

**REPORT OF THE  
PARLIAMENTARY JOINT SELECT COMMITTEE ON  
PARLIAMENTARY GOVERNANCE  
PRESENTED TO PARLIAMENT  
FEBRUARY 28, 2014**

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# **REPORT ON THE JOINT SELECT COMMITTEE ON PARLIAMENTARY GOVERNANCE**

## **1. TERMS OF REFERENCE**

Mr. Speaker, Madam President, the Joint Select Committee on Parliamentary Governance and Reform (“The Committee”) was established upon the unanimous adoption of the following motion moved by the Honourable Member N. H. Cole Simons JP MP on the 19<sup>th</sup> of July 2013, namely:

“In an effort to ensure that Bermuda’s Legislature meets the standards prescribed in the Commonwealth Parliamentary Association benchmarks for democratic legislatures; be it resolved that this Honorable House establish a Joint Select Committee. The Committee’s mandate is to examine, make recommendations and report to this House its findings on the Legislature’s management structure and governance in order to provide an efficient and effective parliamentary service to the people of Bermuda”.

The following members were appointed to the Committee:

Mr. N. H. Cole Simons JP MP – Chairman

Ms. Lovitta F. Foggo JP MP

Ms. Jeanne Atherden JP MP

Senator Jeff C. Baron JP

Senator Diallo V.S. Rabain JP

The Hon Terry Lister JP MP (who subsequently retired from the committee)

Senator James Jardine JP (subsequently replaced the Hon. Terry Lister)

Mr. K.L. Bascome JP MP

Mrs. Shernette M. A. Wolffe – Clerk to the Committee

## **2. SUBMISSIONS TO THE JOINT COMMITTEE**

Shortly after the Committee's first meeting held 15<sup>th</sup> August, 2013 the Committee members agreed to break off in groups to gather information and make recommendations on the following themes – "Organization of the Legislature", the "Function of the Legislature", and the "Value and Ethics of the Legislature". Their findings and recommendations form an integral part of this report.

The Committee also invited the public, through advertisements in the Royal Gazette, to make written submissions via email. In addition, they also extended personal invitations to various community leaders, and retired statesmen, who have a keen interest in Parliamentary Governance, to make a verbal submission.

In response to these invitations, the Committee hosted three meetings in November and December. These meetings each lasted three to four hours. All were held in the House of Assembly's library.

There were a total of 6 presentations. These presentations covered a wide spectrum, and were made by the current Speaker of the House, a retired Speaker of the House, a former Premier and Deputy Speaker of the House, a former Cabinet Minister, and Opposition Leader in the House and Opposition Whip, a former Opposition Leader and a retired Clerk to the House.

The Committee was generally impressed by the dedication, care, effort and research undertaken by the presenters and has carefully sought to do justice and summarize their thoughts and recommendations for future reference. While not all of the recommendations were taken up by the committee, we believe that they were worth highlighting, since they represent the breadth and depth of the challenges which currently exist in our parliamentary services.

Many of the ideas and solutions advanced represent a list of best practices in parliamentary systems, which may well find favour at some point in the future, should the resources, financial, technological and human, be available. Accordingly, we have included in Appendices 1, 2, and 3 of this report, verbatim copies of the various presentations, which give the reader an idea of the volume of material which the Committee entertained and examined. A number of in

camera meetings were held and during these meetings, Committee members also gave written submissions.

### **3. PARLIAMENTARY GOVERNANCE TODAY AND TOMORROW**

Mr. Speaker, the practice of Parliamentary (Legislature) Governance in various jurisdictions throughout the world, has evolved over time as legislatures adapt, and adopt new practices and standards to improve their effectiveness and legitimacy. The Committee went through the process of measuring themselves against these benchmarks. This exercise allowed members to see that Bermuda's Parliament was not meeting international recommended standards; in other words it "was not up to scratch".

Bermuda hosted a CPA Benchmark Seminar in 2006 and a Report entitled "Benchmarks For Democratic Legislatures" was produced. Additionally, a further report entitled, "Recommended Benchmarks for the CPA Caribbean, Americas and Atlantic Region Democratic Legislatures", was prepared and approved at the 36<sup>th</sup> CPA conference in 2011. Copies of these documents are included in Appendix 5 and Appendix 6, respectively, to this report.

Bermuda's Parliament needs to be strengthened so that it is positioned to effectively deal with current trends and best practices. This includes promoting and defending democracy and the rule of law as well as adopting what are considered to be best practices. We have to make gradual steps to reach the ultimate goal. Our Parliament should also adjust and manage the realities of globalization, and as a consequence, create capacity to assume a more active role in relation to international cooperation and multilateral institutions.

