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9th July 2024

Dear Sir,

Letter of Comment - P.2024/52 'Commonwealth [Latimer House] Principles: The Role of the Parliamentary Assembly within the 'Three Branches of Government'.

I refer to the above Requête which is scheduled for debate by the States of Deliberation at their meeting commencing 17th July 2024.

Deputy St Pier and the six other Requérents¹ are seeking for the States:

1. To agree that the Latimer House Principles are relevant to ensuring that Guernsey maintains a strong and functioning democratic system which underpins the components of a state (the legislature, the executive, and the judiciary) and that this requires recognition in order to increase the capacity of the States Deliberation by ensuring its Members have appropriate space and support to undertake their role as elected representatives.
2. To direct that the States' Assembly & Constitution Committee should consider and report back by June 2026 to the States of Deliberation with any recommendations for the adoption of an appropriate version of the Model Law to establish a special purpose parliamentary body to oversee the institution of the States of Deliberation as a parliament, having regard to our size, scale, and system of government.
3. (A) To designate Court 3 (the Assembly) and the current Royal Court Library as 'parliamentary estate';
(B) To change the order of priority for the use of the parliamentary estate such that in the first instance it is designated as space for the use of the States of Deliberation and its Members and thereafter it shall be available for use by the States of Election, the courts and for ceremonial occasions; and
(C) To direct the Policy & Resources Committee and the States' Assembly & Constitution Committee in liaison with the Royal Court to agree and make such detailed arrangements as are practically necessary to give effect to this proposition

¹ As one of the Requérents, Deputy Le Tocq has not been involved in the development of this Letter of Comment.

as soon as feasible whilst ensuring the most efficient use of the parliamentary estate by the States of Deliberation, its Members, and the Royal Court.

4. To direct the Policy & Resources Committee and the States' Assembly & Constitution Committee to consider the practicality of further designating Court 6 (the old Greffe's office below the present Royal Court Library) and adjacent office as parliamentary estate and/or identify from within the States' estate additional space suitable for parliamentary and Members' uses, consulting with among others the Royal Court and St. James' Chambers; and
5. To direct the preparation of any necessary legislation.

In accordance with Rule 28(2)(b) of the Rules of Procedure of the States of Deliberation and their Committees, the Policy & Resources Committee ("the Committee") consulted with the States' Assembly & Constitution Committee ("SACC"). Steps were additionally taken to seek the Bailiff's views given his responsibilities for the Royal Court.

The Committee thanks the consultees for their comprehensive responses which are appended in full to this letter.

The Committee wishes to note that as Deputy Trott was unavailable when this was discussed, the views expressed are not those of Deputy Trott.

While providing more background to its position through this Letter of Comment, the Committee makes the following main points to aid States Members' consideration of these proposals:

1. The Latimer House Principles is a construct to assist the development of democratic standards in some Commonwealth countries.
2. The Committee recognises that the Principles represent what is widely held to be good practice.
3. The Petition notes that the Model Law is designed primarily for a party-based legislature in a Westminster-style system of government. Consequently, the practical application of the Model Law may be more limited in Guernsey.
4. Any priority to progress developing recommendations to adopt an appropriate version of the Model Law should be considered alongside the legislative requirements of government more broadly at the start of the next term. There is no capacity to begin this term.
5. There is a considerable and growing list of primary and secondary legislation that Principal Committees are likely to recommend to the new Assembly as higher priority: the resource requirements are not yet specified but will include policy development, legal advice, legislative drafting, implementation planning, commencement and sustained resourcing/funding for operation.

6. The Committee acknowledge that there is limited space to identify for parliamentary estate due to financial constraints and the lack of available options due to the pressures on the use of the Royal Court spaces.

Government Policy Objectives

As part of the Commonwealth, Guernsey shares the values outlined in the Commonwealth Charter. This means that Guernsey already adheres to the principles of good governance, fundamental human rights, and the rule of Law. The current iteration of the Latimer House Principles is a formal construct of Commonwealth, approved by the Commonwealth Heads of Government and evolved from previous work - to assist the development of democratic standards in some Commonwealth countries.

