

Alderney's Choices

A report on how the island is governed

Constitution Unit

University College London

September 2016

Constitution Unit

The Constitution Unit conducts timely, rigorous, independent research into constitutional change and the reform of political institutions. Our research has significant real-world impact, informing policy-makers engaged in such changes – both in the United Kingdom and around the world.

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This report has been written by Andrew McDonald, who has led the work in Alderney.

Acknowledgements

This report is one of the products of work by the Unit for Alderney over the last six months. This has involved desk research and interviews. It would not have been possible without the generous cooperation of a wide range of participants, especially in Alderney: their role has been critical and it is happily acknowledged here. Equally, we want to be clear that this report is an analysis of political and administrative systems and cultures. And we suggest ways in which they may be improved. None of this is intended to be critical of individuals, nor should it be construed as such.

PREFACE

The report which follows is, I hope, written in dispassionate terms, weighing carefully the arguments for political and administrative reform. I hope you will find its analysis informative and its argument persuasive.

This Preface is written in a different voice. It is written in my voice. Not an Islander. A visitor. One who first came to Alderney, as an official, in 2004 and who has now been coming to the island regularly over the last year. I have listened to what people have to say to me and I have read extensively. I have swum and walked here. I am acutely conscious of how much I still have to learn. But I write as one who has come to have a great affection for the island and its people. I write also as one who fears for Alderney's future. I fear that unless it is willing to undertake radical reforms now, it will not prosper in the years to come.

And so I want to address three requests to those who read this report.

First, I would ask you to set aside - just for the moment - any reservations you might have about how the report came to be written or your doubts about whether observers from off-island can offer solutions to Alderney's problems. There will, no doubt, be a time to debate those questions, but for now I ask you to consider the arguments on their merits.

Second, I would ask you to resist the temptation to push the report to one side on the grounds that political and administrative reforms are remote, esoteric topics far removed from your priorities. The way a community makes decisions and implements them is of primary importance to *every* member of that community. Three simple examples to support that claim. If your house wasn't built to a satisfactory standard, that might well be because Alderney has never opted to have a rigorous system of building control. If the road outside your house hasn't been repaired it might well be because the island has failed to spend its capital budget in recent years. And if you are unhappy about the FABlink your questions are as likely to be about the process through which decisions were taken as they are about the project itself.

Third, and most importantly, I would ask politicians to pause before expressing a view on the reforms advocated here. The political system described in this

report is one which gives politicians every incentive to compete against one another, especially in an election season. To yield to that temptation might yield short-term advantage to those concerned but it would reduce the chances of reforming Alderney's way of government. The besetting weakness of that way of government is that it denies Alderney strong political leadership. Politicians need to co-operate in the interests of reform if that endemic problem is to be solved.

And if I may be allowed one final plea, it is this. Alderney has considered reform in the past, only to reject it. A repetition of that pattern would be perilous. Now, more than ever, Alderney needs strong political leadership, grounded in a popular mandate and supported by an effective Civil Service. Then the island would have a fighting chance of emerging successfully from the hazards posed by Brexit, by reducing support from Guernsey and by an ageing and contracting population.

The reforms described here will, no doubt, be improved through an island-wide public debate. But reform itself cannot safely be postponed. It's time.

Andrew McDonald

7 September 2016

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EXECUTIVE SUMMARY

Alderney faces significant challenges over the coming years if it is to prosper, or, indeed, if it is to sustain its way of life. The challenges are demographic, economic and political. The UK's vote for Brexit has brought some of them into sharper relief.

Alderney might respond to these challenges by looking the other way or by trying to clear each hurdle in its path. And so, for example, it might try to deal with weaknesses in its transport infrastructure by seeking to 'mend' Aurigny or extend the runway. Each of these responses might be desirable in themselves but this report argues that they start from the wrong place and the wrong premise.

Communities, large or small, succeed when they have agreed upon methods of resolving differences and of building coalitions in favour of political propositions. And they need to have effective mechanisms for translating those propositions into action. If these qualities are lacking or have become weakened, it is much more difficult to secure the social and political cohesion needed to deal with individual policy challenges.

This report considers the current state of the government and administration of the island and finds both in need of radical reform. It argues that Alderney's future will be at risk if this conclusion is ignored in favour of a policy agenda dominated by what might seem to be the issues of the day.

Fundamental reform – to the way political power is generated through elections and to the way it is used – must, ultimately be shaped by the citizens of Alderney. And so the report does not offer a lengthy catalogue of remedies. Instead, it sets out a way in which the debate over reform might be conducted and brought to a conclusion. And it offers three guiding principles for the reforms themselves. Finally, it suggests the principal considerations which should shape the renewal of the Civil Service.

This report is, ultimately, a call to action. A more secure, sustainable future is within Alderney's grasp. But it will not be attained unless there is a recognition that political reform is now urgent. We would urge all citizens to listen to the

case for change and to be ready to set aside long-held beliefs. To do otherwise is to put Alderney's future at risk. Now is the moment to focus on political reform. It's time.

1. GOVERNING ALDERNEY

This report makes an assessment of the way Alderney is governed and administered. It is rooted in an understanding of the post-war history of the island and in a close reading of earlier reports on the way Alderney is run. Government and administration do not exist in a vacuum: they exist to meet the needs of a community. Accordingly, this report begins with an assessment of the challenges facing Alderney over the coming years. The challenges described are both external and domestic. Particular attention is given to the relationship with Guernsey.

