.

The Commission suggested the remuneration rate for the Chief Minister is set slightly below the market rate for private and public sector executives on St Helena. This is similar to the comparison model used in other jurisdictions. To take on the increased responsibilities the Commission suggested the remuneration range should be:

- Chief Minister - £35,000 to £45,000 pa
- Ministers - £25,000 to £35,000 pa

Other Legislators without a ministerial portfolio do not have the same level of individual responsibilities and accountabilities for the delivery of public services. However, they will continue to be responsible for a broad range of functions in Legco, i.e. debating policies, passing legislation, scrutinising Ministers and representing their constituents. The remuneration suggested should be similar to the present sum paid to Legco members: £15,000 pa.

The Commission were firm in their view an increased remuneration for Ministers is essential to encourage a broad field of credible candidates with appropriate leadership skills to consider standing for elected office.

The Commission was firm in its view the increased level of remuneration for ministers must be funded through savings from the restructuring of the current Saint Helena Administration. A restructuring should create a more streamlined and effective public service. Consequently, it appears reasonable to expect the combined effect of a Ministerial system and a streamlined administration should produce significant savings in staff time and expenditure.

## Next Steps

### Public Consultation

A change in a system of government should have general public acceptance before its adoption. The process of finding this choice is known as the 'expression of public will'.

The Commission expressed a strong opinion a consultative poll was the best approach to determine the expression of public will on their preferred system of governance. This approach has been used elsewhere. Professor Sarkin recommended a poll was not necessary and instead a broad public consultation exercise would be satisfactory. This approach has also been used in other overseas territories. Legco should decide on the appropriate approach for St Helena to establish a credible expression of public will.

The Commission suggested the electoral register should be updated specifically for a consultative poll. Names could automatically be drawn from the existing electoral register, but campaigning for a consultative poll should also include an active drive to encourage those not on the list of electors to sign up to vote for the poll.

The Commission considered the question for the consultancy poll. They suggested an example of an appropriate form of a question for the poll would be:

*Should Saint Helena continue with the Committee system or have a Ministerial system of government?*

Committee system	
Ministerial system	

### Indicative Timeline

1. Recommendations from the Governance Commission on governance passed to Councillors (July/Aug 20). Subsequently, the Governance Commission report published (Aug 20).
2. Councillors agree on the details of the governance options, timetable for public involvement & approach to obtain 'an expression of public will', either by a big consultation or consultative poll (Aug 20).
3. AG Chamber's provides a draft Constitutional Amendment for the Ministerial option (Sep 20) to accompany the public consultation stage. Electoral list refreshed for a consultative poll. The Commission recommended a consultative poll, whilst Professor Sarkin suggested a public consultation exercise. The form of public expression of will to be decided by Councillors (Aug 20?)
4. Public information on 2 governance options issued (Aug 20). Public forums arranged for discussions and views (Sep 20).

5. If decided by Legco, stage a consultative poll (Oct 20)
6. If Ministerial option selected, Governor's Office requests FCO to submit a Constitutional amendment to Privy Council (Oct/Nov 20?). Privy Council decides (by May 21?)
7. If Revised Committee option selected, Governor's Office work with AG, SHPS, Councillors and Speaker to introduce (by Jan 21?)
8. Current 4-year term for elected representatives ends Jul 21. A likely commencement date for the selected alternate governance option would be following a General Election.



## Annex A

### Press Statement

#### **An Open question: How do we want to govern ourselves?**

It is a question about the way we want our elected representatives to tackle the issues and opportunities that in some way affect each and every one of us on St Helena.

The issue of how to govern ourselves has recently moved up the agenda. Many will recall the island has toyed with governance reform a couple of times before but they came to nothing. Since I arrived, I have heard numerous views, publicly and privately, on the weaknesses in our system of government. Councillors, businesses, administrators, community leaders and many of the people I meet in the streets have told me the present approach of committees, working groups, Legco and Exco all involved in trying to sort out policies and laws is confusing and too often tediously slow.

Above all, the present system of government means no one within the body of elected councillors is explicitly accountable for the performance of any part of government. Likewise, the public service, ambiguously called the *St Helena Government*, does not work directly for any particular councillor but instead tries to address queries and demands made by different elected representatives.

The result, in spite of the best efforts of dedicated councillors and public servants, leads to a less-than-ideal, some have said disjointed, way of making decisions and operating the public services. Consequently, I observe a widely held realisation that as an island firmly looking to the future we perhaps should not go on the way we have in the past.

In the Constitution, as Governor I am responsible for good governance on St Helena. It is a concept I am sure we can all support. But, what is it? One handy definition is: *'the effective and responsible management of [a territory] which includes considering society's needs in the decisions it makes.'* Aptly, government should seek to govern in a way that is accountable, decisive and understanding, though being good at governing means making some decisions that will not be popular.