Further, it should be noted that with rapidly developing knowledge based and technology driven societies, legislatures have been placed under intense scrutiny in the areas of transparency, accountability, effectiveness and fairness. The same applies to Bermuda and it is now evident that the Governance structure for Bermuda's Legislature is out dated. Our Parliament must adjust itself to be effective and efficient in providing parliamentary services in today's information age society.

In light of the above, the Committee believes that Bermuda's Legislature should embark on its own path to meet standards prescribed by international benchmarks and provide an efficient and effective Parliamentary Service to the people of Bermuda. In addition, our Legislature must articulate, and respond effectively to the needs of our people as well as making the Legislature more accessible by enabling citizens to interact with members via , websites, television and radio. Educating Bermudians on what exactly Parliament does and how they go about fulfilling their obligations to the electorate, is vital, in addition to Parliament's aspirations for peace, human rights, equality and economic development in a democratic society.

Bermuda has to move forward in line with current practices. As mentioned aforesaid, international democratic Legislatures are continually evolving. Innovation is necessary and the Legislature must adopt a more proactive stance in order to better fulfill its constitutional role. In order to improve parliamentary services, The Committee recognized that a complete review of our Parliament's Governance structure was needed. In light of this, it was necessary to examine the following themes:

- the Governance Structure of Parliament and support service.
- the Function of Parliament and
- the Ethical governance of Parliament.

#### **4. GOVERNANCE STRUCTURE OF PARLIAMENT AND SUPPORT SERVICE.**

##### **A. STRUCTURE**

The first question for legislators is how can we create, and maintain a Parliamentary Service (Administration support staff for the Legislature) that is capable of achieving the services required by Parliament, together with maximum productivity and minimum expense? Secondly, what are the challenges to achieving this result?

The Right Excellent Errol Walton Barrow, former Prime Minister of Barbados, once said:

*“The meaning of Parliamentary democracy is that the people themselves, because of their preoccupation with such vital matters as earning a living, who lack the time to devote to proper studies to this and other matters, delegate to their representatives the exclusive right and duty to pass laws in their Parliament for the good governance of this country and for the betterment and improvement of the society”.*

*“Parliament, therefore, is the only appropriate forum for the introduction, discussion and dissemination of matters affecting the sovereign rights of the people and those who do not support this point of view are not true Parliamentarians. They do not understand the nature of their functions inside this chamber or the other place”.*

As in Barbados, if Bermuda’s Parliamentary Service is to achieve these prescribed objectives, there must be independence from Government (the Executive Branch) and the resulting autonomy of that service. Certainly this is largely the case in the United Kingdom and is part of the legislation in Barbados, contained in Chapter 10 of the Parliament (Administration) Act under the Laws of Barbados. (See Appendix 7).

In addition, one retired Speaker of Bermuda’s House of Assembly robustly emphasized that in many advanced countries, the independence of Parliament is enshrined in law, via a parliamentary administration act. He went on to state that this independence is protected and no outside person, or organization, including the Executive Branch of Government, and or its Civil Servants, and their senior executives or officers, can direct the Parliament in its deliberations, or influence the manner in which it runs its affairs.

In light of the above, many Parliaments around the Commonwealth Nations from a governance perspective, have established a Parliamentary Commission / and or a Parliamentary Management Board/Commission by legislation which is responsible for the overall Administration of the Legislature. These are Corporate bodies.

Here it should be noted that a 2005 CPA study group on the Financing and Administration of Parliament, recommended that under the theme Governance of Parliament, Parliaments should either by legislation, or resolution, establish corporate bodies responsible for providing services and funding entitlements for Parliamentary purposes, and providing for governance of the Parliamentary service.

It is noteworthy that, the Barbados Parliament, the Canadian parliament, the Trinidadian parliament, and the British Parliament have addressed this issue by the creation of a Management Commission of Parliament and in the case of the United Kingdom, a further subsidiary Board known as the Management Board. (See Appendix 4)

Mr. Sandiford, another former Prime Minister of Barbados, said that:

*“The appointment of a Management Commission will secure a more efficient administration and management of Parliament itself. It will give Parliament itself more certainty and greater control over its own affairs over the services to be rendered to Parliament. It creates a framework within which Parliament will have a greater say in the management of its own affairs. Parliament itself will be taking the occasion to update its own capabilities so that it will be able, hopefully, to improve the kind of outputs that it produces on behalf of the people of the country”.*

In Barbados for example, The Barbados Management Commission consists of:

- (a) the Speaker of the House of Assembly, (Chairman)
- (b) the President of the Senate (ex officio)
- (c) the Prime Minister (ex officio)
- (d) the Leader of the House of Assembly (ex officio)
- (e) the Leader of the Senate (ex officio)
- (f) the Leader of the Opposition (ex officio)
- (g) 4 Members of the House of Assembly appointed by the House of Assembly, and
- (h) 2 Members of the Senate appointed by the Senate

In the United Kingdom, there is House of Commons Commission which is comprised of:

- (a) the Speaker of the House of Assembly, (Chairman)
- (b) the Leader of the House
- (c) the Shadow Leader of the House (or another MP appointed by the Opposition)
- (d) three other members of the House of Commons appointed by the House of Commons, none of whom shall be a Minister of the Crown.

The key difference to note here is that the management of the House Service and its operations are delegated to the House of Commons Management Board made up of the Clerk of the House of Commons as Chair and CEO, the Heads of the five support departments of the House, the Director of Parliamentary ICT and two non- executive members appointed through open competition. (See Appendix 4 for details of the House of commons Governance Framework).

Canada's House of Commons manages its affairs by way of a Board of Internal Economy. Under the *Parliament of Canada Act*, the Board has the legal authority to "act on all financial and administrative matters respecting (a) the House of Commons, its premises, its services and its staff; and (b) the Members of the House of Commons.

The Board consists of the Speaker, who acts as Chair, two members of the Privy Council (appointed to the Board by the Government), the Leader of the Opposition or his or her representative, and additional Members appointed in numbers so that the total results in an overall equality of government and opposition representatives (apart from the Speaker).

All recognized parties (i.e., those holding at least 12 seats in the House) are given representation on the Board. Five members, including the Speaker, constitute a quorum. The Clerk of the House is the Secretary to the Board of Internal Economy.

Here it should also be noted that during the Commission's public meetings, a discussion and debate ensued around appointing two or three astute business leaders to a Management Commission (if such a Commission was

established) , in addition to selecting a few members from the Bermuda branch of the Commonwealth Parliamentary Association. In the end, it was agreed that the Commission would at this point in time, adhere to current convention, as noted above, and allow the Legislature to possibly revisit these options in the future, should the need arise. However, it is important to note that all persons who made submissions to the Committee were of the same mind that only Parliamentarians should serve on the Management Commission.

The Commission , through its review of various documents , listening to the presentations that were made to it and general discussion among the members, recognized many distinct differences between the administration structure of the Bermuda Legislature and those of the jurisdictions discussed above, as it relates to the hiring of support staff and the general provision of a variety of different services, including:

- the implementation of leading technology advances
- the recording and reporting of debates
- support for Committees of Parliament
- provision of research assistants for Members
- staff training
- preparation and control over expenditures of the Legislature
- control over security and the ability to obtain independent legal and other professional advice as required, independent of the Executive Branch. (The Government).

A discussion of some of these differences now follows.

### **(B) SUPPORT (Staffing)**

“CPA Benchmarks for Democratic Legislatures”, a CPA Study Group Report of 2006, (See Appendix 5) in its contribution to the parliamentary service, had this to say:

“The Legislature, rather than the executive branch, shall control the parliamentary service and determine the terms of employment. The Legislature must have authority over its staff in order to ensure its independence.”

It further stated that adequate non-partisan professional staff is a prerequisite for the well-functioning of the legislature. Under the heading Parliamentary Staff – Recruitment; it stated that:

“ The Legislature shall have adequate resources to recruit staff sufficient to fulfill its responsibilities. The rates of pay shall be broadly comparable to those in the Public Service.”

The effective and efficient running of a modern Parliament behooves the developers of policy to ensure that the Clerk, or whosoever is designated as CEO , has adequate resources in order to recruit staff sufficient to fulfill its needs. It is critical that the Clerk has around him or her, a highly skilled management team, in the following key areas namely:

- Editorial and Reportorial
- Security ( Sergeant-at Arms)
- Library, including research capabilities for the Clerk’s use and for the use of Parliamentarians and support for the dissemination of information to the public.
- Chamber and Committee services support in particular minute taking and timely dissemination of information to Committee members.
- Independent Legal support .
- Accounting support and Control.
- Training and Human Resource support.
- Information Technology support exclusive for the Legislature but working in consultation with Government ICT support personnel.
- Facilities support and maintenance which is independent of the Government.

The Legislature must employ qualified and skilled personnel in order to create the ideal platform for transformation of the service rendered to Parliament.

### ***Editorial and Reporting***

This is one of the core functions of the Parliamentary Service, and one upon which the service should be measured. Equally, this has been the core function that has been subjected to the rapidly changing technological landscape.

