

# Recommended Benchmarks for the CPA Caribbean, Americas, and Atlantic Region Democratic Legislatures



## **Recommended Benchmarks for the CPA Caribbean, Americas and Atlantic Region's Democratic Legislatures**

Democratic Legislatures of the Caribbean, Americas and Atlantic Region of the Commonwealth Parliamentary Association (CPA) represent, to a large extent, emerging democracies which have patterned the structure and functions of their parliamentary institutions from their colonial heritage. However, rapidly developing knowledge-based and technology-driven societies have placed Legislatures under intense scrutiny in the areas of transparency, accountability, effectiveness and fairness and this Region is no exception.

Throughout the business environment, the need for greater efficiency and effectiveness has produced various models for measuring organizational effectiveness. Likewise, Commonwealth democratic Legislatures have responded to these external and in some instances internal pressures, by the development of Benchmarks to assess their effectiveness. This journey commenced in 2004 at the CPA Conference in Canada.

In 2006, Recommended Benchmarks for Democratic Legislatures were formulated by a Study Group hosted by the Legislature of Bermuda on behalf of the CPA and the World Bank Institute.

The Commonwealth and the CPA recognize diversity as a strength: different experiences, approaches and attitudes foster variations in practices and policies which stimulate innovation everywhere. This certainly applies to parliamentary democracy where the ways in which parliamentary theories are applied differ throughout the Commonwealth. The CPA recognizes that no single Parliament is a source of "best practice" in all areas; that all Parliaments can be sources of valuable innovations regardless of their size or age, and that in fact there are many forms of "best practice".

Furthermore, the parliamentary system is a dynamic one so that "best practice" today will be surpassed tomorrow as institutions, Members, officials and citizens alike seek ever higher standards.

The development of regional versions of the CPA Benchmarks is one way to contribute to the evolution of this valuable set of standards. Against that background, a representative group of Clerks of the Legislatures of the Caribbean, Americas and Atlantic Region met in Barbados from 8 to 9 March 2011 and drafted Benchmarks for this Region.

This meeting was held under the auspices of the CPA Headquarters Secretariat in partnership with the CPA Regional Secretariat.

The objectives of the Barbados meeting were to:

- Develop Benchmarks based on the unique traditions and parliamentary practices of the Region, and
- Recognize the dynamic nature of the Legislatures of the Region and the individual nuances of each Legislature in formulating the Benchmarks.

Using the 2006 CPA Recommended Benchmarks as a template, the meeting also considered and studied the Recommended Benchmarks accepted by:

- The Pacific Islands Democratic Legislatures; and
- Asia, India and South-East Asia Democratic Legislatures.

A number of additions, omissions and modifications were proposed to the 2006 Recommended Benchmarks. It must be noted that measuring parliamentary effectiveness is a new venture and this exercise would be considered a success once Benchmarks are accepted by the Region.

The Draft Benchmarks for the Democratic Legislatures of the Caribbean, Americas and Atlantic Region were considered and accepted at the 15<sup>th</sup> Conference of Presiding Officers and Clerks of the Region held in the Cayman Islands during the period 3 to 6 April 2011. They were subsequently approved by the Annual General Meeting of the Region when it commenced on 29 June 2011 at the Grenada Grand Beach Resort during the 36<sup>th</sup> CPA Regional Conference in St George's, Grenada.

# Recommended Benchmarks for Democratic Legislatures of the Caribbean, Americas and Atlantic Region

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# General

## 1.1 Elections

1.1.1 Members of the popularly elected or only house shall be elected by direct universal and equal suffrage in a free and secret ballot.

1.1.2 Legislative elections shall meet international standards for free, fair and transparent elections.

1.1.3 Term lengths for Members of the popular house shall reflect the need for accountability through regular and periodic legislative elections, the date of such elections should, as far as possible be fixed.