The structure followed is simple: we deal first with government (the way political power is generated through elections and the way it is subsequently used) and then we consider the island's administration (its permanent Civil Service).

It would have been possible, but pointless, to have written a report three times the length, heavy with footnotes and rich with impenetrable language of the political scientist or the constitutional lawyer. In all likelihood, a report of that sort would have been read by few.

This report is intended to be a contribution to the discussion over Alderney's future. It is hoped it will prompt action, not academic seminars. Hence it is short and is written in plain English. But for those who worry about such things, we can offer the reassurance that the text is supported by a larger body of work which we have not referenced explicitly.

2. CONTEXT

This chapter considers the outlook for Alderney - at home and abroad - over the coming years. It then discusses its relationship with the EU and with Guernsey.

2.1 Domestic challenges and opportunities

The catalogue of challenges facing Alderney is daunting and, no doubt, familiar to most readers of this report. It merits only brief restatement here. The permanent population is in long-term decline and the ratio of those in work to dependants, especially older dependants, is moving determinedly in the wrong direction. The dependency ratio in Alderney is currently estimated to be 0.73:1 but by 2035 it is projected to reach 1:1 that is to say there will be one economic dependant for each economically productive citizen. Over many decades, the island has struggled to generate the jobs needed to retain and attract a skilled workforce. One reason for this is its poor infrastructure: inadequate, and failing, transport links; an ageing power network and poor data connectivity. None of these problems is capable of quick or cheap resolution. Some of our interviewees went further, arguing that Alderney was simply not a good place to do business, its fundamental weaknesses exacerbated by an unresponsive public sector.

And yet, it is clear that there is another side to the account. The evidence for that is apparent in the successful development of regulation of e-gaming and in the establishment of PWC's Know Your Client operation on the island. The common factor in both cases was that Alderney was able to move quickly to secure the commercial opportunity. The competitive advantages arising from being a small jurisdiction, capable of legislating for itself should not be underestimated. And Alderney is unique among the Channel Islands in that newcomers can settle and buy property. But these opportunities will only be secured if Alderney is capable of removing some of the obstacles to growth. Why would professional workers settle in the island if they were anxious about the quality of schooling for their children or they could not secure stable internet connections for their business?

2.2 Alderney and its neighbours

One of our interviewees said, after the UK referendum, 'there will be no Brexit here'. Literally, that may be accurate: Alderney has never been in the EU and so it will not be leaving it. But if the statement is indicative of an optimism that nothing will change, then the sentiment is ill-founded.

The relationship with the EU is far from straightforward but the formal position can, at least, be described in one document: Protocol 3 to the U.K.'s Treaty of Accession 1972. This has, of course, been overlaid by subsequent agreements but the main features of the relationship remain as defined in the 1970s. That is to say, Alderney is not part of the EU but it does have access to the single market in respect of goods (but not for services) and it is not subject to the EU's strictures on the free movement of labour.

When the UK leaves the EU, the legal structure governing Alderney's relationship with the Union will fall away. Protocol 3 will cease to exist. That issue cannot be ducked. Alderney must, in short order, come up with answers to the following questions:

- does it want to try and replicate the current relationship with the EU or seek some new arrangement?
- does it want to strike out on its own in securing its future, or does it want to work in concert with Guernsey - and, possibly - with Jersey? and
- if it does want to work with Guernsey, what should be the rules of engagement with its larger neighbour?

It falls outside the scope of this report to answer these questions but two points should be made. First, it is illusory to claim that the UK's departure will not affect the Channel Islands: it will unquestionably heighten the economic uncertainty facing Alderney. Second, the questions we have posed need to be answered quickly to safeguard Alderney's position. The public statements issuing from Guernsey indicate that their politicians are willing to act on behalf of the Bailiwick as a whole. If Alderney delays - or fails to provide the resource needed to pursue its chosen path - it may well find that Guernsey decides its future for it.

Brexit also brings another question into sharp relief. Historically, Guernsey and Jersey have not had an 'international personality'. That is to say, they were not sovereign states with the competence to reach international agreements. But in 2007-08, HM Government signalled that it was willing to take a more favourable view of the islands' ambitions to reach agreements with third parties. It agreed with Guernsey, Jersey and the Isle of Man that it would not act on international issues of interest to them without first consulting them. It recognised that the islands' interests might diverge from those of the UK and that each had an international identity distinct from that of the UK. More than that, it affirmed its willingness to issue letters of entrustment to the three, granting them limited authority to reach agreements with third parties. Guernsey has duly made use of its newly acquired authority, but has it done so on behalf of the island of Guernsey or the Bailiwick? It is critical that any ambiguity on this point is resolved, not least because Alderney might decide that its interests were best served if it were to secure a letter of entrustment of its own. But whichever course is chosen, the relationship with Guernsey, so important to Alderney's past and its future, would benefit from clarification. It is encouraging that the process has already begun with the redefinition of the financial relationship between the two. This should translate into greater freedom and flexibility in the management of Alderney's finances and greater influence over the design and performance of the services delivered by Guernsey. Both islands suffer at present when their relationship is characterised by confusion and mutual misunderstanding.