The Committee recognises that the Commonwealth's Latimer House Principles represent widely recognised good practice and are aligned to the Island's long-standing commitment to high democratic standards. However, the Commonwealth Parliamentary Association's ('CPA') Model Law itself is not widely known and perhaps is not a necessary benchmark for the Island. As part of the preparation of the Government Work Plan the Committee will be including a high level 'legislation review and gap analysis' to introduce a programme of work at the start of the next Assembly which, in the view of the Committee, should most certainly include a review of the Reform Law ahead of considering the CPA's Model Law, which seeks to address democratic deficit.

SACC has advised the States through its consultation response that it is generally in favour of the proposals in the Requête although concerned that the timeframe is not achievable when there is a general election next year, which also introduces concerns centred on both Member continuity and in terms of the collaboration required to devise a version of the CPA's Model Law suitable for the Guernsey context.

The Government Work Plan² establishes the need to "enhance government working and support". The Committee acknowledges the contribution to this goal that could be made by progressing the benchmarking against Latimer House Principles and exploring an appropriate version of the Model Law for Independent Parliaments. As is made clear in the associated guidance³, however, the application of the Latimer House Principles would need to take into consideration the local context and customs in Guernsey, as well as the human, physical and financial resources available (for example, the adoption of the Latimer House Principles should not be considered as pre-determining that the Assembly should in due turn adopt an independent and autonomous electoral commission in the manner seen in larger jurisdictions, but this does not undermine Guernsey's commitment to free and fair elections and their independent oversight). There is already an outstanding Resolution requiring SACC to investigate the establishment of an independent

² Strategic Portfolio: Maintain Public Service Resilience, Security & Governance, [Government Work Plan 2023-2025](#)

³ Model Law for Independent Parliaments; CPA 2020 [which is included as part of the supplementary information to the Requête] sets out clear guidance about how to devise and implement a Model Law for unicameral or bicameral Parliaments. It provides a template for parliaments to replicate and modify, to meet their specific needs and context.

body to oversee elections. As with much of internationally accepted good practice it is always necessary as a small independent island jurisdiction to take the best and apply it pragmatically and proportionately.

It should also be noted that work on the Latimer House Principles and the investigation of an appropriate version of the Model Law for Guernsey was not included in the Government Work Plan. There is no capacity in the last year of this term to commence a significant new piece of work. To agree to do so will jeopardise other work already in progress as resource would have to be re-allocated if the timescale remained unaltered.

The Committee is also cognisant that there are other models of good governance which the Assembly may wish to explore. This includes looking at existing models such as the bicameral (sometimes called a tricameral) parliament in the Isle of Man. Indeed, both Jersey and the Isle of Man have undertaken widespread consultation and investigation which have led to changes in the machinery of government in more recent times. In Jersey the Clothier Report ⁴ [December 2005] made wide ranging recommendations which led to the introduction of a Ministerial system of government and the introduction of a Chief Minister to separate the legislative and executive roles. In the Isle of Man, Sir John Elvidge's report⁵ recommended that the Isle of Man operated as a single entity replacing the separate legal entities of the constituents of government rather than the ministerial departments model of governance. This model was not adopted at the time. However, it is still being explored with further consultation in 2017, outlining the positive advantages of integrating systems, policy, and service provisions within a small government. In both jurisdictions the Committee has noted that not only has lengthy consultation and changes to legislation been needed but different types of governance have been explored and / or adopted. This poses the question whether further research and consultation would be needed to scope options for the Island rather than solely focussing on the Model Law as presented by the CPA.

The Committee notes in para 14 of the Petition the requérants have made clear that 'The Model Law is designed primarily for a party-based legislature in a Westminster-style system of government. Consequently, the practical application of the Model Law may be more limited in Guernsey'. It is likely therefore for this reason that the Proposition before the States is 'to consider and report back with any recommendations for adoption of a version of the Model Law relevant and proportionate to Guernsey, having regard to our size, scale and system of government.' The Committee would include 'operating and resourcing constraints as important other pertinent matters.