1.1.4 An independent Electoral Commission/Body shall be established for the management of the conduct of elections.

## 1.2 Candidate Eligibility

1.2.1 Restrictions on candidate eligibility shall not be based on religion, gender, ethnicity, race or disability.

1.2.2 Steps should be taken to encourage and promote the political participation of marginalized groups.

## 1.3 Incompatibility of Office



1.3.1 A Member shall be required to confirm his/her allegiance by taking an oath based on his/her

own personal religious beliefs or by affirmation, in order to take his/her seat in the Legislature.



1.3.2 In a bicameral Legislature, no person shall be a member of both houses.

1.3.3 A Member shall not simultaneously serve in the judicial branch or as a member of the Civil or other Service of the Executive branch.

## **1.4 Immunity**

1.4.1 Members shall have immunity for anything said in the course of the proceedings of the Legislature.

1.4.2 Members must be able to carry out their legislative and constitutional functions in accordance with the constitution, free from interference.

## **1.5 Remuneration and Benefit**

1.5.1 The Legislature shall provide appropriate remuneration and reimbursement of parliamentary expenses to Members for their service, and all forms of compensation shall be allocated on a non-partisan basis.

1.5.2 The remuneration arrangements for Legislative office-holders should sufficiently reflect their considerable role and responsibilities.

1.5.3 A Member shall be provided with his/her salary and additional benefits adequate to require him/her to give priority to his/her parliamentary duties.

1.5.4 In order to maintain a decent standard of living and to upkeep his/her family, a Member shall not be placed in the

position of having to sacrifice parliamentary responsibilities in order to pursue a competing career.

1.5.5 Members should not be required to place themselves under any financial or other obligation to outside individuals or organisations that might influence them in the performance of their official duties or might give the impression of so doing.



**The Clerk of the Parliament of Grenada, Mr Adrian Hayes, at the initial drafting session.**

1.5.6 There shall be provided to non-returning Members an adequate allowance payable, on a prompt basis, to retiring Members so that departure from office does not leave a former Member in dire financial straits.

1.5.7 Members shall be entitled to a lifetime pension or a lump sum depending on their length of service and based on a scheme, as set out in the relevant statute.

1.5.8 Where a Member dies, a pension shall be payable to an eligible partner or eligible child of that Member, in accordance with provisions set out in relevant statute.

## **1.6 Resignation**

1.6.1 Members shall have the right to resign their seats in accordance with the constitution.

## **1.7 Infrastructure**

1.7.1 The Legislature shall have adequate physical infrastructure to enable Members and staff to fulfil their responsibilities.

1.7.2 Members shall be entitled to have adequate office accommodation, with modern amenities, throughout their term in office.

1.7.3 Appropriate steps shall be taken to ensure that adequate arrangements are made for differently-able Members in the performance of their duties.

1.7.4 Elected Members shall be provided with state funded offices in their constituencies.

## **II. Organization of the Legislature**

### **2. Procedures and Sessions**

#### **2.1 Rules of Procedure**

2.1.1 Only the Legislature may adopt and amend its rules of procedure.

2.1.2 Legislatures should take steps to ensure that newly elected/appointed Members are assisted in understanding how the Legislature works and its rules of procedure, in order to be able to use this knowledge to operate more effectively within the Legislature.



#### **2.2 Presiding Officers**

2.2.1 The Legislature shall elect presiding officers pursuant to criteria and procedures clearly defined in the rules of procedure

and/or in the constitution.



## **2.3 Convening Sessions**

2.3.1 The Legislature shall meet regularly, at intervals sufficient to fulfil its responsibilities.

2.3.2 The Legislature shall have procedures for calling itself into regular sittings.

2.3.3 The Legislature shall have procedures for calling itself into extraordinary or special sittings which shall be clearly specified in the rules of procedure

2.3.4 The Legislature shall have a clear definition of a regular sitting and a special sitting.

## **2.4 Agenda**

2.4.1 The Legislature shall give Members adequate and specific advance notice of sittings and the agenda for the sitting.

2.4.2 Members shall have the right to vote to amend the proposed agenda for debate in accordance with the rules of procedure.