At a glance, the Hansard allows for a clearer recording of the debates which should lead to accurate reporting and production of debates. The further improvement of the digital architecture presents the opportunity to stream debates for archiving and for what is known in the sporting arena as “real time replay”. This latter feature is extremely useful to presiding officers in their rulings. This digital architectural platform also allows for the greater recording of debates of members on DVDs and for the storage of these debates.

The incorporation of technology into Parliament’s processes has contributed in no small way to placing debates online in an archived format. It must also be stressed, however, that the introduction and incorporation of technology itself will not automatically lead to the greater efficiency one seeks. The introduction of technology has to be undergirded by a qualified and dedicated staff.

### ***Security***

In the area of security, Government Security guards/ Police/Regiment should perform this function, under the intended supervision of Parliament through the Sergeant of Arms.

Nevertheless, in the era of ever-increasing security concerns, this area now assumes greater importance and urgency. The need for greater security must be attended by a sensitivity to ensure that people still have a right of access to their Parliament and Parliamentary representatives. What therefore is required is to strike a balance between increased security and access of the people to their Parliament.

These important twin concerns have to be managed by a well-trained security service that answers directly to the Management Commission of Parliament.

### ***Library and Research***

Politicians on both sides of the House are settled in the view that Members and staff of the Legislature should have access to sufficient research, library and IT facilities. These components are essential to the delivery of optimum parliamentary service. In the United Kingdom and Barbados for example, adequate research or secretarial support is provided for all members. Not only will such support allow members to meaningfully participate in debates before the House, but it will also enhance the quality of debates and Committee deliberations. This is one area in which Parliament’s autonomy has been tested,

where governments have been unable to place research assistants at the disposal of Parliaments. One of the potential sources of these research assistants could be members of Bermuda's Youth Parliament or Bermuda College students.

### ***Independent Legal Support***

In the United Kingdom, the Speaker has an independent counsel who can advise him on matters strictly independent of the Executive branch. Further, such counsel are also available to other management personnel within the Legislature to advise on a variety of matters such as freedom on information, health and safety, contractual issues, employment, etc.

### ***Training and Human Resource Support***

Parliaments are a critical component of a country's governance system. Because they oversee the Executive Arm of the Government, they represent the electorate and enact legislation. To perform these functions, strong, parliamentary strengthening training programmes that will produce proactive, professional and responsible personnel should be in place.

Continuous training and retraining are critical if parliamentary staff are to provide excellent service to Parliament and Parliamentarians, especially at a time when public expectation for improved democracy is on the rise, due to social media etc. Given the nature of Parliamentary Service, finding a suitable organization to structure a comprehensive training programme is essential.

The World Bank Institute for the Study of International Development has developed an Executive Development Programme for Parliamentary Staff. Presiding Officers and Clerks Conferences are one way of providing training for Presiding Officers. Bermuda must establish a system of training for its Parliamentary Staff. Parliaments in the region have focused on training the Clerks and personnel at that level. There must be a greater exchange of Journal, Editorial and IT Providers in the parliamentary service. Historically, we have to a large extent relied on attachments to the established Parliaments for the bulk of our training. We must now look at devising a system where we are able to train our Parliamentary Staff in Bermuda.

## ***Information Technology***

One of the key tools in sustaining an effective and efficient service is the incorporation of technology in the delivery of the many services that are the lifeblood of Parliament. Certain parliaments are now using Apps to allow MP's to access a wide range of information relating to their duties at the touch of a finger on their Parliament-issued iPads or similar tablets. The Parliament of Trinidad and Tobago uses an app called "Rotunda" whereby parliamentarians can access information on Parliament business, including bills, Committees Minutes, Parliamentary Questions, and House sittings. "Rotunda" is regularly updated.

## ***Facilities Support***

Readings and discussions have shown that any effort to promote an effective and efficient parliamentary service must be accompanied by the provision of a safe physical plant, and a safe and clean working environment.

For efficiency, and security purposes, Parliament should be housed in purpose built buildings on one precinct, under one Sessions House. The building should house no other Government departments. The Upper and Lower Houses should jointly be housed in these buildings. These buildings should also include a fit for purpose Parliamentary library, Committee rooms and archives facilities.

Studies have shown that if staff are provided with the best working environment, this will invariably lead to a higher degree of productivity. It is for this reason that attention must be given to what is considered 'sick buildings' syndrome and the maintenance of the physical infrastructure in which the parliamentary staff have to perform their duties. The safety and security of staff must be given a high level of priority. Mold, ventilation, water leakage, wiring, and fire safety hazards are just a few of the vexing issues often discussed by the parliamentary House & Grounds Committee.