2.3 Alderney and Guernsey

In the light of that confusion, it is worth defining, as best we can, the complex relationship between the two islands. And where better to start than with the 1948 Agreement between them? Not only has it acquired a mythic status, but along the way it has accumulated interpretations which are too often accepted as though they were self-evident. Many of them have served to obscure rather than to illuminate the status of Alderney.

First, a reminder of the state of Alderney immediately after the Second World War. The island had been devastated during the occupation. Initially, no more than 900 or so of the 1400 evacuees were willing to return. And those who worked on the land saw no solution but the 'Sovietification' of agriculture. The

British Home Secretary, Chuter Ede, devoted considerable time to the search for a solution to the island's future. Sir Frank Newsam, a deputy secretary at the Home Office, warned him that the task would not be easy and that Alderney might well become a "derelict island".

Ultimately, the Home Secretary was to succeed in brokering an agreement between Alderney and Guernsey whereby the latter provided services in return for tax revenues from the former. Alderney would provide local services funded by the rate. This should be seen for what it was: a pragmatic arrangement between two jurisdictions. Indeed, those jurisdictions have sought to vary the terms of the original agreement over successive decades. The Agreement has nothing to say about sovereignty nor about the respective powers of Guernsey and Alderney. Indeed, nothing had changed, nor has changed, since Sir Charles Dilke asked Home Secretary Gladstone a Parliamentary Question about the status of Alderney in July 1907. Gladstone replied: "the Island of Alderney has its separate Assembly of the States and is not under the Government of the States of Guernsey".

What then, is the significance of Alderney's membership of the *Bailiwick of Guernsey*? One thing is clear: the concept of a bailiwick does not confer superior status on one or more parties to the relationship. For some, the starting point to any discussion of the respective authority of Guernsey and Alderney is to challenge the latter to assert its rights. We would want to turn that argument around and to put forward the proposition that unless there is evidence to the contrary, Guernsey and Alderney should be regarded as co-equal jurisdictions. We find no such evidence.

Alderney today is probably more financially dependent on Guernsey than the architects of the 1948 Agreement ever envisaged. And the States of Alderney probably have less influence over the scale and quality of public services than Chuter Ede and his fellow negotiators would have expected. The current reforms to the financial relationship between Guernsey and Alderney will begin to redraw these features of the dealings between the two islands. But the changes will not alter, just as the 1948 Agreement did not alter, the respective status of the islands: they are equal partners. Neither is superior to the other.

3. POLITICAL SYSTEM

Chuter Ede and his colleagues on the post-war committee of enquiry disagreed often about the future of Alderney. But on one point they were in unison: the island had an ancient constitution and a proud history of self-government. The same observation could be made today. Indeed, there is much that is admirable in the way in which Alderney runs its affairs. Three points in particular stand out. First, there is a long and almost unbroken tradition of popular democracy as exemplified by the People's Meetings. Second, the rule of law is rooted in the people through the operation of the lay bench in the Court of Alderney. And third, the rights of the people are underpinned by the Human Rights (Bailiwick of Guernsey) Law 2000.

But one does not have to look far to notice aspects of Alderney's government and administration which raise questions about their efficacy and conformity to modern standards. This chapter begins with a brief account of the way in which political power is exercised in Alderney today. It then proceeds to assess the performance of the principal elements of the political system, from elections through to the operation of executive power. It will not re-heat current controversies, which tend to revolve around committee scope and membership, but it will stand back and look at the fundamental building blocks of the constitution.

3.1 Elections

The seats of half of States Members fall vacant every two years. Once elected, a Member serves for four years. Elections use the first-past-the-post system and pass off without procedural controversy. There are no political parties; each candidate stands on his or her personal manifesto. All candidates fight for seats in one constituency, an arrangement which mitigates against any form of electoral coalition. Hustings are common but not all candidates attend them. Election does not put a candidate 'into power' in the Westminster sense and so, some argue, this means that candidates are tempted to over-promise because they cannot be called to account for failing to deliver on their promises to the electorate. The manifestos tend to focus on issues which are, strictly speaking, parochial. There is no incentive to address the bigger issues

facing the island. Indeed, there may be some disincentive to doing so. Hence election campaigns tend not to be characterised by collective debate about Alderney's future. Rather, they are defined by the perceived failure of local services and by candidates' ability to draw on supporters who identify with them.

One other aspect of Alderney's electoral system deserves comment here. There are 1,296 voters on the electoral roll. If one sets aside the office of President, they elect ten members, a ratio of one elected post for every 130 voters. This is exceptionally high. The comparison with an English local authority is not an exact one but the contrast in ratios is, nevertheless, instructive. The smallest local authority in England, West Somerset, has an electorate of 34,000 who return 28 councillors, a ratio of one elected member for every 1,200 voters. This simple comparison begs almost as many questions as it answers, but one is unavoidable: are the people of Alderney over-represented?

3.2 Formation of the executive

Political power is exercised through a number of committees in a manner which used to be the norm in England. But in Alderney power is not exercised by a coalition of like-minded Members working together in a formal coalition. The analogy with the committee system of English local government only tells part of the story. In England, of course, one or other political party commonly emerges victorious from an election and, accordingly, is able to exert political power through the committee system and its dominance of key posts. (Even if the election is not conclusive, the parties are forced into agreements on common platforms to allow the council to function.) The absence of political parties *and* the dominance of the committee system cause a dispersal of power rather than a concentration. This may have some attractions, but it also has drawbacks: members who have been elected without necessarily articulating their position on the big issues of the day wield power through shifting alliances. Advocates would argue that this is what representative democracy is all about, but this system is unlikely to give rise to consistent policy-making nor to the determined pursuit of a strategy. And it is worth

adding that most English local authorities have now abandoned committees in favour of the cabinet system. The reason? The committee system failed to deliver strong political leadership, even when stiffened by party discipline.

