

## **Governance Review – Progress Committee**

### **Information for Legislative Council**

December 2020

#### Background

On 3 August 2020, the Governance Commission submitted to Legislative Council a report that detailed the independent work they undertook between May and July to tailor the two alternative governance systems identified by Professor Sarkin to be relevant to St Helena.

On 28 August, the Legislative Council agreed a resolution to invite the Governance Commission members to undertake a wide-ranging public engagement exercise to seek public views and comments on the Revised Committee system and the Ministerial system. The public engagement exercise included not just public meetings, but also a wide range of other forums such as meetings with public and private sector work places and written feedback. The full list of public engagements is in Annex A. A Governance Commission Feedback Report was circulated to elected members.

At the Legislative Council on 16 October 2020, the Legislative Council having considered the report on the public's response to the public consultation on the two alternative systems of Governance resolved that a Progress Committee should be established.

The Legislative Council resolved that the Progress Committee should be determined from representatives from Elected Members, the office of the Speaker, the St Helena Government, the Attorney General's Chambers, the Governor's Office and from the public who are not employed by the St Helena Government. (Please see annex B for the Progress Committee membership).

Legislative Council resolved the functions of the Progress Committee should be as follows:

- I. Finalise the structural arrangements proposed for a Revised Committee or Ministerial system of governance.
- II. Instruct the Attorney General's Chambers regarding the constitutional and any other legislative amendments necessary to effect the two alternative systems of governance.
- III. Provide options for the question regarding the changes to the system of governance in St Helena that could be considered and decided by consultative poll.
- IV. Consider the financial resources necessary in respect of this endeavor.
- V. Liaise with the Foreign Commonwealth and Development Office to agree the foregoing.

## **Structural arrangements proposed for a Revised Committee or Ministerial system of governance:**

The Progress Committee scrutinised the comments and queries raised in the Governance Commission Feedback Report. The Progress Committee has set out in annex C a detailed set of “criteria” which compares how the present governance system operates and how the alternate systems are expected to operate.

Discussions in the Progress Committee substantially agreed with the changes to the present governance arrangements suggested previously by the Governance Commission and the work by Professor Sarkin and developed these further.

In assessing the likely workload on Ministers and the Chief Minister, the Progress Committee concluded the five ministries should each be led by a Minister, with the Chief Minister focusing on that leading role.

In parallel to the preparation of Annex C, an animated Powerpoint presentation with an audio soundtrack was prepared. This explains the structure and operation of the Present Committee system and is being broadcast via Sure on the television promotional channel.

## **Constitutional and any other legislative amendments necessary to effect the two alternative systems of governance**

The starting point of instructions to the Attorney General’s Chambers for Constitutional Amendments was the work in the Governance Commission Report on a Ministerial system. Instructions were further developed from finalising the structural arrangements. The Committee was also able to draw from a draft Constitution from 2005, which detailed a Ministerial system for St Helena.

The Attorney General’s Chambers have prepared a first working draft of the Amendments. The FCDO undertook a generic review, which has not at this point raised any insurmountable concerns. Only after an expression of public will can the negotiation with the FCDO for the Amendments begin and detailed consideration by them take place.

The Committee did not consider Constitutional Amendments would be needed for a Revised Committee system.

## **The question regarding the changes to the system of governance in St Helena that could be considered and decided by consultative poll**

The question underpins a decision for the Legislative Council to progress ahead with seeking an expression of public will on which, if any, of the two alternative governance systems the public prefer. Two options to measure the public will were identified by Professor Sarkin: a formal consultation exercise or a consultative poll, with Legislative Council endorsing the outcome.

