

**ADVISORY
PAPERS**

on

Needs Assessment

of the

Guyana National Assembly

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Profile of Mr. James Pender

Mr. James Pender, Consultant/Advisor on Parliamentary and Government Issues has more than forty years experience in his area of work.

Currently, he is a Member of the Australian and New Zealand Association of Clerks-at-the-Table (ANZACATT) and the Australasian Study of Parliament Group Executive. He is registered as a facilitator with the Research School of Pacific and Asian Studies (RSPAS), Australian National University and the Pacific Islands Forum. From 1985-2002, he was a Member of the Australian Department of the House of the Representatives.

In addition to having a Bachelor's Degree in Administration, he also has a Masters' Degree from the University of Canberra.

Mr. Pender was on a six-week stint at the Parliament Office, Guyana, in order to continue with work, commenced by Sir Michael Davies, KCB, Senior Parliamentary Staff Advisor, United Kingdom.

June 15, 2005

ADVISORY PAPER NO. 1
MEETING OF THE ASSEMBLY

ADVISORY PAPER NO. 1 - MEETING OF THE ASSEMBLY

Recommendation of the Needs Assessment Report

- **There should be a settled Parliamentary Timetable with recognized opportunities for the Opposition and also for debate on Committee Reports. Sittings of the Assembly should not be at the whim of the Government.**

1. In response to that part of the recommendation at paragraph 30 (page 11) of the Needs Assessment relating to a Parliamentary Timetable, it should be noted that a Parliamentary Timetable usually takes account of the following:

- (a) the Government's legislative program for the year;
- (b) Opposition availability;
- (c) public holidays; and
- (d) such other matters as for example Members attendance at international conferences.

2. Standing Order 8 states that the Assembly "*shall sit every day except Saturdays and Sundays.*" As a possible means to providing a more meaningful sitting pattern the following adaptation of the Standing Orders is submitted for consideration:

MEETING OF THE ASSEMBLY

Recommendations for the Amendment to Standing Orders

8. Day and hour of meeting

- (1) The Assembly shall sit every Thursday at 2 p.m. and unless previously adjourned, shall end at 10 p.m.**
- (2) The Speaker may at any time suspend the sitting for a stated period but, unless the Assembly otherwise resolves, the Speaker shall at 4 p.m. suspend the sitting for half an hour and at 6 p.m. suspend the sitting for one hour.**

9. Changes to meeting times.

A Minister or the Speaker may change the meeting times of the Assembly in the following circumstances:

- (a) At any time during a meeting a Minister may move a motion without notice to set the next meeting of the Assembly.**
- (b) When the Assembly is not meeting, the Speaker may set an alternative day or time for the next meeting, and must notify each Member of any change.**

3.

10. Long adjournment for the National Assembly

Notwithstanding anything contained in Standing Orders 8 and 9, unless there are special reasons for so doing, no Sitting of the National Assembly shall be held from 10 August to 10 October in any year.

11. Adjournment of the Assembly

A Minister may move adjournment of the Assembly at any time after the conclusion of Questions to Ministers and no amendment may be moved to the motion.

3. A separate reference to the introduction of the Budget is made in Advisory Paper No. 4 but the Assembly should schedule the Budget for its November/December meetings to enhance financial management credibility.
4. Other aspects of the recommendation are the subject of separate papers (Advisory Papers Nos. 3 and 6).

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ADVISORY PAPER NO. 2
QUESTIONS AND MOTIONS

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ADVISORY PAPER NO. 2 - QUESTIONS AND MOTIONS

Recommendations of the Needs Assessment Report (page 12)

- **The notice required for questions (and motions) should be reduced from 30 days to no more than 14 days.**
- **The unparliamentary practice of the Government deciding which questions and motions tabled by Opposition Members should appear on the Order Paper should cease.**
- **Government backbenchers should be encouraged to participate in question time and table their own questions.**

Notice required for questions can be dependent on a number of matters not least of which is the proposed times of meeting. There is also the matter of how notices are lodged. At present the Standing Orders of the National Assembly are far too prohibitive or restrictive and seek to limit Members who legitimately desire to obtain information.

If the recommendation is to be met there are a number of ways this could be done:

- (a) **Standing Order 16 (4) could be simply amended by omitting "*thirty days*" and substituting "*fourteen days*";**
 - (b) **Standing Order 16 (4) could be amended by substituting a number of alternatives for "*thirty days*" for oral questions down to 10.30 a.m. on the day on which the question is to be asked.**
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This practice reflects that of New Zealand where the Standing Orders limit the number of questions to be asked each day to 12 and they are allocated on the basis that is proportional to party membership in the House i.e., the Government always gets a majority of questions (see the third recommendation); and

- (c) **Questions could be divided into two categories: questions without notice and questions on notice which could be handled in a number of ways.**

Questions without notice is that time of the day when questions are called on and any Member rising in their place can ask a Minister a question. Where this procedure is practised the call is usually alternated from side to side by the Speaker who also ensures that no Member, except perhaps the Opposition front bench or particularly the Leader of the Opposition, dominates the period. The period is limited by time which in Guyana is currently 45 minutes. This procedure also equates to supplementary questions which are without notice and permitted in Parliaments which require notice of oral questions such as the UK House of Commons. See Standing Order 18 (2). The other side of this process is to have questions on notice. In Papua New Guinea these questions and subsequent answers are published in a dedicated document titled the "*Question Paper.*"

Other Parliaments place the questions on the Notice Paper but most of these Parliaments do not have an Order Paper as well and this matter will be addressed later.

Generally it can be said of these latter types of questions that they seek detailed information which cannot be provided in an oral question period.