2.4.3 Members in either house shall have the right to initiate legislation and to offer amendments to proposed legislation except where the constitution provides otherwise.

2.4.4 The Legislature shall readily set aside adequate time on a regular basis, as prescribed in the rules of procedure, for the discussion of Private Members' business.

2.4.5 The Legislature shall provide adequate resources for Private or Independent Members to draft legislation or amendments to legislation.

2.4.6 There shall be an annual parliamentary calendar to



The Clerk of the Parliament of Trinidad and Tobago, Ms Jacqui Sampson, at the drafting meeting.

promote transparency and planning by Members as well as those outside of the House who are required to provide services to the

Legislature, with provisional dates for formal recesses and long adjournments.

## **2.5 Debate**

2.5.1 The Legislature shall establish and follow clear procedures for structuring debate and determining the order of precedence of motions tabled by Members.

2.5.2 The Legislature shall provide adequate opportunity for Members to debate bills prior to a vote.

## **2.6 Voting**

2.6.1 Plenary votes in the Legislature shall be public.

2.6.2 The outcome of a vote may be challenged by any Member on a call for a division.

2.6.3 Only Members, entitled to vote, may vote on issues before the Legislature .

## **2.7 Records**

2.7.1 The Legislature shall maintain and publish readily accessible records of its proceedings in a standard and consistent format that is appropriate and sustainable.

2.7.2 The unedited record of the proceedings of the Legislature shall be available to members of the Legislature, as far as possible, no later than the day following a sitting.

2.7.3 The Legislature shall strive towards the establishment of a paperless environment.



**The Parliament of St Vincent and the Grenadines.**

### **3. Committees**

#### **3.1 Organization**

3.1.1 The Legislature shall have the right to form permanent and temporary committees.

3.1.2 The Legislature's assignment of committee members on each committee shall reflect the political composition of the Legislature.

3.1.3 The Legislature shall establish and follow a transparent method for selecting or electing the chairs of committees.

3.1.4 Committee hearings shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.

3.1.5 Once established, committees shall meet regularly to ensure completion of their terms of reference in a timely and effective manner.

#### **3.2 Powers**

3.2.1 There shall be a presumption that the Legislature will consider legislation in detail and/or refer it to a committee and

any exceptions must be transparent, narrowly-defined, and extraordinary in nature.

3.2.2 Committees shall scrutinize legislation referred to them and have the power to recommend amendments.

3.2.3 Committees shall have the right to consult and/or employ experts.

3.2.4 Committees shall have the power to summon persons, papers and records, and this power shall extend to witnesses and evidence from the executive branch, including officials.

3.2.5 Only Members appointed to the committee, or authorized alternates, shall have the right to vote in committee.

3.2.6 Legislation shall protect informants and witnesses presenting relevant information to parliamentary committees.

## **4. Political parties, Party groups and interest groups**

### **4.1 Political Parties**

4.1.1 The right of freedom of association shall exist for members, as for all people.

4.1.2 Any restrictions on the legality of political parties shall be narrowly drawn in law and shall be consistent with the International Covenant on Civil and Political Rights.

## **5. Parliamentary Staff**

### **5.1. General**

5.1.1 The Legislature shall have adequate professional staff to support its operations including the operations of its

committees but where applicable, Members are entitled to choose their own personal staff.

5.1.2 The Legislature shall control a Parliamentary Service, that is separate from the public service or any other state service, and determine the terms of employment

5.1.3 The Legislature shall draw and maintain a clear distinction between partisan and non-partisan staff.

5.1.4 Members and staff of the Legislature shall have access to sufficient research, library, and ICT facilities.

5.1.5 The Legislature shall provide facilities for the care and supervision of children of Members and staff who are required to work long and extended hours.

## **5.2 Recruitment**

5.2.1 The Legislature shall have adequate resources to recruit staff to fulfil its responsibilities. The rates of pay shall be broadly comparable to those in the public service.

5.2.2 The Legislature shall not discriminate in its recruitment of staff on the basis of race, ethnicity, religion, gender, disability, or, in the case of non-partisan staff, party affiliation.