The Progress Committee considered three options for the form of Question to be put to the public. The pros and cons of these are summarised as:

	Description	Pros	Cons
1	Motion to LegCo for resolution for reform of the governance system. If agree, a simple ballot question: Revised Committee System v Ministerial system.	<ul style="list-style-type: none"> <li>• LegCo based on general feedback from informal consultancies should endorse change.</li> <li>• Leads to a binary ballot or formal consultancy question.</li> <li>• Simple majority of 50%+1 decides</li> </ul>	<ul style="list-style-type: none"> <li>• Puts decision in hands of LegCo for need for change.</li> <li>• If LegCo decide against need for governance reform, then no prospect for change for years to come.</li> </ul>
2	A three way question: No change / Revised Committee System / Ministerial system	<ul style="list-style-type: none"> <li>• Offers the voting public to vote on “no change to the system”.</li> </ul>	<ul style="list-style-type: none"> <li>• Possibility that no one choice will reach a 50%+1 vote.</li> <li>• UK may not accept a preferred choice if less than 50%</li> </ul>
3	A two part ballot question: Q1: Do you want change to the current system. Q2: If there is change, Revised Committee System v Ministerial system	<ul style="list-style-type: none"> <li>• Gives the three choices but also allows for 50%+1 majority for a) change and then b) what type of change</li> <li>• Allows those who do not want change to also vote for what sort of change they prefer if there is over 50% in favour of change</li> </ul>	<ul style="list-style-type: none"> <li>• More complicated</li> <li>• Possibility of increased spoilt ballot papers due to complexity.</li> <li>• Will require additional comms and explanation over process</li> </ul>

The Committee **recommends** the third option above should be the form of the question to go forward for a public expression of will. This option will though need careful and detailed explanations so the public fully understand the two-part question. The exact wording for the two-part ballot would be:

- (a) Do you want the current system of governance to be changed? and
- (b) If the public will is for a change to the current system of governance, should the governance system be changed to:
- (i) a revised committee system of governance? or
- (ii) a ministerial system of governance?

### The proposed arrangements for a consultative poll

Persons whose names are included in the Register of Electors effective 1 July 2020, along with any others who have applied to have their name added to that Register since its publication (and such applications have been publicised in an Extraordinary Government Gazette Notice) will be eligible to vote in the Poll.

It is intended also to offer an opportunity to others who meet the criteria to be registered as an elector as set out in the Elections Ordinance, 2009 (i.e. have St Helenian status, be ordinarily resident in St Helena and aged 17 years of age or over) but who do not wish to be listed in the Register of Electors, to apply to have their name included in a Supplementary list, which will be utilised for the purposes of the Consultative Poll only. This will include eligible persons who are temporarily absent from St Helena for employment purposes in the Falklands or Ascension Island, who will be required to nominate a Proxy in St Helena to vote on their behalf.

### **Financial considerations**

The Progress Committee identified that any decision to move away from the Present Committee system should be cost neutral. Redeployment of clerical and secretarial personnel from within the SHG administration should be achieved by internal reorganisation of existing personnel. 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 improved office facilities and clerical services for Councillors on Legislative Council should be covered through a redistribution of existing financial resources.

Feedback from the public engagement conducted by the Governance Commission indicated a general recognition by the public that remuneration for Councillors should be increased in line with the level of responsibilities they discharge. In both the Revised Committee and Ministerial systems of governance, Councillors, Ministers and Non-ministers are likely to be expected to undertake additional duties. In addition, the Governance Commission received feedback from the public that acknowledged an increased scale of remuneration for elected members would attract a broader range of candidates to stand for election and hence bring their skills and knowledge to government.

It is not practical at this stage to suggest the levels of remuneration. These should be set by human resource professionals through an Independent Panel, if a decision has been made on the selection of Revised Committee or Ministerial system. It is not realistic for the Progress Committee to predict what a Panel may recommend.

### **Liaison with the Foreign Commonwealth and Development Office (FCDO).**

There have been ongoing discussions with the FCDO regarding governance reform and these discussions are expected to continue, should Legislative Council agree to continue to a consultative poll. The Committee is currently liaising with the FCDO on the draft Constitutional Amendments and the wording of the question for a consultative poll.

### **The motion**

The Progress Committee agreed that the public expression of will should be through a consultative poll. The proposed motion for Legislative Council is as follows:

That the Legislative Council resolves that a consultative poll be taken in February 2021 and that two questions be balloted as follows—

(a) Do you want the current system of governance to be changed?

and

(b) If the public will is for a change to the current system of governance, should the governance system be changed to:

(i) a revised committee system of governance? or

(ii) a ministerial system of governance?