Other Standing Orders would need to be amended subsequently. For example some of the provisions of Standing Orders 17 and 18 attempt to allow Ministers to refuse to answer questions. All questions that are permitted by the Speaker should be answered. The Speaker ensures they are within the Standing Orders. On the other hand it is legitimate for a Minister to answer a question as he or she sees fit. It would be in order for the Minister to reply that the exercise of extracting the information required would be too costly or in another similar way. It is not available to a Minister to invoke Standing Order 18 (3) because the Speaker would have taken a number of these matters into account when allowing the question in the first place.

Parliaments which have questions on notice have generally applied a time limit for a response to be given.

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This has varied between 90 and 120 days and there is usually provision for the Speaker or the Member to follow-up with the Minister the reason for not answering the question. These procedures prevail without taking account of the sitting pattern.

There could be benefits to both Government and Opposition in the Guyanese situation, if any, of these alternatives or a combination of some of them were adopted.

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ADVISORY PAPER NO. 3

AGENDA

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ADVISORY PAPER NO. 3 - AGENDA

The Parliamentary Agenda, following from Advisory Paper No. 1

Standing Order 6 provides that:

- (4) *"The Clerk shall be responsible for preparing from day to day an Order Book showing all business appointed for any future day and any notices of questions or motions which have been set down for a future day whether for a day named or not given. The Order Book shall be open to the inspection of Members at all reasonable hours.*
- (5) *The Clerk shall be responsible for preparing and circulating to Members before the commencement of each sitting an Order Paper containing the business for that sitting.*
- (6) *Subject to these Standing Orders, the Clerk shall be responsible for preparing and circulating to Members Notice Papers containing all notices of motions and questions submitted by Members."*

The need for the maintenance of these discrete records has gone. They are directly adopted from UK House of Commons procedures at the time of independence of Guyana and have remained without review.

A meeting requires only one agenda and whether that agenda is called the Business Paper, Notice Paper or the Order Paper is a matter of preference. Following Advisor Paper No. 1, it is suggested that the National Assembly cease the unnecessary duplication required by Standing Order 6 and produce just one agenda paper which shall contain all the business, notices, orders of the day and questions (but see suggestions in Advisory Paper No. 2), before the House.

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The following Standing Order is proposed in substitution for paragraphs (4) to (6) of Standing Order 6:

6A Order Paper

- (a) Business before the National Assembly shall be published on the Order Paper for each sitting in accordance with Standing Orders.**
- (b) The Order Paper shall state the sequence in which orders of business are called on.**
- (c) An order may be postponed on motion moved without notice by the Member in charge of the order or, in his or her absence, by another Member he or she has asked.**
- (d) After an order has been read, the Member in charge of the order may move, without notice, that the order be discharged.**
- (e) If any notices or orders of the day on the Order Paper have not been called on before the adjournment of the Assembly, they shall be listed on the Order Paper for the next sitting.**

There will need to be amendments to Standing Orders 16, 22, 23 and 25 if this Standing Order is adopted.

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ADVISORY PAPER NO. 4

LEGISLATION

ADVISORY PAPER NO. 4 - LEGISLATION

Recommendations of the Needs Assessment Report

- **Bills should only be published after presentation to the Assembly (page 13)**
- **There should be 2 weeks between publication of a Bill and its second reading (page 13)**
- **The Standing Orders should not allow for Bills to be taken through all their stages in one day (page 13)**
- **Amendments to Bills should, as a rule, be tabled and circulated in advance (page 13)**
- **The scrutiny of legislation should be regarded as the primary responsibility of the Assembly and sufficient time should be allowed for this (page 24)**
- **The Assembly should consider the desirability of explanatory notes on Bills (page 24)**
- **Assent (or refusal of assent) to Bills should be given immediately after they are sent to the President and the Assembly should be notified (page 24)**
- **The Assembly should employ a qualified lawyer who could assist Members with amendments and supply legal advice to the Speaker and Clerk (page 25)**

2.

- **A Legislation Office staffed by a Clerk with procedural knowledge should be considered in the future, if the work of receiving and processing amendments becomes too much for the Table Office (page 25)**

1. To accommodate some of the recommendations on legislation the following revised Standing Orders are proposed to replace Standing Orders 45 to 47. Then follows an explanation as to changes.

45 Initiation of Bills

A bill may be initiated:

- (a) **by the calling on of a notice of intention to present a bill;**
- (b) **by an order of the Assembly; or**
- (c) **without notice by a Minister under *Standing Order 61 (Appropriation Bill or Bill dealing with taxation)***

A bill not prepared according to the Standing Orders shall be ordered to be withdrawn.

46 Notice of intention to present Bill

- (a) **A Member giving a notice of intention to present a bill must deliver the notice in writing to the Clerk at the Table.**

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- (b) **The notice must:**
 - (i) **specify the title of the bill and the day for presentation; and**
 - (ii) **be signed by the Member and at least one other Member.**
- (c) **A notice of intention to present a bill shall be treated as if it were a notice of motion.**

47 Signed copy of bill to be presented

- (a) **A Member presenting a bill must sign a legible copy of the bill and hand it to the Clerk at the Table.**
- (b) **The title of a bill must agree with the notice of intention to present it, and every clause must come within its title.**

47A First Reading

When a bill is presented to the Assembly the bill shall be read a first time without a question being put.

47B Second Reading and explanatory memorandum

If copies of the bill are available to Members, the Member presenting the Bill may move immediately after the first reading, or at a later hour -

That this bill be now read a second time

4.

Except in the case of the Appropriation Bill the debate on the question must then be adjourned to a future sitting not less than seven days after presentation.

If copies of the bill are not available, a future sitting shall be appointed for the second reading and copies of the bill must then be available to Members.