## ***Support for visiting parliamentarians***

It is important that Parliament should make available to its staff, a robust protocol and public relations team to arrange and organize visits by overseas parliamentarians from other Commonwealth Parliaments and Commonwealth Parliamentary Conferences/ Seminars, to name a few.

## **(C) RECOMMENDATIONS**

### ***Structure***

1. A new **INDEPENDENT** body known as The Management Commission, responsible for the Administration of the Legislature, should be established.
2. This Commission should consist of the following persons:
  - The Speaker of the House of Assembly. (Chairperson)
  - The President of the Senate
  - The Premier (ex officio)
  - The Leader of the Opposition (ex officio)
  - Four members from the House of Assembly appointed by the House of Assembly, none of whom shall be a Minister or Junior Minister
  - One member of the Senate appointed by the Senate.
  - The Clerk of the House of Assembly.
3. Specific Terms of Reference for this Committee should be developed to include, term of office, quorum requirements, responsibilities and powers for the provision of adequate support services for Parliament , including the recruitment and management of Parliamentary Staff, determination of an annual budget to be approved by Parliament and the monitoring of such annual budget as approved by the Legislature. As is the case in the United Kingdom Legislature, the actual day to day management of the Parliamentary Service should be delegated to the Clerk of the House of Assembly. She will constitute an Administration Committee which will meet on a monthly basis. A monthly report will be generated by the Clerk to be presented to the Management Commission where issues of concern will be raised and dealt with during the Commission's monthly meeting.
4. The following House Committees should meet on a regular basis or as needed and prepare a written report for the Management Commission:
  - Regulations Committee
  - Public Accounts Committee
  - Committee of the Auditor General

- House and Grounds Committee
  - Register of Members Interests
  - Joint Select Committee on Private Bills
  - Standing Orders Committee.
5. The Management Commission shall have authority to constitute any other Committee that it considers necessary in order to fulfill its duties and responsibilities.
  6. The present situation whereby the Senate chamber is located in a different building from the House of Assembly and the staff of the Legislature is inefficient and costly. The Legislature should be contained “under one roof” as a matter of urgency.
  7. The structure, and enforceability of all House Committees should be regularly reviewed and amendments made as necessary.