Progress Committee

22 December 2020

## **Annex A**

### **Public Engagement by the Governance Commission, September 2020**

Public engagement events by the Governance Commission took place between 3<sup>rd</sup> September and 28<sup>th</sup> September and included:

- Nine evening community meetings
- A special evening event for youth members (16 to 25 years old) of the community
- Five workplace engagement meetings
- A dedicated meeting of the Chamber of Commerce
- Four special Q and A programmes on Saint FM
- Radio discussions on a SAMS FM scheduled programme
- Several newspaper articles on the topic of alternative governance options
- Widespread distribution of a summary leaflet through the Public Library, clinics, supermarkets, community centres and various workplaces
- A reference copy and subsequently additional copies of the Governance Commission report in the Public Library
- Copies of the Governance Commission report and summary slide presentation downloadable from the SHG website
- A dedicated response email address was advertised for written views and observations to be made.

A Feedback Report detailing public comments and views was prepared and provided the elected members in October 2020.

#### Principal Findings

Turnout at individual evening community centre meetings varied from many to a few. Taken together the broad range of public engagement events permitted views to be gathered from a large number of people. Collectively, the key points for consideration:

1. There was a distinct and predominant theme in public opinion to progress ahead with governance reform. The Present Committee system was not viewed by most participants as operating effectively and only a few believed it was sufficient for St Helena in the future.
2. It was stated frequently by participants that they did not understand how the Present Committee system operates but regarded it as not clearly demonstrating who was responsible at a political level for taking decisions or accountable for the performance of public services.
3. A minority of participants did not believe the Present Committee needed to be changed or if demonstrated it was necessary then change should be contemplated over a longer timescale varying between six months to two years.
4. The younger participants who expressed an opinion sought change immediately. Older participants in some parts of the island were more sanguine about the need for change or achieving change quickly.

5. A modest majority of opinions expressed favoured the Ministerial system over a Revised Committee one. It is cautioned this is only a qualitative view. No quantitative information was gathered.
6. Some people suggested substantial changes to the Constitution should be undertaken now. They were unmoved by the view expressed that this would potentially take several years and were content to sacrifice the opportunity of a limited amendment focusing on system of governance relating to Part 4 of the 2009 Constitution.
7. In the Revised Committee it was suggested why the changes had not already been put in place but some questioned if giving a Chair executive decision making powers would undermine the committee system.
8. The notion of a Chief Minister in the Ministerial system was well understood, although a view of many participants was the public should have an input into the choice rather than the LegCo members alone.
9. Several participants were concerned the greater level of responsibilities of a minister would require training and candidates with specialist knowledge. Other believed there was appropriate capabilities available in St Helena providing they were supported by a reformed public service.
10. There was widespread acknowledgement the workload of councillors and ministers would increase and remuneration levels needed to be greater than the present levels.
11. Many participants viewed the establishment of scrutiny committees for LegCo members under the Ministerial system as an important balance to the increased powers conferred on ministers.
12. The concept of a manifesto to set out a Chief Minister's objectives for a term of office was seen as a positive feature although there were differing views if a manifesto should be issued before or after a Chief Minister is selected.
13. A large proportion of participants favoured LegCo agreeing to stage a consultative poll to decide which governance system should be adopted in the future.
14. Some participants expressed a view the poll question should include an option to retain the Present Committee system. Others expressed no distinct opinion. Little public interest was expressed in a formal consultation approach.
15. Opinion varied on the nature of the Governor's role under a Ministerial system. Specific changes to be suggested to Part 4 of the Constitution needs to be defined and discussed with HM government.

## **Annex B**

### **Membership of the Progress Committee, October-November 2020**

On 9<sup>th</sup> October 2020, Legislative Council members agreed by a majority decision to establish the Progress Committee. It has maintained an active programme of work drawing upon the knowledge and expertise from across government and beyond.

The regular members of the committee were:

- Elected Members (Cllr Cyril Leo and Cllr Lawson Henry)
- Speaker's Office (Deputy Speaker Maureen Thompson)
- SHG administration (Elections Returning Officer)
- AG's Chamber (principally the Attorney General)
- Governor's Office (As appropriate, Governor, Greg Gibson or other office personnel)
- Someone not employed by SHG administration (Ms Christine Thomas, who was also able to provide continuity with earlier discussions on governance undertaken within the ex-Governance Commission).