Where possible the Member presenting the bill should also present an explanatory memorandum which should include an explanation of the reasons for the bill.

2. The origin of Standing Orders 45 to 48 was at a time when printing facilities were not readily available and there was a need to ensure that Members of a Parliament had adequate notice of a bill and adequate time to receive a copy of the bill and study it.

Leave is now an unnecessary first step and achieves nothing in terms of ensuring Members get ample notice of a bill or copies of bills in a timely fashion.

Bills are published in the **Gazette** as the means of making them generally available. With modern printing techniques there is no need for these safeguards and the Standing Orders proposed reflect modern reality. However there is a provision to cover the odd occasion when a bill will not be printed in time for presentation as for example a bill to meet a suddenly arising national emergency. The bill can still be introduced but not progressed until printed copies are circulated to Members.

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3. The proposed Standing Orders are a variation on the above recommendations to conform with the established practices of the National Assembly such as having printed copies available on presentation and having 7 not 14 (as recommended) days elapse between introduction and second reading. The sitting pattern as proposed readily lends itself to this procedure and gives certainty to the bills' availability.
 4. Some houses of Parliament also have omitted references to "*Committee of the Whole Assembly*" and substituted a phrase which reflects what that phase of bill consideration is all about; that is "*consideration in detail.*" Language used in National Assembly Standing Orders 48, 49 and 51 could also be modernized. Standing Order 51 is particularly and perhaps unnecessarily detailed and could readily be condensed.
 5. Another inconsistency in the Standing Orders is that a seconder to a motion or amendment in Committee of the Whole Assembly is not required but one is required when a bill is being considered within a Select Committee. It is proposed in relation to the recommendations on committees that a seconder in committees be dispensed with altogether (see also Advisory Paper No. 8).
 6. Paragraph 51 (2) provides that "*any proposed amendments of which notice has not been given shall be handed to the Chairman in writing*" implying that in most cases notice is given. Notice is accomplished by handing a copy of the amendment to the Clerk or lodging it in the Parliament Office (Standing Order 22 (1)). Additional words to the effect that the amendments should be circulated to Members as soon as possible after receipt could enhance the Standing Order.
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7. Advisory Paper No. 5 refers separately to the financial procedures and legislation.

8. Assent

Standing Order 58 requires the Clerk to submit a bill passed by the Assembly to the President for assent. Sub-article 170 (2) of the Constitution requires the President to signify that the President has either assented to the bill or withheld assent. If the President withholds assent sub article 170 (3) requires the President to return the bill to the Speaker with a message saying why assent was withheld.

There is no requirement for the President to notify the Assembly that a bill has been assented to yet such notification would close the whole legislative loop. There is provision for the President to send messages to the Assembly and this means should be invoked to signify to the Assembly that a bill has been assented to and the date of the assent. If the President's Office also numbers Acts then the number too should be conveyed to the Assembly as part of the message. While a signed copy of an Act is passed to the Assembly ideally this should accompany the message of assent.

9. An Officer within the Parliament Office should be identified as Legislation or Bills Officer and this person should be responsible for preparing bills for each stage they have to pass; the printing and distribution of bills; the maintenance of the signed bills and Acts; reprinting of bills incorporating amendments that might be agreed by the Assembly; assisting with the drafting of amendments to bills; and conveying bills to the President for assent.

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ADVISORY PAPER NO. 5

**APPROPRIATION BILLS
AND
FINANCIAL PROCEDURES**

ADVISORY PAPER NO. 5 - APPROPRIATION BILLS AND FINANCIAL PROCEDURES

The Budget process, following from Advisory Paper No. 4.

1. In many Parliaments following the Westminster tradition the rather convoluted financial procedures which they inherited have been replaced by more streamlined processes. Committees of Ways and Means and Supply are a thing of the past.

2. Basically the procedures are the same as applies to the passage of bills. Instead of having first an Estimates debate, secondly a Committee of Supply debate and thirdly an Appropriation Bill passed; at the outset the Minister of Finance simply introduces the Appropriation Bill. The Bill does not require notice so it is presented and read a first time and then the Minister gives the Budget speech when moving the second reading. The debate is then adjourned to a future day when the second reading debate takes place replacing the Estimates debate. Once the second reading is agreed to the Assembly would resolve itself into Committee of the whole and the debate in committee would replace the Committee of Supply stage following the same procedures as provided for in Standing Order 65. After the committee of the whole consideration, the Assembly would proceed to the third reading obviating the need to now introduce a bill. Thus three separate processes are combined into only one.

3. Currently the Estimates of Revenues and Expenditure are laid before the Assembly by the Minister of Finance when he delivers the Annual Financial Statement or Budget Speech. The Minister then moves for the approval of the estimates and the debate is adjourned to a future day in accordance with Standing Order 61.

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10. The benefits are that the procedure is a regular procedure, the bills procedure, known to all Members and not just a one-off process followed each year or twice a year if there is a supplementary Appropriation Bill.
11. The following Standing Orders would give effect to this proposal:

FINANCIAL PROPOSALS

61 Notice not required for certain Bills or proposals

A Minister may present without notice an Appropriation Bill or a bill or proposal dealing with taxation.