Just as it is difficult to define the membership of the political executive, so it is difficult to identify its leader. Some may regard the chair of the Policy and Finance Committee as the most senior politician since the postholder runs the most powerful committee. But he cannot fall back on party-ties to secure his business: he is, after all, a *chair* of a committee. Others might propose the President of the States for the role. He is, unquestionably, the first citizen of the community and its conduit to the Lieutenant Governor, the Crown's representative. Moreover, he is the line manager of the CEO, with an office in Island House, the seat of government. Contrariwise, he is the Speaker of the States and, as such, has obligations of impartiality. Indeed, the present incumbent is clear that it would be improper for him to identify himself with one side or another in a matter of current controversy.

And so we have an electoral system which discourages debate on the big questions facing Alderney and incentivizes division amongst candidates. And we have a political executive which is an aggregate of a shifting sequence of alliances, and does not have a universally recognised leader. Add to that a cycle of elections every two years and it would be hard to claim that the political system generates stable government. All this at a time when the challenges facing the island are as great as they have been at any time since the war.

3.3 Performance of the executive

The characteristics of the political executive we have just described mean that it is more than usually difficult to assess the performance of those in power. What criteria might be used? There is no programme for government to score, nor even a strategy for the island's future. Should we, instead, invoke the personal manifestos on which Members were elected or resort to some superimposed notion of Alderney's best interests? And when should we make the reckoning? At the end of an individual's four-year term or every two years, when the membership of the States is refreshed? Given the dispersal of

power, perhaps it is better to assess the performance of individual members? One could certainly compile a basic scoresheet of attendance at committees or votes cast in the States. But that would only take us so far.

In other walks of life, one might take this as the occasion to make reference to a postholder's job description. But there is no such document for a member of the States. Indeed, a number of Members have called for just such a template to ensure that candidates know what they are to face if they are elected. This is a significant point, not least because there is widespread concern about the number and diversity of citizens willing to put themselves forward for election. Things are little better once a candidate is elected: there is no induction available for new Members, nor consolidation of learning for those already in the States. Induction is a commonplace now in other legislatures and it has been recommended in Alderney since 1996, if not before.

In most legislatures, scrutiny is a critical part of a member's function. This might be exercised through clause-by-clause examination of draft legislation in committee or by a retrospective calling of the administration to account. In the Westminster system, the latter function is most commonly exercised through an accounts committee, which scrutinises past performance against plans and budget. This function is wholly absent in the States. We are unable to comment on its efficacy as a legislator other than to observe that in unicameral legislatures (having a single legislative chamber) it is especially important that this role is prioritised because there is no revising chamber to allow for further and better thoughts to prevail.

Reform of a critical aspect of the States' operations is already under way. The financial governance programme, an integral component of the redefinition of the relationship with Guernsey, will introduce greater rigour into the States' handling of money matters. This initiative merits strong support. It is envisaged that there will be training for members in the new procedures. There is clearly scope to join this up with induction into the States as a whole.

An additional issue should be noted here, if for no other reason than it is particular to Alderney and so it does not fit anywhere else in our analysis. This is the difference of view, cited in Chapter Two, over the role of those members who are elected - on their own mandate - to serve Alderney in the States of

deliberation. Are they in Guernsey to listen to the debate and to form a view, according to their own lights, as to what is in the best interests of the people of Alderney? Or should they be given a mandate by the States of Alderney as to what the *States* judges to be in the interests of the people of Alderney? It is an issue on which reasonable people can disagree and it does not need immediate resolution. When it is considered, it would be prudent to look again at the law which, uniquely in Alderney, allows the two representatives in the States of Deliberation to be recalled. One way or another, the relationship with Guernsey is going to be critical over the coming years and so it would be prudent to arrive at a settled view of the role of the two representatives and the terms of their tenure.

3.4 Ethics and transparency

Speaker of the House of Commons, John Bercow, commenting on the Westminster expenses scandal of 2009, observed that the wrong-doing had caused more damage to the House of Commons than Nazi bombers during the war. And yet, just a year earlier anybody suggesting that the Commons was at risk of such grave reputational damage would have been regarded as eccentric. This is a salutary tale for any legislature which prides itself on its high standards. Enquiring after the way a legislature instils and observes those standards is no more than a prudent precaution.

The States has a Code of Conduct adopted as recently as 2014. Much of it bears comparison with the best. Prudently, its authors have drawn on other models and the text is securely anchored in the Nolan principles of public life. There is no obvious reason why one would want to invest time in the reconsideration of the code itself. But the penalties available to the enforcement panel seem inflexible and they would benefit from revisiting. We will return to the question of enforcement mechanisms in Chapter Four.

The Members' register of interests is available on-line and it is, insofar as one can judge, up-to-date. A register of gifts and hospitality is also available but it must be inspected in person. There is no good reason why the public should be faced with this hurdle: it should also be online. But this is a relatively minor blemish. Perhaps more demanding of attention is the design of certain senior

posts: at first blush, some prompt the question as to whether they are encumbered by a conflict of interest.