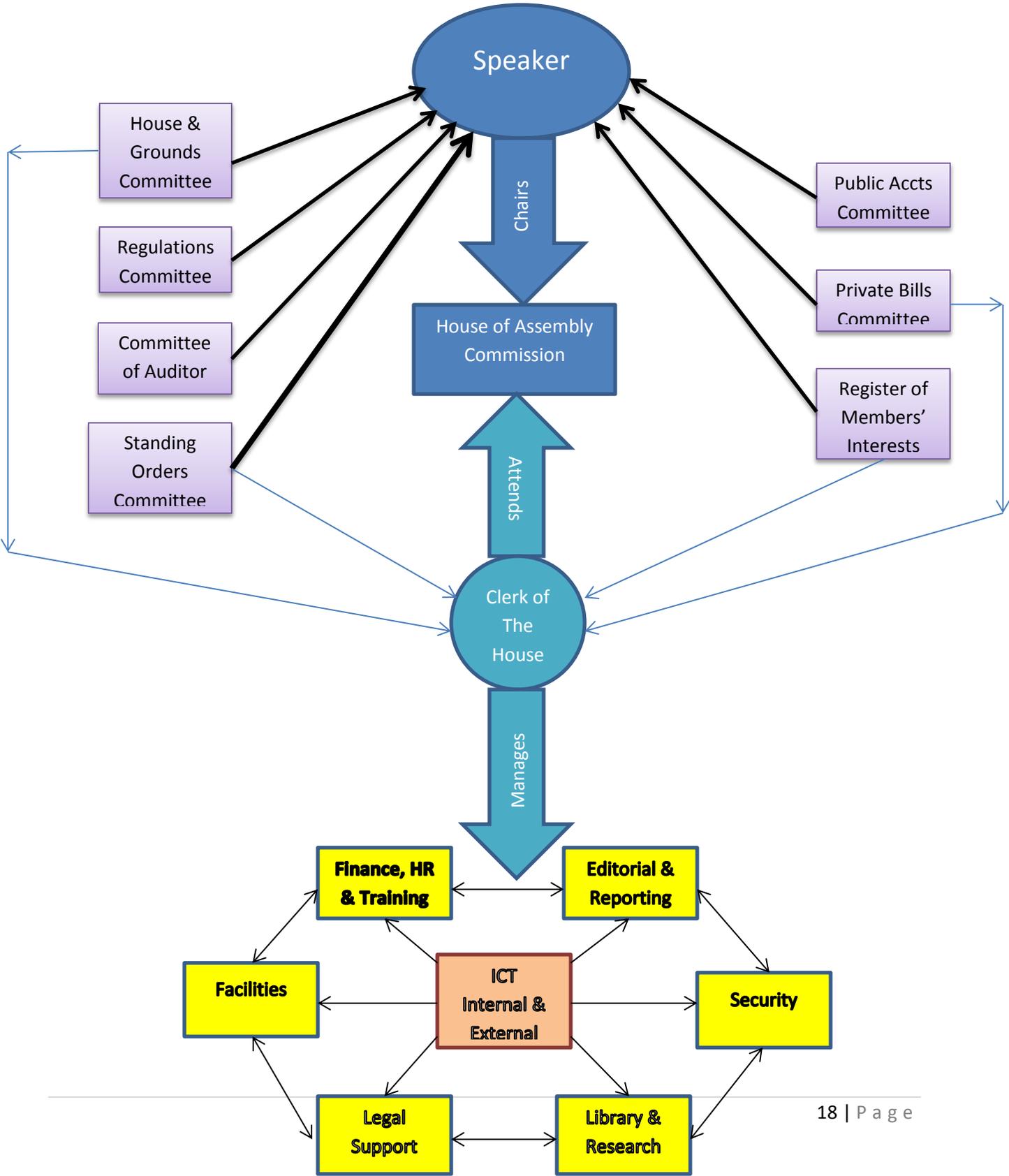
### ***Support (staffing)***

1. The Management Commission should have the authority (rather than the Executive Branch) for the employment of sufficient adequately qualified staff in order to support the legislature and fulfill its responsibilities.
2. An annual Budget for the Legislature (exclusive of Members’ remuneration and benefits) should be prepared and approved by the Management Commission for ultimate approval and adoption by Parliament.
3. The Management Commission through the delegated responsibilities of the Clerk of the House of Assembly, should determine the number and qualification of such staff as it considers necessary to support the Legislature in the following specific areas:
  - Editorial and Reporting
  - Security
  - Library , research and public information
  - Chamber and Committee support
  - Independent Legal support. The Parliamentary team should have its own legal counsel which is independent of the Attorney General. In some jurisdictions, the Clerks are qualified attorneys and act in a dual role or have legal personnel on hand to provide legal advice to the Speaker and Members. Additionally, legal support should also be

made available to the Official Opposition, in the event that they wish to draft bills and other legislative instruments for presentation to Parliament. A similar option should also be made to Members in the event that they wish to draft, and present Private Members Bills or amendments to Bills to the House of Assembly.

- Accounting support and control
- Training and Human Resource support
- Information technology support. The Legislature should strive towards the establishment of a paperless environment such as the transmission of Bills and other documents in electronic form to Members.
- Facilities support and maintenance.
- When needed the staff of the Legislature should have a protocol and public relations team made available to arrange and organize visits by overseas parliamentarians from other Commonwealth Parliaments and Commonwealth Parliamentary Conferences/ Seminars.

# Proposed Governance Structure of The Legislature – Bermuda



## **5. FUNCTIONS OF PARLIAMENT**

The functions of Bermuda's Parliament proceeds from its role as the supreme representative body of the Bermudian people and from that of the single legislative authority of the country.

Our constitution has adopted a Parliamentary System of Government more commonly understood or known as "The Westminster model". Under such a system there is an "interesting" mixture of the legislative and executive organs of the state. Thus while the Executive is the main driving force in terms of developing legislation to implement its programmes and stated agenda objectives, it is necessary to ensure accountability and control of the Executive within the Legislature. While discussing the functions of Parliament, this aspect should always be borne in mind.

### **A. The main functions of Parliament are:**

#### ***1. Oversight of the Executive***

A very significant function of Parliament is to exercise its oversight and control of the Executive by way of holding it responsible for its acts of omission and commission. Parliaments exercise this control by asking questions of the ministers through its members, by raising adjournment motions, cut motions, censure motions or debates. More importantly, Parliaments can pass a vote of no confidence against the Executive which compels it to resign collectively. Thus Parliament holds Ministers responsible individually and collectively. This critical function of the Parliament ensures a responsive and responsible government.

#### ***2. Legislation***

Developing and passing legislation is the primary function of any legislature.