62 Taxation proposals initiated by Minister

- (a) **Only a Minister may initiate a proposal to impose, increase, or decrease a tax or duty, or change the scope of any charge.**
- (b) **Only a Minister may move an amendment to the proposal which increases or extends the scope of the charge proposed beyond the total already existing under any Acts of Parliament.**
- (c) **A Member who is not a Minister may move an amendment to the proposal which does not increase or extend the scope of the charge proposed beyond the total already existing under any Acts of Parliament.**
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- (v) **must not anticipate an amendment which may be moved during the committee stage.**

- (c) **For the Appropriation Bill for the ordinary annual services of government, an amendment to the motion may relate to public affairs beyond the scope of the bill.**

49 Committal of Bills

- (a) **When a bill has been read a second time it shall stand committed to a Committee of the Whole Assembly, unless the Assembly commits it on motion without notice or debate to a Select or Sectoral Committee.**

- (b) **When a bill has been committed to a Select or Sectoral Committee, no further proceedings shall be taken thereon until the committee has presented its Report to the Assembly.**

- (c) **A bill, under consideration in Committee of the Whole, may, on motion of the Assembly, be withdrawn from that committee and be referred to a Select or Sectoral Committee, and reference to the Select or Sectoral Committee may be in respect of the bill as a whole, or to specified clauses.**

ADVISORY PAPER NO. 6

OPPOSITION TIME

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ADVISORY PAPER NO. 6 – OPPOSITION TIME

Recommendations of the Needs Assessment Report

- **There should be a settled Parliamentary Timetable with recognized opportunities for the Opposition and also for debate on Committee Reports (page 11).**
- **The Opposition should become more persistent in their questioning of Government and utilize the opportunities that already exist for so doing (page 14).**
- **All Members of the Opposition should participate in debates and question time (page 14).**
- **The Government must recognize that the role of an opposition is to oppose. This means that the Opposition should be given the opportunities to do this (page 14).**

1. There are as many approaches to giving Opposition time in a Chamber as there are Parliaments following the Westminster model. They have adapted the procedures originally inherited from the British Parliament to their local conditions.
2. Standing Order 20 (2) states that "*Government Business shall have precedence on every day except on Wednesdays when private Members' Business shall have precedence.*" In Advisory Paper No. 1 it is suggested that the Assembly sit on Thursday each week which if accepted makes this Standing Order a nonsense. Consequently, it is suggested that the Standing Order be amended to read:

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“(2) Government business shall have precedence on every day except the last Thursday of the month when Private Members’ Business shall have precedence.”

3. Some other means additional to that in paragraph 2 of giving the Opposition opportunities which the National Assembly might contemplate are:

- 1) Changing the provisions of Standing Order 20 (2) to ensure that at least part of a day’s sitting is devoted to Opposition or private Members’ Business (note a *“Private Member”* means a Member other than the Speaker or a Minister);
- 2) Making the Estimates or budget debate open to any matter of public affairs which a Member wishes to raise, that is, an open debate (see Advisory Paper No. 5);
- 3) Introducing an adjournment debate at the end of each day’s proceedings - a debate on the motion *“That the Assembly do now adjourn”* which would be limited in total time and also in speech times (in Australia there is half an hour for this debate with each Member having 5 minutes only (no extension of time is permitted)). Members could raise any matter of concern;
- 4) Not limiting Members so much in submitting matters of public importance for discussion, that is taking away the requirement for the matter to be *“urgent”* as is provided in Standing Order 11 (see discussion below):

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3.

- 5) Making it easier for Private Members to ask questions of Ministers (see Advisory Paper No. 2);
- 6) Debating Committee Reports and responses to Committee Reports (see Advisory Paper No. 8 for a discussion on this proposal);
- 7) Introducing a period of time for a "*grievance debate*";
and
- 8) Permitting a period of Private Members' Statements.

4. When the Assembly is, as is proposed in Advisory Paper No. 1, sitting for about 40 days a year, it is unlikely that "*urgent*" matters will coincide with sittings but it should be available to the Opposition and indeed Government backbenchers to raise matters of concern for discussion. The discussion could be limited to a particular time. The Australian example is a maximum two hours on each day. There are no other opportunities for private Members as for example when Committee Reports are being considered (see Advisory Paper No. 8). With time limits on speeches this generally allows for 2 or 3 Members from each side of the House to participate.

The thing to note about most of these proposals is that while Private Members can raise the matters there is no resolution at the end of the proceedings. The one exception is the "*grievance debate*" where the question at the conclusion of the debate is "*That grievances be noted*". In each proposals the call is alternated from side to side.

In order to provide an opportunity for Private Members in Guyana to raise matters the following Standing Order which combines features from some of these examples is proposed to be substituted for Standing Order 11:

11 Matter of Public Interest

- (a) A Private Member may give written notice of a matter of current public interest proposed to be noted to the Speaker by 11 a.m. on the Thursday it is to be moved. The matter must be within the power of the National Assembly to act on.**
- (b) If a matter has been proposed, the Speaker, at 9.15 p.m., shall interrupt any business before the House and call upon the Member proposing the matter to move the motion.**
- (c) If the motion is not disposed of before 10 p.m. the Speaker shall interrupt the debate and put the question that the motion be noted.**
- (d) If more than one notice is received for the same day the Speaker shall select the matter to be proposed.**
- (e) A maximum of four Members shall be permitted to speak with each Member being entitled to speak for a period not exceeding 10 minutes or 5 minutes if speaking in reply in the case of the Member giving written notice.**

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5.

5. The concept of Private Members' statements was a product of the Canadian Parliament where Private Members were given an opportunity to make 90 second statements. In 15 minutes 10 Members could make a contribution. In a smaller House like the National Assembly this process could be introduced with a little more time given to Members.