One of the strongest forces working in favour of high ethical standards - in a legislature and in a public administration is the transparency of political and official action to citizens. Typically, this is underpinned in larger jurisdictions by Freedom of Information legislation but the associated administration would probably make a legislative solution inappropriate for Alderney. That does not mean that it is impossible to make progress on this agenda. On the contrary, one can assemble a checklist of measures which, taken together, would encourage a culture of openness. These might include the following:

- a clear statement of a commitment to openness from senior political and official leaders;
- the conducting of legislative business in public;
- the proactive, routine - and quick - publication of documents where there is a clear public interest that they should be in the public domain;
- a non-statutory code setting out what the public may - and may not - see; and
- a complaint route for officials or members of the public if they have reason to believe that information is being improperly suppressed.

If one were to use these five measures as our index of openness, how would Alderney measure up? The States meets in public but its committees do not. Opinions differ as to the merits of opening up committee meetings but if they are to remain closed, it is important that agenda, papers and minutes should appear on the States website within, say, a week of a meeting. A register of documents for routine publication does not currently exist but this would require no more than the codification of existing practice. An important addition to the register would be an up-to-date list of contracts with a value in excess of, perhaps, £10,000. There is currently neither an ombudsman for the public, nor a whistleblower for officials. We return to this point in the next chapter.

It is tempting for politicians in any jurisdiction to put questions of ethics and transparency down as second order issues. The 2009 expenses scandal at Westminster provides one reason why this is mistaken. But international evidence on transparency offers a second, if uncomfortable, reason why it is wrong-headed. Politicians get little credit for taking steps to make government more open but few things are as corrosive of their reputation as measures which are deemed to be secretive. Openness is simply the cost of doing business in modern government.

4. ADMINISTRATION

In making an assessment of the current state of administration in Alderney it is important to focus on the particular needs of the island. We are not dealing here with a sovereign state. As we have seen, many public services are provided through Guernsey. Equally, we need to be clear how the demands on the Civil Service are changing. In doing so we are helped by earlier reports on the structure of Alderney's administration, not least the 2014 analysis by Stephen Taylor. We are supportive of much that is said in that paper and in so far as our appraisal differs it is, in good part, because events have moved on since it was written.

Two preliminary points. First, in what follows, we will concentrate primarily on the senior structure of the organisation. There is much more that might be said, not least in respect of the historic under-investment in technology, the outdated processes and the culture of silo-working. But we want to retain our emphasis on the organisation and its structure. We specifically exclude from our analysis the operations of the Treasury team since they are subject to reforms arising from the financial governance programme.

Second, the administration of Alderney is tiny, not just in absolute terms, but relative to the tasks it faces today and in years to come. A simple comparison of the ratio of civil servants to the total population in Jersey, Guernsey and Alderney is revealing. One might have expected that diseconomies of scale would have meant that the ratio on Alderney was the largest. But the contrary is the case. Alderney's 29 civil servants represent 1.4% of the population; the ratios on Jersey and Guernsey are 3.3% and 4.1%. The consequence for the Alderney Civil Service is clear for all to see: some posts are exceptionally overloaded and some basic functions of a modern organisation simply cannot be fulfilled. Advocating a larger public service is rarely popular but this is the most striking example of under-provision that we have seen.

4.1 The Civil Service today

The Taylor report was accepted by the States and yet the organisation diagram at Figure 1 is remarkably similar to the one on which Taylor was commenting. Indeed, an inventory of action on Taylor's recommendations makes unhappy

reading. One reason for the patchy follow-through is that the States approved the report but it did not will the means to give effect to it.

If one considers the current organisation diagram, a number of questions immediately arise. First, where does lead responsibility lie for economic and financial policy? There is no obvious answer to the question. Second, is this an organisation which seeks to conduct delivery itself or to manage delivery by others? The answer, which need not be a bad one, is that it is currently a mixture of the two. But where are the relationships with the arms-length-bodies, like Alderney Electric, which are so important to Alderney's future? Who has the role of ensuring that they deliver value for money for the taxpayer? Third, where is the strategy and policy capacity below the CEO level? In short, there does not seem to be any, other than the Economic Development Officer himself. A fourth question concerns oversight of the Civil Service and of the public services it delivers. Alderney does have a Civil Service code, but this has the appearance of having been rather hastily borrowed from Guernsey and we question whether it is fully embedded. Most modern jurisdictions would also have a senior official or third party to hear whistleblowing complaints from officials. There is no such provision in Alderney. Equally, one might expect to find an ombudsman, or similar, to hear public complaints. There might be advantage in considering the creation of a standards commissioner to take on these two jurisdictions plus the enforcement of Members' Code of Conduct. It would be a part-time role which would expand or contract according to the volume of casework.