#### ***3. Controlling Government Finance***

Parliament exercises substantial control in the domain of finance. The legislature of any responsible system of Government must ensure that public funds are raised and spent with its consent and control. The Government of Bermuda, (the

Executive), has no authority to spend any money on its own and must obtain the approval of the Parliament. Every financial year, the budget prepared by the Finance Minister is presented in Parliament for its approval. Any proposal for levying new taxes or any proposal, for expenditure needs the sanction of Parliament. To support this, there are also two very important Committees of Parliament known in Bermuda as the Public Accounts Committee and the Committee of the Auditor General.

#### ***4. Raising Deliberations***

As an organ of information, Parliament has an important role to play. All the important administrative policies are discussed on the floors of the Parliament. So not only the Cabinet obtains the advice of Parliament, and learns about its lapses, but the country as a whole is enlightened about serious matters of public importance. This undoubtedly contributes to the growth of a political conscience on the part of the people.

#### ***5. Constitutional Functions***

Parliament is the only body, under the constitution, which can initiate any proposal for amendment of the constitution. A proposal for amendment can be initiated in either House of Parliament. The bulk of such proposals are approved finally when passed by both the chambers with a special majority of two-thirds of its members.

#### ***6. Electoral Functions***

Parliament also has some electoral functions to perform. It takes part in the election of the presiding officers, such as the President and Vice President of the Senate, and the Speaker and Deputy Speaker of the House of Assembly. It also elects various members to its committees.

#### ***7. Source for the Formation of Government***

Parliaments also provide the source for the formation of Government, as the Premier must have the support of the majority of members of the House before

he or she can be appointed. In addition, the Governor, with the advice of the Premier, appoints Cabinet Ministers which are drawn from the Members of the House of Assembly and the Senate.

### **8. Constituent Relations**

Elected Members of Parliament have a duty and responsibility to those within their constituencies to provide an opportunity for constituents to meet with their elected members of the House of Assembly to raise matters of concern.

### **9. Parliamentary Networking and Diplomacy**

The Legislature also has a responsibility to assist other legislatures where possible as well as seeking advice from such legislative bodies as it considers necessary to assist in the development of its own legislature.

### **10. Parliamentary Calendars**

The 2011 Recommended Benchmarks for the CPA Caribbean, Americas, and Atlantic Region Democratic Legislatures in Section 2.4.6 of its Report said:

*“There shall be an annual parliamentary calendar to promote transparency and planning by Members as well as those outside of the House who are required to provide services to the Legislature, with provisional dates for formal recesses and long adjournments.”*

This is vital to ensure the smooth running of parliamentary sessions as well as ensuring that Members have ample notice of session dates for planning purposes.

### **B. Recommendations**

1. The Legislature should provide each elected Member with adequate and appropriate resources within his/her constituency, to enable him/her to fulfill their representational functions.
2. Members and staff of Parliament must have the authority to receive technical and advisory assistance from legitimate and reputable institutions

or organizations. They should also have the ability to network and exchange experience with individuals from other Legislatures.

3. The Legislature should provide adequate mechanisms to encourage wider consultations and public submissions on Bills introduced.
4. Historically, from a community outreach perspective, Bermuda's Parliament is somewhat stoic and detached from the community. This must change. Going forward, Bermuda's parliament must be an integral part of the community and this committee wants the community to fully understand the role of Parliament and what Parliament is doing for them. Parliament must use all forms of media to achieve this endeavor.
5. Information must be provided to the public in a timely manner regarding matters under consideration by the Legislature.
6. The Legislature must have mechanisms in place to obtain information from the executive sufficient to exercise its oversight function in a meaningful and timely manner.
7. The oversight authority of the Legislature must include:
  - meaningful and timely oversight of state owned enterprises.
  - meaningful and timely oversight of compliance with international treaties and obligations.
  - meaningful and timely oversight of accountability institutions, such as Elections Commissions, Human Rights commissions, Anti-corruption Commissions, Ombudsmen, information commissions and office of Auditor General.
8. These oversight committees must provide meaningful opportunities for minority or Opposition Members and Independents to engage in effective oversight of government expenditures. The Public Accounts Committee and other oversight committees should be chaired by a Member of the Opposition or an Independent.
9. Oversight committees should have access to financial records and related documentation sufficient to be able to meaningfully review the accuracy of executive branch reporting on its revenues and expenditures.
10. There should be a Parliamentary Calendar produced annually which shows the dates for sessions of Parliament including the expected recess dates.
11. The Standing Orders Committee should continually review and make recommendations for amendments to the Standing Orders.