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ADVISORY PAPER NO. 7

COMMITTEE CHAIRS

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ADVISORY PAPER NO. 7 - COMMITTEE CHAIRS

Recommendation of the Needs Assessment Report

The Chairpersons should not change every year, since they are the persons who must ensure the direction and energy of their committees (page 29)

1. The Constitution (of 2003) at article 119B establishes Sectoral Committees and these are discussed in Advisory Paper No. 8. Subsection (2) of that section states that the *“Chairperson and Deputy Chairperson of each Parliamentary Sectoral Committee shall be elected from the opposite sides of the National Assembly”* and Resolution 19 of the Assembly provides that *“the Chairperson and Deputy Chairperson of each Sectoral Committee shall be elected from opposite sides of the National Assembly and would alternate annually with two (2) Sectoral Committees each to be chaired by the Government and Opposition respectively”*.
 2. All the Committees of the Assembly roughly reflect the proportion of Government to Opposition Members in their numbers (see Standing Order 72 (1), as for example, the Sectoral Committees are comprised of 7 Members; 4 from the Government and 3 from the Opposition.
 3. In the majority of cases the Committee Chair is rightly limited to a **casting vote** only (see Standing Order 74 (3)), mirroring the voting power of the Speaker in the Assembly itself.
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4. Thus in the case of the Public Accounts Committee and the two Sectoral Committees chaired by Opposition Members, the voting power of the Opposition is reduced.
5. A Chair elected for a period longer than a year gives a certain stability to the Committee and the overall Committee process (see paragraph 107, page 27 of the Needs Assessment).
6. There are a number of options available to the Assembly in relation to the appointment of Chairs:
 - a) maintain the status quo contrary to the recommendation;
 - b) omit "*annually*" and substitute a different period such as for example "*2½ years;*"
 - c) omit the provision requiring the Chair to alternate and appoint chairs for the life of the committee;
and
 - d) have committees elect only Government Members as their Chairs and, by convention, Opposition Members as their Deputy Chairs (this still accords with the constitutional provision).
7. In any case there is no Standing Order regarding the election of Committee Chairs and Deputy Chairs except in the case of a Special Select Committee in Standing Order 71 (2).

Standing Order 74 (3) provides for a Chairman to have a casting vote only. This provision has been transferred to the following proposed Standing Order so that there is no ambiguity about the Chair's vote in Committee:

CHAIR AND DEPUTY CHAIR

71A Chair and Deputy Chair

- 1) Before the start of business, a Committee shall elect a Member as its Chair. The Chair shall have a casting vote only.**
- 2) A Committee shall also elect a Deputy Chair who shall act as Chair of the Committee whenever the Chair is not present at a Meeting. If neither the Chair nor the Deputy Chair is present at a Meeting, the Members present shall elect another Member to act as Chair at the Meeting.**
- 3) The Chair and Deputy Chair of each Sectoral Committee shall be elected from opposite sides of the National Assembly and would alternate every 2½ years with two Sectoral Committees each to be chaired by the Government and Opposition respectively.**

4.

8. It is also the practice of the National Assembly to have the Speaker preside at the first Meeting of every Committee. This is an unnecessary burden on the Speaker and is not a reflection of what takes place in the Assembly in the election of the Speaker himself. The procedures in Committee should reflect as near as possible those of the Assembly and thus it should be the responsibility of the Clerk to the Committee to chair the Committee at its first meeting until a Chair is elected.

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ADVISORY PAPER NO. 8

COMMITTEES

ADVISORY PAPER NO. 8 - COMMITTEES**Recommendations of the Needs Assessment Report**

- **There should be a settled Parliamentary Timetable with recognized opportunities for the Opposition and also for debate on Committee Reports (page 11).**
- **Committees should meet regularly at stated times (page 29).**
- **Committees should set aside party divisions in their work. Towards achieving this, they should initially identify subjects for inquiry which are not politically controversial (page 29).**
- **Inquiries should be focused and capable of being completed in a reasonably short time (page 29).**
- **The Government must respond positively and quickly to requests by Committees for witnesses, documents and other information (page 29).**
- **Public Accounts Committee Reports should be responded to by the Ministry of Finance within three months (page 29).**
- **Reports of the Public Accounts Committee should be drafted by the Committee Clerk (page 29).**

2.

- **Specialist advisors should be available for each Inquiry. A budget head should be set for this expenditure (page 30).**
- **Dates and times of public meetings of Committees Such as the four Sectoral Committees should be widely published and available on the Assembly's website (page 30).**
- **Committee staff should receive training, which can be provided either by visiting Officials from overseas or by sending Committee Clerks to other jurisdictions (page 30).**
- **More computer workstations should be provided for the Committee Office and access to the Internet must be available (page 30).**
- **Recording and amplification equipment is required for the new Committee rooms and might be sought from the International community (page 30).**
- **The Membership of the Parliamentary Management Committee should be changed so that it is not perceived as the tool of the Executive. It is, in any case, desirable that backbenchers should serve on the Committee (page 30)**



3.

1. Some of the recommendations are discussed below:

There should be a settled Parliamentary Timetable with recognized opportunities for the Opposition and also for debate on Committee Reports (page 11).

2. Currently Standing Order 12 (f) provides an opportunity for the Presentation of Papers and Reports from Select Committees but does not include an opportunity for a debate to take place on that Report unless it is a Report on a Bill where proceedings resume on the Bill under Standing Order 55.

The order of business could provide that after Questions to Ministers, Reports from Committees and responses to Committee Reports may be presented. The Member presenting the Report could move, in accordance with Standing Order 76 (5), "*That the Report be adopted*" and the debate on that motion could then occur or be adjourned to a future sitting. Time limits could be imposed on this part of the proceedings.

Committees should meet regularly at stated times (page 29).

3. Once the Assembly has before it a sitting pattern it is possible for Committees to regularize their Meetings bearing in mind that the Committees cannot sit during the Sittings of the Assembly (Standing Order 73 (7)). By only sitting on a Thursday the Assembly provides ideal opportunities for Committees to meet regularly when Members are in Georgetown for the Sitting.