## **5.3 Promotion**

5.3.1 Recruitment and promotion of non-partisan staff shall be on the basis of merit and equal opportunity.

## **5.4 Organization and Management**

5.4.1. There shall be established a parliamentary corporate board by legislation that shall be responsible for the management of the Legislature.

5.4.2 Each Legislature shall have an office of Clerk which should be a permanent and non-partisan office, with the principal responsibility to provide advice on rules of procedure to the Presiding Officer and other Members.

5.4.3 Legislation should provide for a Parliamentary Service and establish a corporate body responsible for the recruitment of the Clerk and the determination of the Parliament's budget as well as for providing general governance over the parliamentary service.



**Jamaican Clerk Ms Heather Cooke participates in the drafting meeting.**

5.4.4 The Administrative head of the Parliamentary Service shall have a form of

protected status to prevent undue political pressure.

5.4.5 As the most senior executive staff member in the Legislative branch, the remuneration of the Clerk shall, at the very least, be equivalent to that payable to the most senior executive staff member within the Executive and Judicial branches of State.

5.4.6 The recruitment, promotion and discipline of staff of the parliamentary service shall be the responsibility of the Clerk through an open and transparent process, consistent with sound industrial relations practices.

5.4.7 The terms and conditions of Presiding Officers shall not be less than what is applicable to Members of Parliament of Cabinet rank.

5.4.8 Appeals relating to recruitment, promotion and discipline should be referred to the Parliamentary Corporate Board which should have established a clearly defined and

articulated appeals process in accordance with sound industrial relations practice.

5.4.9 There should be a properly defined career structure for the profession of Clerkship in order to ensure continuity of procedural services to the Legislature.

5.4.10 All staff of the Parliamentary Service shall be subject to a code of conduct.



5.4.11 Staff of the Parliamentary Service shall have the right to join a union/association of their choice.

### **III. Functions of the Legislature**

#### **6. Legislative Function**

##### **6.1 General**

6.1.1 The approval of the Legislature shall be required for the passage of all laws, including budgets.

6.1.2 Only the Legislature shall be empowered to determine and approve the budget of the Legislature.

6.1.3 The Legislature shall have the power to pass resolutions or other non-binding expressions of its will.

6.1.4 In bicameral systems, only a popularly elected house shall have the power to bring down the government.

6.1.5 A chamber where a majority of Members are not directly or indirectly elected may not indefinitely deny or reject a money bill.

6.1.6 Ministries/Departments shall transmit Bills and other documents for parliamentary action, to the Clerk of each House in electronic form for timely distribution to Members. Hard copies of such documents, if required, shall also be transmitted in accordance with the established practice.

## **6.2 Legislative Procedure**

6.2.1 In a bicameral Legislature there shall be clearly defined roles for each chamber in the passage of legislation.

6.2.2 The Legislature shall have the right to override an executive veto.

6.2.3 There shall be adequate time allowed between the first and second reading stages of Bills as provided in the rules of procedure. Any exceptions must be transparent, narrowly defined, and extraordinary in nature.

## **6.3 The Public and Legislation**

6.3.1 The Legislature shall provide adequate mechanisms to encourage wider consultations and public submissions on Bills introduced.

6.3.2 Information shall be provided to the public in a timely manner regarding matters under consideration by the Legislature.

## **7. Oversight function**

### **7.1 General**





7.1.1 The Legislature shall have appropriate legislation or a constitutional provision that clearly determines the minimum size

of the cabinet.

7.1.2 The Legislature shall have mechanisms to obtain information from the executive sufficient to exercise its oversight function in a meaningful and timely manner.

7.1.3 The oversight authority of the Legislature shall include meaningful and timely oversight of the military, security and intelligence services.

7.1.4 The oversight authority of the Legislature shall include meaningful and timely oversight of state owned enterprises.

7.1.5 The oversight authority of the Legislature shall include meaningful and timely oversight of compliance with international treaties and obligations.