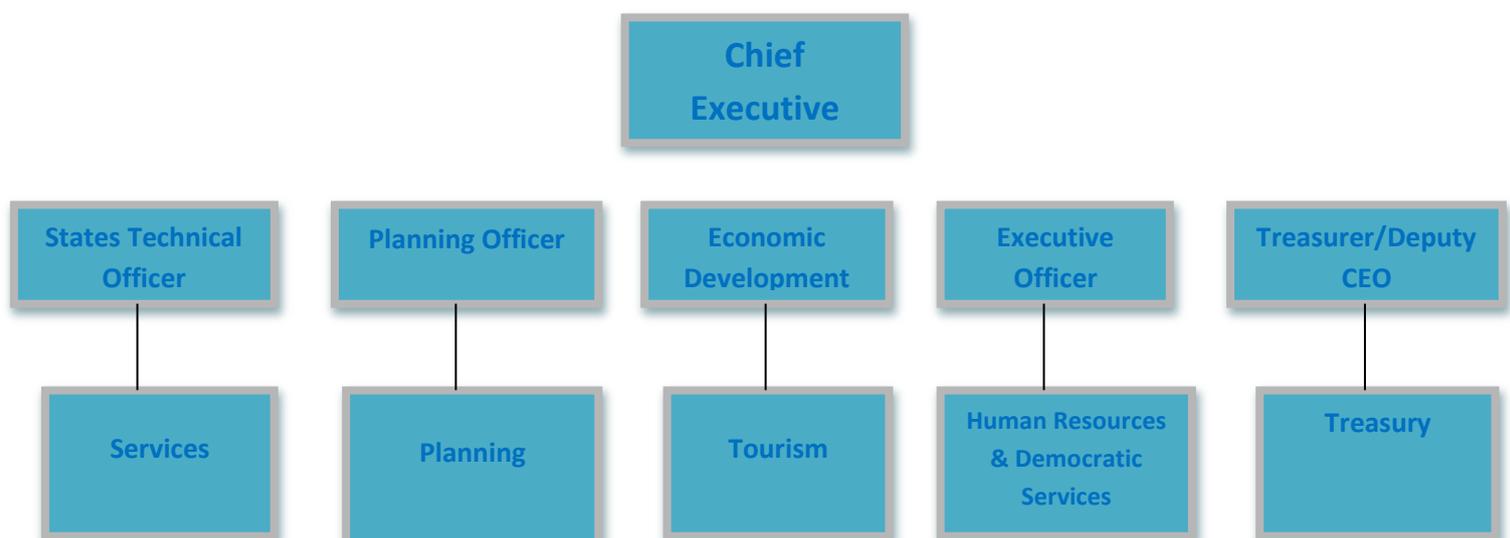


Figure one: States of Alderney Civil Service Structure

Enquire further after the relative seniority of posts and another curiosity emerges. The grading structure is in the shape of an hourglass. There is just one post in the middle ranks. Typically, one would expect operational middle managers to execute the directions of the senior team. Indeed, if speed is to be part of Alderney's competitive advantage it is hard to imagine how it is to be achieved with this grading structure.

In the course of the preparation of this report we interviewed senior staff across the administration. This confirmed one conclusion which is implicit in our reading of the organisation diagram. Certain posts are exceptionally overloaded. We will take just two examples. The CEO has all the leadership responsibilities one would expect of such an office and he must deliver the support required of him by the States. So far, so unexceptional, but he also has personal responsibility for a number of economic development portfolios. This is neither desirable nor sustainable. The second example is the executive officer post – the only one in the middle ranks of the grading structure. The point is perhaps best made simply by listing her responsibilities: direct support for the CEO; HR; emergency planning; business planning; support to States committees; and information management. None of these is a discretionary function for any organisation but they cannot be discharged satisfactorily by one individual, however hard she works.

Consider for a moment the organisational health of the Civil Service. It would be preferable to discuss this by reference to the results of a staff survey but one has not been conducted since 2012. Instead one has to rely on what one can see – and what one cannot see. Certain posts are under extreme pressure. There is no systematic cycle of objective-setting, performance management and appraisal. A significant component of the organisation is in the employ of Guernsey rather than of Alderney. And there is no development programme for employees. It would be miraculous if morale were high.

4.2 New burdens

Before we draw any conclusions it is worth pausing to consider the additional responsibilities which are heading in the direction of the Civil Service. The reform of the financial relationship with Guernsey will place new pressures on the administration, not least in its support of the States. Brexit will, one way or other, oblige the island to put greater energy into the management of its external affairs. And if some of the economic development projects are to come to fruition they will have to be coaxed into life by more than just one senior director. It would be possible to add to this list but perhaps the point is already made by these examples.

4.3 Where now?

And so, what to do? We will return to this question more directly in our final chapter but certain conclusions may be made here. First, the Civil Service will fall short of its objectives if it is not expanded and restructured. Promoting the idea of greater pressure on the public purse is rarely a popular move but it is simply inconceivable that the island can be administered satisfactorily by just 29 people. The ratios of staff-to-population in Jersey and Guernsey should suggest this conclusion if nothing else does. Any reform should be shaped by three considerations. First, by the need to create and execute a strategy for the island's future. Second, by a resolution of the administration's role in respect of delivery. And if the headcount is not to grow excessively, this suggests that hands-on delivery should be contracted out. That, in turn, makes it essential that the Civil Service becomes expert at procurement. Third, the delivery of change is not something that happens automatically. It demands planning and the application of relevant expertise and funding.

We should also make clear what we are *not* advocating. Alderney's Civil Service should never become a standing army, equipped to respond to each and every eventuality. Rather, it should develop mechanisms to enable it to have easy access to expert advice on topics which do not arise everyday.

This report purposely fights shy of enumerating multiple recommendations but in the case of Civil Service reform we thought it would be a positive contribution to public debate if we set down the design principles which we think should shape the reform of the organisation. These are at Annex A.