Committees should set aside party divisions in their work. Towards achieving this, they should initially identify subjects for inquiry which are not politically controversial (page 29).

4. See paragraph 108 of the Needs Assessment at page 27. The principal purpose of Parliamentary Committees is to perform functions which an Assembly itself is not well fitted to perform, that is finding out the facts of a case, or issue, examining witnesses, sifting evidence and drawing up reasoned conclusions (*House of Representatives Practice*, 4 ed, p. 605). Committees are a vehicle to take Parliament to the people. They can operate in a less formal way and are ideally suited to gathering evidence or information from expert groups or individuals. Conversely Committees enable Members to become better informed about particular subjects. By publicizing an investigation or inquiry, Committees can raise levels of awareness by the public of those topics. In other jurisdictions it is the ability of Committees to operate across party lines that makes them such successful instruments of a Parliament. Committees should at least be able to operate as the Committee of the Whole does and it is suggested in Advisory Paper No. 3 that there be no need for seconders in any Committee. This would add to the less formal mode of operation of the Committees as is encouraged in the Needs Assessment.

It is within the terms of appointment of Sectoral Committees that they can determine their own subjects for scrutinizing and inquiry. This means that any Committee member including Government Members can bring an appropriate term of reference to the Committee for adoption as

the Committee's stated intent. Once adopted such terms of reference should be publicized by listing on the Order Paper as Bills referred to Special Select Committees are.

Another means of setting an agenda for Committees would be to insert a paragraph, similar to the following, in the Resolution of appointment of the Sectoral Committees and in Standing Order 71:

- (3) A Committee appointed under Resolution 19 or under paragraph (1) may inquire into and report on any additional matter referred to it by the Assembly or by a Minister including any pre-legislation proposal, bill, motion, petition, vote or expenditure, other financial matter, report or paper.
- (4) All Annual Reports of Ministries and Authorities stand referred to the appropriate Sectoral Committee and the Committee may make any inquiry it wishes into those Annual Reports.

Inquiries should be focused and capable of being completed in a reasonably short time (page 29). The Government must respond positively and quickly to requests by Committees for witnesses, documents and other information (page 29).

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5. Once a Committee adopts an inquiry, that is, it has agreed terms of reference then it should set a program for completion allowing sufficient time for research, evidence gather and hearings and then report writing. It should be normal practice for the appropriate Minister or Ministers to preempt a Committee's needs and arrange for public officers of their Ministry to brief a Committee immediately on the Committee's appointment. This assists Committees in agenda setting as well.

Public Accounts Committee Reports should be responded to by the Ministry of Finance within three months (page 29).

Reports of the Public Accounts Committee should be drafted by the Committee Clerk (page 29).

6. Responses to Public Accounts Committee Reports can be treated separately or there could be a common Standing Order applying to all Committee Reports similar to the following from Canada and New Zealand:

109. Within 150 days of the presentation of a Report from a Standing or Special Committee, the Government shall, upon the request of the Committee, table a comprehensive response thereto.

251. Government responses to Select Committee Reports

- (1) The Government must, not more than 90 days after a Select Committee Report has been presented, present a Paper to the House responding to any recommendations of the Committee which are addressed to it.**

- (2) No response under this Standing Order is required in respect of Select Committee Reports on Bills, Supplementary Order Papers, Questions of Privilege, Estimates, Supplementary Estimates and Financial Reviews of Departments, Offices of Parliament, Crown Entities, Public Organisations or State Enterprises.**

The Committees Division of the Parliament Office provides qualified staff to each Committee for a number of purposes (see paragraph 8) and these officers participate in the whole Committee process. It is they who should be writing the Reports. This should apply in all Committees. However, where an expert adviser or specialist has been assigned to a Committee because of the particularly technical nature of an investigation then that person could also participate in the report writing exercise.

Specialist Advisors should be available for each inquiry. A budget head should be set for this expenditure (page 30).

7. This is provided for in Resolution 19 and should be a matter of funding for the Parliament Office (see the recommendations on a National Assembly Budget at page 18 of the Needs Assessment).

8. The remaining recommendations are matters relating to both Committee personnel and budgetary matters and beyond the scope of this paper. In relation to Committee Staff it has been the aim of the Clerk and the Parliament Office to have Committee Secretariats which perform three basic functions:

- (a) advising on Committee procedure and practice;
- (b) providing administrative and clerical support; and
- (c) undertaking research and analytical work related to the terms of reference and content of particular investigations.

Allocation of staffing depends on the availability of funds and personnel - each Committee's Terms of Reference, the number of inquiries a Committee is conducting, the nature of its operations and timetable for the conduct of its work. While witnesses are rarely paid a fee Committees should be able to seek from an expert witness evidence which, because of the time and effort required for its preparation, the Committee could not reasonably expect the witness to produce without remuneration.

However, Resolution 19 ensures it is more likely that a Committee will employ specialist advisers, whose function equates more closely to that of the Committee Secretariat.

Subsidiary Legislation Committee

9. Most Parliaments following the Westminster tradition now have Committees to which all regulations, by-laws and other instruments made under the authority of Acts of the Parliament and which are of a legislative character, stand referred for consideration and, if necessary, report. Such a Committee scrutinizes subsidiary legislation to ensure:

- (a) that it is in accordance with the statute;
- (b) that it does not trespass unduly on personal rights and liberties;
- (c) that it does not unduly make the rights and liberties of citizens dependent upon administrative decisions which are not subject to review of their merits by a judicial or other independent tribunal; and
- (d) that it does not contain matter more appropriate for Parliamentary enactment.

Committees of this nature traditionally operate on a non-partisan basis and refrain from considering the policy of the subsidiary legislation.

