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# Recommended Benchmarks for Democratic Legislatures

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**WORLD BANK GROUP**



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FOUNDATION FOR  
DEMOCRACY**



European Parliament



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DEMOCRATIC  
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### Recommended Benchmarks for Democratic Legislatures

The 2006 CPA Benchmarks were the outcome of a Study Group in late 2006 hosted by the Legislature of Bermuda on behalf of the **Commonwealth Parliamentary Association (CPA)** and the **World Bank Institute (World Bank Group)** with support from the **United Nations Development Programme (UNDP)**, the **European Parliament** and the **National Democratic Institute for International Affairs (NDI)**.

The Benchmarks were revised and updated in June 2018 by a second Study Group of CPA Parliamentarians representing different Commonwealth regions, which met at Wilton Park, West Sussex, United Kingdom. The 2018 Study Group was organised by the **Commonwealth Parliamentary Association (CPA) Headquarters Secretariat** together with the **Westminster Foundation for Democracy (WFD)**.

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## PREAMBLE

Building on the Commonwealth Latimer House Principles adopted in 2003, which delineate the relationship between the three Branches of Government and provide guidance on the separation of powers, the **Commonwealth Parliamentary Association (CPA)** synthesized and codified a set of Benchmarks in 2006 to reflect good Commonwealth parliamentary practice.

The original Benchmarks are comprised of 87 indicators and were drafted by Parliamentarians representing different Commonwealth regions. The 2006 Study Group represented most of the Commonwealth regions but could not capture all the nuances and diversity in the 52 Commonwealth countries.<sup>1</sup> The development of regional versions of the CPA Benchmarks, for the Pacific region (2009); Asia, India and South-East Asia regions (2010); and the Caribbean, Americas and Atlantic region (2011) has therefore further contributed to the evolution of the Benchmarks. These regional versions have identified variations in practices and priorities, so Parliaments have Benchmarks that truly reflect the Commonwealth's diversity.

Reinforcing the belief that effective Parliaments are one of the principal institutions of any functioning democracy, the **Recommended Benchmarks for Democratic Legislatures** provide a minimum standard and a guide on how a Parliament should be constituted and how it should function. The Benchmarks are therefore fundamental to the wider values and principles of the Commonwealth Charter, adopted by Commonwealth Heads of Government on 14 December 2012, which expresses the commitment of member states to the development of free and democratic societies.

Emphasising the position of the parliamentary system as a dynamic one, all Legislatures can be sources of valuable innovations regardless of their size or age. Different experiences, approaches and attitudes foster variations in practices and policies which stimulate innovation everywhere. Reflecting new parliamentary developments and practices as well as important international developments such as the implementation of the 2015 United Nations Sustainable Development Goals (SDGs), the 2006 Benchmarks have now been reviewed. These updated Benchmarks will continue to play an important part in developing the effectiveness of parliamentary institutions across the 180 Parliaments and Legislatures of the Commonwealth Parliamentary Association.

The Commonwealth Parliamentary Association (CPA) looks forward to working with its partners to promote the updated Benchmarks and will work with its membership to review how they are being implemented within their jurisdictions.

## **I. GENERAL**

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#### **I.1 Elections**

- I.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.
- I.1.2 Legislative elections shall meet international standards for genuine and transparent elections.<sup>2</sup>
- I.1.3 Term lengths for Members of the popular house shall reflect the need for accountability through regular and periodic legislative elections.
- I.1.4 There shall be legislation to ensure campaign finance laws are in place to regulate the manner and extent to which political parties and candidates may receive monetary contributions from individuals and corporations.<sup>3</sup>
- I.1.5 An independent Electoral Commission or similar authority shall be established for the management of the conduct of elections and its tasks shall include monitoring the election expenses of parliamentary candidates and political parties.<sup>4</sup>

#### **I.2 Candidate Eligibility**

- I.2.1 Restrictions on candidate eligibility shall not be based on religion, gender, ethnicity, race or disability.
- I.2.2 Measures to encourage the representative political participation of marginalized groups shall be drawn to accomplish precisely defined objectives.<sup>5</sup>

### **1.3 Incompatibility of Office**

- 1.3.1 No elected Member shall be required to take a religious oath against his or her conscience in order to take his or her seat in the Legislature.
- 1.3.2 In a bicameral Legislature, a legislator may not be a Member of both houses.
- 1.3.3 A legislator may not simultaneously serve in the judicial branch or as a civil servant of the Executive branch.