The Committee notes the intention of the SACC to bring forward an Amendment. It may be helpful if that directs the Policy & Resources Committee to add this work to the proposals it brings to the new Assembly when considering its legislative programme as part of the Government Work Plan. The Committee will be recommending in the handover report that this should be lodged no later than Q1 2026, there being considerable work for the new Assembly to conclude in its first six months while considering its priorities for the new term. This is considered a reasonable next step as the resourcing to research, develop, consult, and lay proposals must be considered alongside the wider legislative

⁴ The Clothier report [[41476 \(gov.je\)](https://www.gov.je/41476)], December 2000 undertook a wide-ranging review of all aspects of Jersey's government; many recommendations were implemented in 2005.

⁵ The Isle of Man sought consultation on developing government as "a single entity" [[sle-consultation-final-april-2017.pdf \(gov.im\)](https://www.gov.im/sle-consultation-final-april-2017.pdf)].

needs of the community as identified by each Committee of the States and not in isolation, especially at this stage in the current political term. Any Amendment to the Requête's Propositions will need to reflect this timeframe.

Parliamentary Estate

As individual parliamentarians the Committee Members understand the concerns set out in the Requête regarding appropriate facilities for States Members. Indeed, the Committee has already approached the Bailiff to request spaces for its members to use.

The Committee is responsible for States property. In this capacity it sought the views and advice of the Bailiff and HM Greffier.

The Bailiff has set out concerns with regards to Propositions 3 and 4, which refer to the use of Court 3, The Royal Court Library, Court 6 and the spaces within the Royal Court House being designated as parliamentary spaces. It is felt that this could compromise the judiciary business and the administering of justice due to the fact that currently:

- The Royal Court Library is used for meetings, so relocating these meetings to other rooms may compromise the privacy of those persons attending Courts.
- Court 6 is used fairly regularly, particularly when the number of persons needed to attend can only be accommodated in a larger court room. Therefore, this would impede the effective delivery of justice if reallocated to become dedicated parliamentary space.
- The scheduling of the Royal Court's calendar is already determined with priority to the States of Deliberation.

The Committee fully appreciates that the Royal Court House is primarily designed to administer justice and is grateful that priority is already given to parliamentarians when the States of Deliberation is sitting. If dedicated parliamentary space is to be designated rather than continuing the current pragmatic policy of a shared space overseen by HM Greffier, this would have financial implications as appropriate alternative Court facilities would need to be hired or developed. The provision of appropriate space and facilities for hearings is also an ongoing concern for many Tribunals and it is already known it is challenging to meet the need safely. Combined, this suggests that the current financial constraints and paucity of available options might impede progression of alternative estate which may leave Proposition 3 as an extant Resolution for some considerable time if it is carried.

Preparation of Legislation

The Committee also notes that the Propositions do not result in approved drafting instructions. They do no more than direct SACC to consider and report back to the States with any recommendations for the adoption of a version of the Model Law relevant and proportionate to Guernsey at which time it would be appropriate to direct the preparation of legislation.

Yours sincerely

Deputy Heidi Soulsby
Vice President

Enc.

- Rule 28 Response – States' Assembly & Constitution Committee
- Bailiff's response



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1 July 2024

Dear Deputy Trott

**REQUÊTE – P.2024/52 COMMONWEALTH (LATIMER HOUSE) PRINCIPLES:
THE ROLE OF THE PARLIAMENTARY ASSEMBLY WITHIN THE 'THREE
BRANCHES OF GOVERNMENT'**

Thank you for your letter dated 13th June 2024 concerning the above, which the Committee considered at its meeting held on 27th June 2024, from which discussion Deputy St Pier recused himself as a signatory to the Requête, in accordance with Rule 49 of the States' Rules of Procedure.

As you might expect in view of its mandate, the Committee is generally in favour of proposals that will contribute to improved facilities and support for Members of the Assembly when they are discharging their duties in this respect. Therefore, its response to the Requête is broadly favourable.