JAMES PENDER
Parliamentary Staff Advisor

ADVISORY PAPER NO. 9

RELATIONS WITH CIVIL SOCIETY
AND
THE PRIVATE SECTOR
AND
OTHER MISCELLANEOUS MATTERS

ADVISORY PAPER NO. 9 - RELATIONS WITH CIVIL
SOCIETY AND THE PRIVATE SECTOR
AND OTHER MISCELLANEOUS MATTERS

Recommendations of the Needs Assessment Report (page 35)

- It should be made much easier for civil society and the private Sector to interact with the National Assembly.
- Members should welcome the views of civil society and the private sector which will enable them to participate on a more informed basis in debate.
- More information about the work of the Assembly and its Members should be made available.
- Assembly documents, particularly Bills and the Verbatim Report, should be made available at convenient locations such as Post Offices or Bookshops.
- Educational visits to the Assembly should be arranged and consideration should be given to mock-Parliaments.
- The appointment of a Public Information Officer should be considered.
- The radio broadcasting of the proceedings of the National Assembly should be considered.

Much of the content of these recommendations is outside the province of an Advisory Paper. However, as is mentioned in Advisory Paper No. 8, Committees are one way of taking the National Assembly to the people and another means of interaction with the Assembly by private persons is through the petitioning process.

Standing Order 13 details the petitioning process and permits a petition to be referred to a Select Committee. The Assembly might look at whether this should be mandatory and that every petition be referred to the appropriate Committee for scrutinizing. This is a procedure adopted by many Parliaments.

Pecuniary Interest

Another Standing Order that the Assembly might like to consider is in relation to pecuniary interest. Many Parliaments now have stringent Rules governing participation of Members in Parliamentary activities where they have a vested interest in the matter being considered. This could not be applied readily in the National Assembly itself because of the part time nature of the membership but could be a matter applying to Committee investigations where a Members' interest could compromise that Members' participation in the Committee's proceedings. An example of such a Standing Order would be:

Member with Pecuniary Interest not to sit on Inquiry

No Member may sit on a Committee if he or she has a particular direct Pecuniary Interest in a matter under inquiry by the Committee.

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If the right of a Member to sit on a Committee is challenged, the Committee may report the matter to the House for Resolution.

Assistant Speakers

During the debate on the flooding in Guyana the Speaker had little opportunity to leave the Chair and was thus required to remain there nearly all night. If the proposed sitting pattern was to be followed then it could be quite onerous for the Speaker to continue presiding throughout all proceedings.

To alleviate this happening in the future the Assembly could adopt a Standing Order appointing Assistant Speakers, one from each side of the House as follows:

3A Assistant Speakers

- (a) The Assembly may appoint up to two Members to be Assistant Speakers.**
- (b) An Assistant Speaker performs the duties and exercises the authority of the Speaker while presiding over the Assembly.**

Standing Order 4 would also need to be reworded if this Standing Order was to be adopted.

JAMES PENDER
Parliamentary Staff Advisor

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Mr. Speaker,

1. Last week you kindly passed to me your categorisation of the recommendations in the Needs Assessment Report.

In the main I agree with your resultant listing but there are some recommendations which could fall into more than one category depending on the approach taken for implementation.

1. **There should be a settled Parliamentary Timetable**

2. For example, the first recommendation on a settled Parliamentary Timetable could be answered by the Minister of Parliamentary Affairs stating to the Assembly that it is the intention of the Government to have the Assembly meet every Thursday. The current Standing Orders permit this approach. Admittedly it would be tidier if the Standing Orders were to reflect the sitting pattern but it is not essential.

7. **Recommendations on Personnel Issues**

8. **Recommendations on a Parliamentary Cadre**

9. **Recommendations on the Office of the Clerk**

18. **Recommendations of support by the International Community**

**The financial independence of the
Assembly**

An independent Parliamentary Staff

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3. On the question of Personnel Issues, a Parliamentary Cadre, Office of Clerk and financial independence of the Assembly, I refer you to Articles 57, 158, 201 and 223 of the Constitution of Guyana. It is obvious that those persons responsible for the drafting of the Constitution envisaged that the Assembly should have both independent staffing and financial independence.

4. In paragraph (2) of Article 201, it states that the Public Service Commission may, by directions in writing subject to such conditions as it thinks fit, delegate any of its powers..... in relation to any Office on the staff of the Clerk of the National Assembly, to the Clerk. At paragraph (5) it says that before the Public Service Commission or any Member thereof exercises any of the powers mentioned in paragraph (1) (*being the power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in such offices*) in relation to any office on the staff of the Clerk of the National Assembly.....or any person holding or acting in such an office, the Commission or that Member shall consult the Clerk.

5. It would probably both be consistent with the Constitution and remove all doubt if legislated for, but all that is required to give the National Assembly an independent Parliamentary staff is a direction by the Public Service Commission. The Clerk already has a significant say in staffing matters.

6. Likewise with financial independence the Constitution singles out the accounts of the Clerk of the National Assembly in Article 223 (2).

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7. As stated before, there is definite intent on the part of the framers of the Constitution to separate the Parliament Office from all Government bodies and make it independent.

11. The Assembly should consider the desirability of explanatory notes on Bills.

8. Explanatory memoranda, the second part of the recommendations on legislation is already catered for in Standing Order 47 (2) where the word "may" is used. To make such a provision mandatory will require an amendment to the Standing Orders.

12. Reports of the Public Accounts Committee should be drafted by the Committee Clerk.

Specialist Advisers should be available for each inquiry. A budget head should be set for this expenditure.

Committee staff should receive training, which can be provided either by visiting officials from overseas or by sending Committee Clerks to other jurisdictions.