Some readers might be tempted to put the reform of the Civil Service to one side, to be considered later, if at all. Our response to this reaction would be direct: to ignore public sector capability is to imperil Alderney's future. In a small island economy, without large employers, the public sector has a critical role to play in fostering prosperity. At present, the Civil Service is hampered from playing this role: it lacks essential skills; it has no capacity at all in certain critical policy areas; and it is ill-equipped to manage its own transformation. It also fails to perform certain functions which would be considered routine in almost any other organisation: internal audit, business-planning, target-setting and performance review, staff development and appraisal. These functions are not nice-to-have optional extras: they are critical to organisational health and performance. That is not a radical view. Indeed, the Home Office in 1996 and Stephen Taylor in 2014 urged the States to remedy these deficits. It is sobering to reflect that progress has been modest, even in the last couple of years when the Civil Service has been led by a reform-minded CEO who has successfully delivered change in other aspects of island life.

Radical reform of the Civil Service is critical to Alderney's success. Incremental change will not be sufficient. And the obstacles to reform, which are evidently formidable, will need to be cleared away.

5. A WAY FORWARD

The three preceding chapters have set out a case for radical change to the way in which Alderney is governed and administered. This is not the first time that such a prospectus has been described and that fact alone should give us pause when considering whether to draw up a laundry list of recommendations. It would be tempting to suggest that there is a report-writers' rule: the more recommendations proposed, the less likely the report is to generate action. We will adopt a different approach here.

Drawing on our experience of reform in other jurisdictions, we propose that any attempt to tackle the challenges we have described should observe the following principles:

- i. the fundamental questions concerning elections and the formation performance of the executive should not be answered by 'experts', nor should they be left exclusively to politicians. They should be discussed and debated by the people *and* their representatives. If democratic change is to be successful it has to be rooted in a programme of public engagement. This has to go beyond the conventional process of consultation, drawing citizens into active consideration of the best way forward. A deliberative assembly might be one technique that could achieve this end. A cross-section of the population would gather for a weekend to work through the proposed reforms and to revise them as they see fit. In many jurisdictions, the process would conclude with a popular vote. Experience suggests that if this process of engagement is quick or superficial then it fails;
- ii. borrow solutions from other jurisdictions wherever possible. Some of Alderney's challenges are unique and may require bespoke solutions, but most are not. If others have passed this way earlier, learn from them. It is both simpler and quicker; and
- iii. adopt a phased approach to the resolution of the issues raised here. Considerations of capacity and expertise suggest that Alderney would do well to pace any reform programme over two or more years.

It might be objected that this set of principles is all well and good but it falls short of providing Alderney with a detailed route-map to reform. That, of course, is deliberate: it is not for advisers to shape the answers to the questions posed by this report. But it is legitimate for us to sketch out what a reform programme might look like and the sequence it might follow. The following example is illustrative and is offered in the hope that it will stimulate thought and discussion.

In shaping any programme it is essential to begin by determining which are the first order questions and which belong to the second order. In this instance, the primary questions readily identify themselves. They are ones surrounding elections, the formation of the executive and its performance. In accordance with our first principle, they demand intensive public engagement. If that process were to begin this autumn, resolution might be expected by the end of 2017. Of the remaining issues, one has to ask which are enablers which need to be tackled now so as to clear the way for the fundamental reforms to follow. An early start on the programme will also make it come alive, demonstrating its benefits and building up momentum for the challenges ahead. That then leaves a residue of issues which are either inherently complex - and so need to be considered in longer time - or ones which are simply not enablers and so can afford to wait until later in the programme.

Figure Two below sifts through the issues raised in the course of this report and suggests a possible sequence. We assume here that the issues in the first and third phases will be tackled by the States in the conventional manner, leaving intensive public engagement for the second phase.

5.1 Costing the reforms

The process of changing political institutions has changed radically in the last thirty years or so. Look, for example, at the attempt to devolve power to Scotland in the 1970s. These were operations planned and led from Whitehall and Westminster. Turn forward to the second attempt in 1997-98 and things were very different. The way had been prepared by a Constitutional Convention, which drew in most strands of political opinion and many elements of civic society. The new Labour Government was soon able to

translate this prior work into a white paper and ultimately it put the proposals to a popular vote in a referendum. This commitment to engaging the public in shaping the reform can be seen in other jurisdictions. A technique which has been used in Canadian provinces considering new electoral systems has been the deliberative assembly. Typically, a cross-section of citizens assemble for a weekend or two to debate or refine reform proposals. The events themselves are commonly streamed live and participation for others is made possible through interactive web sites. The process itself is becoming codified; there is a recognised expertise in designing assemblies and there is a strong emphasis on the preparation of learning materials to boost popular understanding of the reform options.

Alderney may, or may not, opt to have a deliberative assembly and a final referendum on the final proposals. But for the purpose of illustrating the cost of the *process* of reform, we will assume this course is chosen. Costs are likely to be of the order of £71,000 (excluding the core programme team needed to manage an extensive programme of constitutional reform).

What of the costs of the reforms themselves? Our preliminary design work allows us to put a figure on the phase one projects and on the cost of the team. But the heavy lifting in this reform programme would come in 2017, with the reform of political institutions and of the Civil Service. The associated price tag will, of course, depend on which reform options are chosen.