## **6. ETHICAL GOVERNANCE OF PARLIAMENT:**

### **A. Overarching Responsibility**

The need for the electorate to have confidence that the elected Parliamentarians practice ethical governance is a very important requirement for any elected body. As stated in the 2011 CPA Report entitled, “Recommended Benchmarks for the CPA Caribbean, Americas, and Atlantic Region Democratic Legislators” (See Appendix 6) :

*“Members should maintain high standards of accountability, transparency and responsibility in the conduct of all public and parliamentary matters. “*

*“The Legislature shall approve and enforce a code of conduct, including rules on conflicts of interest and the acceptance of gifts”.*

It is important to develop a Code of Conduct that clearly outlines what is expected of Members. Once a Code of Conduct has been developed, documents expanding on and explaining the various stipulations, can be developed further. For example, how a Members’ Registry of Interest should be developed.

Based on research into various Commonwealth Parliaments, the UK, Code of Conduct for Members of Parliament appears to be as comprehensive as needed and can be easily adapted/ modified to suit Bermuda. The document includes the following:

- Definition/Purpose of the Code
- Scope of the Code
- Expected responsibilities or duties of the Members
- General standards and principals of conduct
- Rules of Conduct expected of Members
- Maintaining the Code of Disciplinary Procedures

With the above as a precursor, the areas summarized above are further detailed below.

### ***Definition/Purpose of the Code of Conduct***

The Code of Conduct must cover, and assist members in the discharge of their obligations to Parliament, their constituents and the public at large. This code of conduct should cover:

- a) Standards and principles of conduct expected of all Members
- b) Setting rules to support the standards and principles to which all members shall adhere.
- c) Ensuring the public confidence in the Code and that all Members are aware of such Code and their commitment to uphold the rules.

### ***The Scope of the Code***

- a) The code should be applied to Members.
- b) The code should relate to Members conduct within the discharge of their duties as a Member.
- c) It should not regulate Member's private and personal lives unless this conduct harms the integrity and reputation of the Legislature.
- d) This Code is complimentary to the Rules of the both Houses, rulings of the Speaker and President of the Senate and to the Ministerial Code of Conduct.

### ***Expected Responsibilities or Duties of the Members***

- a) By the virtue of taken the Oath, or Affirmation of allegiance by Members when elected or appointed to the Senate, Members should be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors according to law.
- b) Members have the duty to uphold Bermuda's laws and other international laws when applicable.
- c) Members have the duty to act in the interests of the nation as a whole and also a special duty to act in the interest in their constituents.
- d) Members should be above reproach and act in accordance with the public trust placed in them, including the use of public resources.

## ***General Standards and Principles of Code of Conduct***

As paraphrased from the UK Code of Conduct for Members of Parliament, the General Principles of a Code of Conduct should include for consideration:

- a) Selflessness
- b) Integrity
- c) Objectivity
- d) Accountability
- e) Openness
- f) Honesty and Transparency
- g) Leadership

## ***Rules of Conduct expected of Members***

Continuing on from the General Standards and Principles of the Code of Conduct:

- a) All members are expected to adhere to and maintain a working knowledge of all rules and codes that govern them.
- b) As per the code, all members are expected to observe and follow all the rules of the Houses.
- c) No member should act as a paid advocate in any proceedings before the House.
- d) No member should accept payment, gifts or promises for personal gain as a reward for promotion, opposing any Bill, Motion or any other matter before or intended to be placed before the House, the Senate or any other Committee of the House.
- e) Members should submit a Register of Interests as defined by the House and Senate rules.
- f) Members must immediately declare any pecuniary interest in any proceeding before the House, any House Committee or communication to other members or Ministers.
- g) Members must not use any information obtained in confidence during the course of their Parliamentary duties for the purpose of financial gain.
- h) Members should ensure that their use of any public resources, expenses facilities etc. provided by the public purse are only used in support of their parliamentary duties.
- i) Members should avoid any action that may cause damage to the reputation and integrity of the Parliament or its members.

## ***Maintaining the Code and Disciplinary Procedures***

This section should detail how the Code will be enforced and who will determine compliance with the Code and whether there have been any breaches.

- a) An Ethics Committee made up of members from all political parties including Independents and from both Houses should be appointed to oversee the application of the Code.
- b) Members will be required to fully comply to any requests from the Ethics Committee when an investigation into a member's conduct is undertaken.
- c) The committee report must include findings and recommendations to be submitted to the Speaker of the House.
- d) The House may impose a sanction to a member where it considers necessary.

## **B. RECOMMENDATIONS**

1. An Ethics Committee should be established consisting from Members of all parties and Independents.
2. A Code of Conduct to be adhered to by all Members of the Legislature should be developed and implemented by the Ethics Committee and approved by the Legislature.
3. The Code of Conduct should encompass the six areas mentioned above.

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