It does, however, have an issue with proposition 2 which, if successful, would see the Committee directed to *"consider and report back by June 2026 to the States of Deliberation with any recommendations for the adoption of an appropriate version of the Model Law to establish a special purpose parliamentary body to oversee the institution of the States of Deliberation as a parliament, having regard to our size, scale and system of government."*

Although the Committee considers this an appropriate direction of travel, it would point out that none of the work proposed in the Requête features in the Government Work Plan, meaning that, if approved, presumably other work streams will have to be deprioritised. Specifically, the Committee has concerns about the suggested timetable – i.e. to report back to the Assembly by June 2026.

Whilst dates for States' meetings and the associated deadlines have not yet been agreed for the next political term, in 2024 the deadline for the July meeting of the Assembly was 3rd June, and there is no reason to suppose that deadlines for 2026 will be significantly different.

Consequently, if the Requête is approved in July 2024, there will be a period of approximately 23 months for the Committee to carry out the work designated to it by the States. Whilst this may sound adequate, meeting the deadline will be problematic for the reasons set out below.

First, between now and June 2025, the Committee's priority will be preparing for the 2025 General Election and its immediate aftermath. This will involve: organising events for candidates and prospective candidates; dealing with the legislative changes that are necessary to ensure the election can take place; devising and implementing induction and ongoing development sessions for the new Assembly; inducting a new Committee; and dealing with the general wash-up of the election.

It must be borne in mind that the Committee has only one full-time officer and it is that person (yet to be appointed) to whom the bulk of the work associated with consideration of the adoption of "an appropriate version of the Model Law" will fall. However, the officer in question will be unlikely to be able to devote significant time to this work before Q4 2025, which makes the time scale very tight.

In addition, following the guidance included in Appendix Three of the Requête, it is clear that there will be a need for collaborative working and consultation between and among both officials and elected Members. Whilst there is no suggestion that this of itself will prove problematic, it must be borne in mind that if work commences before June 2025 (which would be challenging in any event, given the election preparation), a problem in respect of Member continuity may arise thereafter if key stakeholders either do not stand for election or lose their seats. This would represent a risk to progress and would almost certainly delay the project.

Given that the Model Law has been designed around systems that are very different to Guernsey's, it will not be the case that it can be applied wholesale to Guernsey, as acknowledged by the Requerants. Whilst this is certainly not an insurmountable problem, it does mean that the project is likely to be more time-consuming than might otherwise be the case.

In light of all these factors, the Committee is unable to commit to meeting the deadline of reporting back by June 2026 but would be able to commit to meeting a June 2027 deadline. Therefore, the Committee has agreed to propose an amendment to the Requête to change the deadline to June 2027.

Yours sincerely

C P Meerveld
President

THE BAILIFF OF GUERNSEY
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2 July 2024

Dear Deputy Trott,

REQUÊTE – P.2024/52 COMMONWEALTH (LATIMER HOUSE) PRINCIPLES: THE ROLE OF THE PARLIAMENTARY ASSEMBLY WITHIN THE ‘THREE BRANCHES OF GOVERNMENT’

Thank you for your letter of 13 June 2024.

As requested, what follows can be included in the Committee’s Letter of Comment. However, if the Committee chose to edit what follows, I would welcome the opportunity to comment further on any such editing. In discussions with my colleagues and HM Greffier, we have concentrated on the third and fourth propositions.

Within the Royal Court House, there are six court rooms. Two of them (Courts 1 and 2) are in the newer part of the building following its extension in the early part of this century, as referred to in para. 6 of the requérants’ Petition. Those court rooms are secure and so are used for criminal matters. However, if those accommodated at the Prison are involved in any form of family case in the Magistrate’s Court or the Royal Court, including adoptions, the only court rooms that can be used for such matters are Courts 1 and 2.

