



Scrutiny Office

Senator I.J. Gorst, Chief Minister

5th May 2017

Dear Chief Minister,

Role of Assistant Ministers

On 28th February this year, the Chairmen's Committee welcomed the Chief Officer and Policy Officer of the Community and Constitutional Affairs Department, who provided a briefing on work being undertaken in response to *P.53/2016 States' approval of Assistant Ministers' appointments* as amended. The Committee was provided with a short paper outlining draft proposals developed from the perspective of the Executive, which we were advised would form the basis of consultation with wider stakeholders. It was noted that, amongst other matters, this work proposes to address concerns expressed by some Members about 'inclusivity' in the work of the Executive. It was recognised that proposals relating to the issue of 'inclusivity' might significantly impact on the Scrutiny function, and raised questions about important principles of the current machinery of government. We were informed that the Committee's feedback on the proposals would be welcomed.

It was agreed at that time by the Committee that both important matters of principle and more detailed aspects of the proposals gave rise to significant concerns, and would require further consideration. To assist this, the Committee requested further information about the rationale behind the work, the associated objectives and the timeframe.

At our meeting on 25th April, the Committee received an updated version of the original paper. Although it did not appear to address the additional information requested, the Committee duly considered and agreed to provide feedback.

We are unable to support the proposals for a number of reasons, and without becoming distracted with our unease about certain details, agreed to relay key overarching points on which our concerns are based. Firstly, although the paper remarks *'The proposals outlined in this document are intended to develop the work decided upon by the States Assembly as outlined in the amendment to P.53/2016'*, we are unclear as to why this work should lead to proposals that impact so greatly on Scrutiny, far beyond what we consider to be the parameters of P.53/2016. We also believe it to be highly inappropriate for such significant reform of the functions of the States Assembly to be developed by the Chief Minister/Executive. Such matters should rightly be within the remit of PPC.

Perhaps most significantly, the proposals appear to the Committee to threaten to fundamentally compromise the Scrutiny function. It is imperative within Ministerial government that there is a real and effective system of checks and balances provided by the Scrutiny function, which cannot be achieved by this proposal that mixes and confuses the roles of the Executive and the legislature. Either we have Ministerial government and the necessary delineation of roles required to ensure

effective scrutiny, or we should consider a return to a Committee form of government. What we should not do is 'muddy the waters' between the two.

A further observation I would make about Ministerial government is that some concerns over 'inclusivity' could be allayed by a better understanding of the purpose and merits of the various roles amongst some Members (and perhaps the wider public), which may in turn lead to more constructive engagement. My Committee has also proposed to PPC improvements to the procedural frameworks for the scrutiny of both legislation and propositions, to provide greater clarity and certainty whilst also reducing the unnecessary confrontation between the Executive and Scrutiny Members that we too often see during these processes.

We believe there is also an additional risk of reputational damage caused by your proposals. We draw your attention to the 2016 report [Review of the Functioning of Tynwald](#) undertaken by Lord Lisvane. Chapters 6 and 7 are of particular note, including the observations in relation to 'Departmental Members' that make for interesting reflection on your proposals and the role and numbers of Assistant Ministers. These include:

'I do not believe that the system of Departmental Members is remotely sustainable. The issue of patronage...is a reputational liability.'

'Perhaps the most difficult element to defend to the wider world is the fact that, whatever may be claimed for the ability of Departmental Members to free themselves of Government responsibilities and criticise other parts of the same Government with true independence, it is the case that 26 out of 30 eligible Members of Tynwald, or 87%, are in Government.'

'This lack of evident separation of roles between Parliament and the Executive means that the Isle of Man may be seen to fall short of the highest standards of parliamentary governance. This has wider reputational risks.'

We therefore consider that the proposals are fundamentally flawed and risk further reputational damage to the political system in Jersey. We can ill afford to further undermine already regrettably low levels of public engagement in the electoral process, or weaken the public's trust in its political representatives, at a time when the Island is facing some of the most significant challenges in living memory.

Yours sincerely,

Deputy J.A.N. Le Fondré,
President, Chairmen's Committee

CC Connétable L. Norman, Chairman PPC