We will, of course, put our costing information into the public domain. But when we do so, we make one plea. Seen in isolation, the figures might seem daunting. Our plea is that you consider the costs of *not* embracing reform. This report has demonstrated that those costs would be potentially ruinous for Alderney's future.

Figure Two: Phasing reform

Phase one: 2016	Phase two: 2017	Phase three: 2018
1. Transparency: a pragmatic programme of reforms to allow the citizen to see more of how politicians and officials work.	1. Fundamental reform of elections, formation & performance of the executive.	1. Review of the role of Members in the States of Deliberation
2. Code of Conduct: review of the sanctions available; and possible establishment of a new enforcement mechanism (a Standards Commissioner, with a jurisdiction which might take in other aspects of public life)	2. In the light of (1), a reappraisal of the role of Members , a definition of that role and a review of their remuneration and expenses.	2. In the light of (1) above, a review of the recall mechanism for Members in the States of Deliberation
3. Reform of Civil Service to provide it with the capacity and capability needed to meet Alderney's future challenges		3. In the final phase of the reforms, a review of all senior posts to ensure they are not encumbered by inherent conflicts of interest.
4. Induction for new Members and consolidation of learning for existing members.		

6. CONCLUSION: IT'S TIME

We made clear in Chapter 1 that this report is not intended as an academic treatise. Rather, it is intended to help Alderney run its affairs in a manner which makes it more likely that it will prosper in future.

Before we summarise the proposition put forward here, we need to consider the 'do nothing' option. Our view on its merits will already be clear, but let us spell out the implications of rejecting reform. Of course, the argument would not be advanced like that. Instead, it would sound more like this: 'constitutional change is all well and good, but it is something for the anoraks. What we need to do is to focus on fixing Aurigny/dealing with the FABlink [insert controversy of the day, as appropriate]'. There is a superficial temptation to that argument, but let us be clear: it *is* superficial. Alderney has already deferred change too long, increasing the risk that the weaknesses in its political and administrative systems will manifest themselves as failures in public services or in policy initiatives. Constitutional reform is not an alternative to tackling today's political crisis: it is a way of ensuring that future crises are less likely and that, where they still occur, they can be managed more successfully.

One final word on this theme. Anthony King and Ivor Crewe recently conducted a survey of the more embarrassing howlers committed by the British Government in the last 20 years or so: everything from the poll tax to the Child Support Agency. Their conclusion is that a certain measure of responsibility unquestionably attaches to individuals, whether politicians or officials. But their errors took place within the context of a governmental and administrative system which was fundamentally flawed. For policy failure, read system failure.

Let us then be clear about the contribution we hope we have made and what we suggest should happen next. This summary stands in place of the long list of recommendations which customarily conclude papers advocating reform. We hope that this short paper:

- provides a persuasive analysis of the way Alderney is run and dispels misconceptions about its status;
- sets out the case for change in the way Alderney is governed and administered;
- explains that reform is now urgent, not least because so many earlier opportunities have been missed;
- identifies aspects of the present system which are particularly in need of reform;
- suggests three principles to guide the reforms;
- defines the design principles which might inform the reform of the Civil Service;
- proposes an order of play - a phasing - for the modernisation of Alderney's government and administration; and
- calls for Alderney to move swiftly to define its response to Brexit and encourages it to clarify its relationship with Guernsey.

What exactly do we suggest happens next? In the first instance, we hope the people of Alderney and their representatives will discuss the analysis and argument advanced here. We want to stimulate debate. And, more than that, we hope that that debates leads to early and far-reaching reform. Alderney deserves nothing less.

ANNEX ONE: DESIGN PRINCIPLES FOR A REFORMED CIVIL SERVICE

It would be tempting to suggest that reform of the Civil Service should begin with a clean sheet of paper. But this report deals in the art of the possible and so the principles set out here develop what is already in place; they do not imagine that it has somehow been swept aside.

One other preliminary point. The principles described here are not offered as a pick-and-mix list. They represent a package. Of course reform should be phased, but we should not pretend that it can be approached like a dyspeptic luncher faced with a daunting buffet.

Any reform plan should observe the following principles:

- i. Postholders should be identified to take the lead on: the development of strategy; the creation of business plans and performance measures; the monitoring of progress; external affairs; economic and fiscal policy; and corporate affairs;
- ii. The postholders identified in (i) should have the time to discharge these responsibilities and the support they might reasonably expect to make a success of their role;
- iii. Senior staff should be able to call on support staff so that the transition from decision into action is smooth and swift; and the CEO should be more effectively 'screened' from the day's transient business, so he is free to focus on leading the organisation, supporting the States and (prospectively) executing the island's strategy;
- iv. Corporate functions - internal audit, human resources, information management and the like - do not magically run themselves. They need management direction and dedicated resource;
- v. It should be impossible for any member of the senior team to meet his/her annual objectives without collaborating with colleagues. This inter-dependence is the most effective antidote to silo-working;

- vi. The new structure should be underpinned by a properly embedded system of performance management and buttressed by investment in the development of the civil servants on whom the island depends;
- vii. The Civil Service should arrive at a clear and readily understood relationship with Alderney's arms-length-bodies. The owner of the relationship should be charged with ensuring that the taxpayer gets value for money from these agencies; and
- viii. reform must be planned, phased and resourced if it is to succeed. Change management is an essential discipline, not an optional extra. If the reforms are to come about, they must be led and informed by an official with relevant expertise.

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