We consider that it is inaccurate in para. 13 of the Petition to say that Court 6 “*is the least utilised court*”. It has a larger footprint than Court 5 and so is used more regularly than this statement suggests and, in particular, whenever the number of persons likely to attend can only be accommodated in a larger court room, including holding the Conveyancing Court there, as well as family and civil cases.

As a further example, whenever there is a long matter needing to be heard over several months, we do not have the flexibility to move any other matters into the court room being used, which inevitably means that, for that period, we lose one entire court room. At present, there are currently two such cases scheduled to be heard during 2025.

Whilst we recognise that proposition 4 is put in the alternative and understand the desire of States’ Members to have appropriate space in and from which to operate as parliamentarians, we cannot afford to lose access to any court room permanently, such as Court 6, and believe that the only feasible option will be to identify additional parliamentary estate outside the Royal Court House.

When allocating business to each of the court rooms, consideration is given as to which is the most appropriate room to use for each matter. We frequently list business in all six court rooms for any given

morning or afternoon session. We acknowledge that some matters get vacated near to the hearing date, or turn out to occupy less court time than envisaged. In such circumstances, we see what scope there is for alternative judicial business to be undertaken in its place. Further, if some urgent matter needs a court room, for example an application by a victim of domestic violence, we need to have some availability to ensure that the application can be heard as quickly as practicable.

Allowing for how there is inevitably some fluidity in what is listed and what gets heard by the Court, recent experience demonstrates that all the Courts using the Royal Court House operate at around 77% capacity. (This includes those days when the States are scheduled to sit in Court 3.) There are occasions when maintenance work needs to be undertaken in a court room, which also needs to be borne in mind.

In respect of para. 9 of the Petition, the judiciary does not accept that the States “*effectively sits at the pleasure and convenience of the Royal Court’s availability*”. The dates of States’ Meeting are known in advance under *The Rules of Procedure of the States of Deliberation and Their Committees*. Pursuant to rule 6, all Meetings are scheduled to last up to three days, even Special Meetings starting on a Tuesday. Accordingly, the Court Calendar for each year of a States’ Term sets aside Court 3 and the Royal Court Library to function as the States’ Members room for those three days for each Meeting. This is not making the States “*subservient to the Royal Court*” but affording the States priority use of those parts of the Royal Court House for up to three days each Meeting. However, if a Member were to propose a different day to meet, pursuant to rule 6(4), it is possible that the Presiding Officer might already have judicial work listed, but that is why there are the three Acting Presiding Officers appointed for this purpose. As such, any adjournment to a date not previously identified would always be capable of being accommodated.

In respect of the Royal Court Library, outside of States’ Meeting days, we understand that it is used quite frequently. There is a booking system in place. Those who make use of the room for meetings (which does not often involve the judiciary) would need to find some other place to meet in the event that the Royal Court Library became permanently allocated for use by States’ Members. This is one of the reasons why the States’ Greffier’s office is elsewhere in the Royal Court House and accessible by Members without them needing to move into areas where court rooms are in use. We consider that those persons attending Courts should be free to come and go, especially in relation to cases held in private, without risking being scrutinised excessively. The primary purpose of the building is as the Royal Court House. Moreover, in the vicinity of the States’ Greffier’s office, and so away from all the court rooms, there are two rooms that can be used by parliamentarians for meetings.

Whilst we appreciate that proposition 3 seeks to create a parliamentary estate without prescribing the level of use by parliamentarians, and that proposition 3(C) will require some agreement to be reached for the level of access to be afforded to Court 3 for judicial business, we would struggle to deliver the administration of justice in a timely fashion, which we believe is an important aspect of what Guernsey offers, if we lost access to that court room for judicial business for significant parts of every year. There is a well-known maxim that “justice delayed is justice denied”, which may become relevant. Paragraph 19 of the Petition also refers to income generation opportunities involving guided tours or sale of merchandise, but it is unclear when these might take place or where the point of sale might be in a building that is, first and foremost, a working Royal Court House. If constraints are to be imposed on who can have access to which parts of the Royal Court House at any given time, we are concerned about the overall impact they will have on the administration of justice.