7.1.6 The oversight authority of the Legislature shall include meaningful and timely oversight of accountability institutions, such as Elections Commissions, Human Rights commissions, Anti-corruption Commissions, Ombudsmen, information commissions and offices of Auditors General.

## **7.2 Financial and Budget Oversight**

7.2.1 The Legislature shall have a reasonable period of time that is clearly specified in the Rules of Procedure in which to review and debate the proposed national budget.

7.2.2 The Legislature shall have clear procedures requiring government to provide timely responses to parliamentary committee reports and recommendations.

7.2.3 Oversight committees shall provide meaningful opportunities for minority or Opposition Members and Independents to engage in effective oversight of government expenditures. The Public Accounts Committee and other oversight committees shall be chaired by a Member of the Opposition or an Independent.

7.2.4 Oversight committees shall have access to records of executive branch accounts and related documentation sufficient to be able to meaningfully review the accuracy of executive branch reporting on its revenues and expenditures.

7.2.5 There shall be an independent, non-partisan Supreme or National Audit Office whose reports are tabled in the Legislature in a timely manner.

7.2.6 All reports of the national audit office shall stand referred to the Public Accounts Committee for further investigation, if necessary, and report.

7.2.7 The supreme or national audit office shall be provided with adequate human and other resources and legal authority to conduct audits in a timely manner.



The Parliament of Guyana in Georgetown.

### **7.3 No Confidence**

7.3.1 The Legislature shall have mechanisms to censure officials of the

executive branch, or express no-confidence in the government.



The Legislative Assembly building in the Cayman Islands.

7.3.2 If the Legislature expresses no confidence in the Head of Government, the Head of Government is obliged to offer his/her resignation. If the Head of State agrees that no other alternative government can be formed then a general election should be held.

## **8. Representational Function**

### **8.1 Constituent Relations**

8.1.1 The Legislature shall provide each elected Member with adequate and appropriate resources within his/her constituency, to enable him/her to fulfil representational functions.

### **8.2 Parliamentary Networking and Diplomacy**

8.2.1 The Legislature shall have the authority to receive development assistance from legitimate and reputable institutions or organization to strengthen the institution of Parliament.

8.2.2 Members and staff of Parliament shall have the authority to receive technical and advisory assistance from legitimate and reputable institutions or organization as well as to

network and exchange experience with individuals from other Legislatures.

## **IV. Values of the Legislature**

### **9. Accessibility**

#### **9.1 Citizens and the Press**

9.1.1 The Legislature shall be accessible and open to citizens and the Media, subject only to demonstrable public safety and work requirements.

9.1.2 The Legislature should ensure that the Media are given appropriate access to the proceedings of the Legislature without compromising the proper functioning of the Legislature and its rules of procedure.

9.1.3 The Legislature shall promote the Media's understanding of the work of the Legislature and its rules of procedure.

9.1.4 The Legislature shall have a non-partisan media relations facility, independent of the Executive branch.

9.1.5 The Legislature shall promote the public's understanding of the work of the Legislature.



The Bahamas Parliament building in Nassau.

### **9.2 Languages**

9.2.1 Where the constitution or parliamentary rules provide for the use of



Some of the participants in the Barbados drafting meeting (from left to right): Mr Adrian Hayes of Grenada, Mr Pedro Eastmond of Barbados, Ms Zena Merren-Chin of the Cayman Islands, Ms Lydia Jacobs of Trinidad and Tobago and Ms Lynette Joseph-Guevara of Trinidad and Tobago.

multiple working languages, the Legislature shall provide for simultaneous interpretation of debates and translation of records.

## **10. Ethical Governance**

### **10.1 Transparency and Integrity**

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

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

10.1.3 Legislatures shall require Members to fully disclose their financial assets and business interests.

10.1.4 There shall be mechanisms to prevent, detect, and bring to justice Members and staff engaged in corrupt practices.

10.1.5 Legislatures should establish a mechanism to oversee the conduct of Members.

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