So, in thinking about transitioning to a new system we should look at how we can increase personal accountability and authority amongst councillors and enable the SHG administration to work more directly with them. After approving with Legco in late May, I sought help from DFID and they have agreed to start a process involving councillors, public and organisations across the island to seek views on if, and what, type of political and governance reforms we want at the heart of our government. If it is more accountability, how best to satisfy your expectations on what you want to see? If it is faster decision-making, what do you want to see streamlined and improved? If it is greater clarity about who is responsible for what amongst the various parts of government, what are your preferences?

Dr Jeremy Sarkin will come to St Helena on 21<sup>st</sup> September for his first visit to facilitate a debate and gather your ideas on the present Committee-based system.

He will not be setting out any specific method of governance. What he will do is explore with us our understanding and appetite for alternative systems, e.g. ministerial, executive councillors, redefine Legco and Exco, Chief Islander, restructuring SHG directorates to have clearer political leadership, or just about any other possibility Dr Sarkin can raise from his long experience around the world. It will then be for St Helena to decide if a change in governance arrangement will be for the better, probably via a referendum and an amendment to the Constitution.

Let's set aside likes and dislikes, nostalgia and doubt. This is an opportunity to decide if we want to move beyond our present structure. To reshape an accountable system of governance. I sincerely hope everyone, media, communities, business organisations, youth groups, student council and all those who attend future public meetings, take part in defining the best option for your future. Anything is do-able if we want it.

An opportunity is being arranged for the public to meet Dr Sarkin on Wednesday, 25<sup>th</sup> September at 6pm in Longwood Community Centre. Other meetings are being planned in October. Ideas and suggestions are also welcome in writing and can be sent to the Governor's Office.

Philip Rushbrook

Governor

## **Annex B**

### **Political Governance in St Helena – Professor Sarkin Second Report**

Professor Sarkin has completed his latest report. He has gathered and considered views from many people and organisations across St Helena about the way the island is politically governed. In both his first report in December 2019 and his second one, now available, he compared the accountability and timeliness in decision-making in the current Council Committee system with alternative options. The most prominent alternative option suggested in his report is the potential offered by a Ministerial-style of governance. A political system widely operated in other overseas territories and sovereign countries across the world.

Traditions, social expectations and responsiveness expected from political representatives were all considered in the report from Professor Sarkin. In his second report a series of observations and suggestions are presented, including:

- ‘Clear support’ across the community for a change away from the Committee-based governance system.
- The popular opinion being that a change would improve the prospect of clearer responsibility, better transparency and greater accountability for decisions taken within the political system.
- ‘Suggests that to address popular opinion the best way forward’ is to adopt a Ministerial system of governance.
- Other governance options including reforms of the present Committee system were considered possible but discounted as less effective in meeting expectations of accountability and responsibility.
- ‘Concern’ from some in the community as to whether any new system of governance would be workable on St Helena.
- If a Ministerial system was chosen:
  - A Legco of 11 elected representatives was recommended, from which a Chief Minister would be chosen, who in turn selects 4 Ministers from the other elected representatives.
  - SHG would be renamed to, for example, the St Helena Public Service and restructured into 5 ‘Directorates’ (Ministries) to work directly for the 5 ministers.
  - The 6 non-ministerial Legco elected representatives would form 5 new “scrutiny committees, one to hold each ministry to account. The role and powers of the Public Accounts Committee could be

strengthened too. Co-opting non-elected participants to these committees to increase capabilities could be considered.

- The 6 non-ministerial Legco elected representatives (or all 11) could become dedicated constituency representatives for new post-election representational districts dividing up the whole island.
- 'Suggestions' are given on how to set up and operate a Ministerial system.
- Maintain an all-island electoral system to elected Legco representatives
- Various views are collated on other aspects of governance arrangements such as establishing a Complaints/Public Service Commission, voter registration and some powers exercised by the UK.
- Suggests a referendum to agree any changes to the Constitution may not be needed if St Helena agrees another way to express 'popular will' for a Constitutional amendment to implement governance changes.

The Governor's Office is pleased to forward the report to SHG, ExCo and LegCo elected representatives and the general public. The full text of Professor Sarkin's second report will also be available on the SHG web site.

The Governor's Office will shortly be inviting people from the St Helena community, independent of the SHG public service and elected Councillors, to join a short-term (part-time for 4-6 weeks) Governance Commission. Its function will be to examine if the suggested governance changes are realistic for St Helena; frame the question to be put to the public if a referendum or other consultation process is decided; and advise on the appropriateness of other suggestions made in Professor Sarkin's report. It is hoped the Governance Commission will complete their work and pass their recommendations on the way forward to ExCo and LegCo for debate and decision as early as May 2020. The Terms of Reference of the Governance Commission will be published shortly.

Governor's Office  
9<sup>th</sup> March 2020

## Annex C

### Governance Commission

#### Terms of Reference

##### **Objective:**

To examine in greater depth the key elements of Professor Sarkin governance review and produce a report with recommendations that sets out the form and way of working for a potential, alternate governance structure for St Helena.