9. The 7th recommendation on Committees should be a matter for the Parliament Office as Committee Clerks normally would draft all Committee Reports. The same applies to recommendation 8 where it is a matter also for the Parliament Office. The provision of specialist advisers is provided for in the Resolution of Appointment of the Sectoral Committees and some moneys have been found for employment of these advisers on particular Committees. The training of all Parliamentary Staff

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should be a matter for the Parliament Office including Committee Clerks as mentioned in the 11th recommendation.

13. A fully qualified Librarian should be appointed to a new post as Head of Research and Library Services.

10. There is already a position of Librarian provided for on the establishment of the Parliament Office so it is simply a matter of recruitment for the second recommendation under this head to be realized.

14. An Editor of Debates (or another suitable title) should be appointed.

11. In relation to the verbatim record there is already a head of expenditure for this in the National Assembly budget and at the moment the verbatim record is produced under contract. It should be available to and the responsibility of the Clerk to determine the most cost effective way of providing this essential service to Members thus obviating any need to take the first recommendation under item 14 to the Government.

18. Recommendations of support by the International Community.

An Order Paper free of Ministerial control.

Government Co-operation with Committees.

12. Of those recommendations under item 18 I have already referred to the first and second on the independence of the Parliament Office. On the third, Standing Order 6(5) clearly places the responsibility for the Order Paper solely in the hands of the Clerk. He is to prepare and circulate it to Members and it should be he who obtains any necessary input to its production.

The fourth recommendation on a Parliamentary Timetable has also been covered while there is already evidence that the fifth recommendation is being acted on by the Government and so should not be listed as still to be acted on.

JAMES PENDER
Parliamentary Staff Advisor

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The Speaker
Clerk
Deputy Clerk

Amendment of Standing Orders

1. At its meeting on 17th March, 2005, the Standing Orders Committee agreed to amend the Standing Orders to permit the Public Accounts Committee (PAC) and the Sectoral Committees to meet in **public** except where the Committees determine otherwise.
 2. The amendment necessitates consequential amendment to the Standing Orders if it is the intention of the National Assembly to allow publication of the Committees' proceedings at the time of the public meeting.
 3. Standing Order 75 states that:

"The proceedings of and the evidence taken before any Select (Sectoral or PA) Committee and any documents presented to and decisions of such a Committee shall not be published by any Member thereof or by any other person before the Committee have presented their Report to the Assembly."
 4. If the press and the public were present at a public meeting of a Committee this Standing Order inhibits their ability to publish what they have seen and heard until after a Report on the same matter has gone to the National Assembly.
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5. The following Standing Order is suggested for consideration.

75. **Publication of Evidence**

- (1) A Committee may authorize publication of evidence given before it or documents presented to it.
- (2) A Committee's evidence, documents, proceedings and reports may not be disclosed or published to a person (other than a Member of the Committee or Parliamentary employee assigned to the Committee) unless they have been:
 - (a) reported to the National Assembly; or
 - (b) authorised by the National Assembly or the Committee.
- (3) A Committee may resolve to publish press releases, discussion or other papers or preliminary findings or divulge evidence, documents, proceedings or reports on a confidential basis for comment.

5)

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- (4) **A Committee may authorize a Member of the Committee to give public briefings on matters related to an investigation but the Member may not disclose evidence, documents, proceedings or reports which have not been authorized for publication. The Committee shall determine the limits of the authorization.**

6. This raises an even bigger question as to the publication of National Assembly documents and the question of privilege.
7. Publication can occur in a variety of forms; it can be via television, tape recordings, videos, CDs and DVD, newspapers, books, etc.
8. At the moment the National Assembly gives limited publication authority; to bills (through the medium of the Gazette), to the Order Paper, Notice Paper and Minutes (limited to publication to Members), and to the Report of Debates which is in "*such form as the Speaker may direct*".
9. In the order of business, Standing Order 12, at paragraph (f), there is provision for papers and reports from Select Committees to be presented and motions to print those documents may be moved in accordance with Standing Orders 14 (3) and 76 (3).
10. However there is no authorization for any other papers placed before the National Assembly to be published nor is there any provision for authorisation of other forms of publication such as television coverage of proceedings.
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11. Recently both television footage and recordings of proceedings have been invoked to support purported proceedings in the National Assembly Chamber when neither had been published under any authorization of the Assembly. There arises some doubt as to the status of such references and whether they do in fact involve "*proceedings in Parliament*" and hence privileged within the meaning of Article 172 of the Constitution.
12. A Standing Order along the following lines would overcome this deficiency.

14A. Papers Authorized for Publication

**All documents presented to the National Assembly
are authorized for publication.**

13. An associated amendment to the Standing Orders would be to cover the publication of "*proceedings*" in other than hard copy form. This could be accomplished by rewording Standing Order 79.

79. Report of debates and proceedings

**The Clerk shall be responsible for preparing and
Publishing an official Report of all debates and
proceedings in the Assembly.**

14. Another anomaly in the Standing Orders relating to papers/documents occurs in Standing Order 14 where it specifies in paragraph (1) that *“Every Paper shall be presented by a Minister and its presentation shall be recorded in the Minutes of Proceedings”* while Section 28 of the *Audit Act 2004* requires the Auditor General to *“submit his Reports to the Speaker of the National Assembly, who shall cause them to be laid before the Assembly.”* This could be overcome by rewording the Standing Order paragraph as follows:

“(1) Documents may be presented to the Assembly by the Ministers or by the Speaker pursuant to statute or otherwise and presentation shall be recorded in the Minutes of Proceedings.”

JAMES PENDER
Parliamentary Staff Advisor

21st March, 2005