##### **Preamble**

Professor Sarkin conducted an extensive programme of meetings to compile the concerns expressed in many quarters. Specifically, the present governance and administrative arrangements are not operating in a way that clearly demonstrates individual political accountability to make and implement decisions on public policies and to ensure those decisions are made promptly. Professor Sarkin found various weaknesses in the present council committee approach and its disconnection with the delivery of services through SHG.

It is now necessary to distil the broad range of views collated by Professor Sarkin in his report into a more clearly defined alternative governance arrangement to the present committee system. It will then be for the people of St Helena to decide which of the two governance arrangements they would prefer for the future.

A short-term (part-time for 4-6 weeks) Governance Commission will be established with membership at the invitation of the Governor. Its functions will be:

1. To determine for each suggested alternative governance system (i.e. Committee or Ministerial) what would be realistic for St Helena, examine perceived weaknesses and strengths and suggest adjustments that may be relevant to incorporate.
2. To consider the appropriate solutions to related governance issues e.g. constituencies and their form of representation; voter registration (noting related work is underway in SCDC); voter age; need for and selection of a Chief Minister; number and role of non-Minister scrutiny committees; constituency roles for non-Ministers; future structure of a St Helena public service to replace SHG and direct alignment with ministerial or committee portfolios
3. To advise on the number of councillors, ministers and portfolios (drawing on the findings of the Sarkin reports), as well as training options necessary for these roles.
4. To set out the role, status and responsibilities of 'Directorate Heads/Permanent Secretaries' in a reformed public administration.
5. To comment upon the present distribution of roles between the Governor and a future governance arrangement.
6. To frame an understandable and straightforward question to be put to the public if a referendum or other consultation process is decided.
7. To work with the Attorney General's Office to draft an example amendment, for consideration in St Helena and the UK, to the governance provisions in the 2009 Constitution.

The intention would be for the Commission to present their views and recommendations to the Executive and Legislative Councils in June 2020.

The Commission will comprise between 3 and 5 persons and meet approximately once a week. A legal specialist from the Attorney General's Chambers and secretariat input from the Governor's Office will support it. No member of the Commission should be, at the present time, an elected member or directly associated with SHG senior management.

Governor's Office

Annex D

**Governance Commission**

**Work Plan**

Meeting	Date	Topics	
1	13 May afternoon	<p><u>Scope of the Governance Commission</u>            Achieving transparency, accountability and responsibility in a governance system            Operating arrangements and outputs expected            Existing Constitutional requirements            Sarkin report - Discuss core elements of a good governance system            Perceived pros and cons of:                a) Revised Committee system                b) Ministerial system</p>	
2		<p><u>Chief Minister</u>            How appointed?            Powers, responsibilities and scrutiny            Patronage, minister selection            Portfolio responsibility            Relationship with ministers, Private Office creation            Financial accountability and distribution of resources            Relationship with a Chief Minister, Legco, non-ministers</p> <p><u>Ministerial system</u>            How appointed?            Number and portfolios            Powers, responsibilities and scrutiny            Relationship between ministers and departmental officials, ministerial code?            Financial accountability            Composition of Exco            Relationship with a Chief Minister, Legco, non-ministers</p>	
3		<u>Non-ministers, Speaker, elections</u>	

		<p>Roles of non-ministers, departmental scrutiny committees, legislative scrutiny</p> <p>Approach to public consultation</p> <p>Districts vs all-island constituencies, post-election constituencies, boundaries</p> <p>Selection of Speaker, powers, role</p> <p>Voter registration – voluntary, mandatory</p> <p>Voter age</p> <p>Jury service registration</p>	
4		<p><u>Revised Committee system</u></p> <p>Existing governance system, roles between Exco and Legco</p> <p>Committee structure, how decisions are made, weaknesses</p> <p>Consensus-building and effectiveness in decision-making, caucusing</p> <p>Who owns a policy? Who makes a policy?</p> <p>Possible reforms to improve decision-making</p> <p>How many committees? Portfolios</p> <p>How could changes be implemented?</p> <p>Powers of Committee Chairs</p> <p>Who allocates and controls departmental funds and resources?</p>	
5		<p><u>'Loyal and impartial' public service</u></p> <p>Northcote-Trevelyan - basis of a modern civil service</p> <p>Functions to be delivered by a lean public service, name of principal leadership roles</p> <p>Role of Chief Secretary and Departmental Heads/Permanent Secretaries</p> <p>Restructuring and realignment possibilities, creation of Private Offices</p> <p>Relationship of Chief Secretary with chief minister and ministers</p> <p>Maintaining impartiality, Civil Service Code</p> <p>Governor, Constitutional relationship with Exco, ministers, Exco</p>	
6		<p><u>Expression of public will</u></p> <p>Attracting talent, remuneration of elected members</p> <p>Training for elected members, Ministers, Speaker, Private Office, etc</p> <p>Referendum vs public consultation</p> <p>The Question, documentation for the public</p> <p>Target date for the 'expression of will'</p> <p>Privy Council considerations</p> <p>Draft constitutional amendment</p> <p>Timeline for subsequent activities</p>	