### **1.4 Freedom of Speech Immunity<sup>6</sup>**

- 1.4.1 The Legislature is protected by the freedom of speech immunity. The immunity shall protect persons from legal liability for words spoken and acts done while participating in or directly facilitating the Legislature's proceedings,<sup>7</sup> and shall restrict the judicial branch's use of such words and acts as evidence in judicial proceedings.<sup>8</sup>
- 1.4.2 The freedom of speech immunity shall operate to enable the Legislature to carry out its constitutional functions effectively, free from interference or impediment. This includes the Legislature having access to all the information it needs to carry out its functions.
- 1.4.3 The Legislature shall have protection against potential misuse of the freedom of speech immunity. References to judicially suppressed or protected information, or to matters awaiting judicial decision, shall be made only in exceptional circumstances and with due regard to the separation of powers between the Legislature and the judiciary.<sup>9</sup>
- 1.4.4 The Legislature shall have mechanisms for persons to respond to adverse references made to them in the course of the Legislature's proceedings.
- 1.4.5 The freedom of speech immunity shall continue to apply to former Legislators after they have left office, in respect of words spoken and acts done while holding office and participating in or directly facilitating the Legislature's proceedings.

## **1.5 Remuneration and Benefits**

- 1.5.1 Fair remuneration and reimbursement of parliamentary expenses shall be provided to legislators for their service, to ensure that they give priority to parliamentary duties. All forms of compensation shall be allocated on a non-partisan basis.<sup>10</sup>
- 1.5.2 An independent body or mechanism should determine the remuneration, benefits and other statutory entitlements of legislators.<sup>11</sup>

## **1.6 Professional Development**

- 1.6.1 The Legislature shall take measures to ensure that newly elected Members are assisted in understanding how the Legislature works and its rules of procedure.<sup>12</sup>
- 1.6.2 The Legislature shall take measures to assist legislators increase their knowledge and skills in the performance of their parliamentary duties.<sup>13</sup>

## **1.7 Resignation**

- 1.7.1 Legislators shall have the right to resign from Parliament in accordance with clearly defined procedures in the rules of procedure, the Constitution or any other related law.<sup>14</sup>

## **1.8 Natural Justice<sup>15</sup>**

- 1.8.1 The Legislature shall incorporate principles of natural justice into its rules and procedures, and these shall be applied rigorously to all situations where serious allegations are made against named or identifiable persons during the course of proceedings, either in the Legislature or in its Committees.
- 1.8.2 Members, or others, who are subject to serious charges of contempt of, and offences against, the Legislature are accorded natural justice during the whole process of consideration, and the charges are decided on the basis of all properly admissible evidence.

1.8.3 Punishments imposed by the Legislature on Members or other people (for example, fines, or suspensions from attending or participating in further sittings of the Legislature and its Committees) are proportionate and fair.

## **1.9 Infrastructure**

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

## **II. ORGANISATION OF THE LEGISLATURE**

### **2. PROCEDURE AND SESSIONS**

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

2.1.1 The Legislature's rules of procedure reflect and support the actual practice and culture of the Legislature.<sup>16</sup>

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

2.1.3 The Legislature's rules, procedures and practice shall be reviewed regularly to enhance parliamentary effectiveness and relevance.<sup>17</sup>

2.1.4 Changes to the Legislature's rules of procedure shall be adopted with near unanimity.<sup>18</sup>

2.1.5 The Legislature's rules of procedure shall allow Members to raise genuine and succinct points of order for the Presiding Officer to consider and decide.<sup>19</sup>

2.1.6 The Legislature's rules, procedures and practice shall be accessible to Members and to the public.<sup>20</sup>

## 2.2 Presiding Officers

- 2.2.1 The Legislature shall select or elect Presiding Officers pursuant to criteria and procedures clearly defined in the Constitution and/or rules of procedure.<sup>21</sup>
- 2.2.2 The Presiding Officer maintains order so that the Legislature carries out its functions effectively and Members have full opportunities to participate and be heard in accordance with the Legislature's rules, procedures and practice.<sup>22</sup>
- 2.2.3 The Presiding Officer decides all questions of procedure, and in doing so is guided by previous decisions and practice.<sup>23</sup>
- 2.2.4 Punishments (such as orders to leave the chamber) are imposed on Members during proceedings only to the extent necessary to uphold the Presiding Officer's proper authority and ability to chair proceedings.<sup>24</sup>

## 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 session.
- 2.3.3 The Legislature shall have procedures for calling itself into extraordinary or special session.
- 2.3.4 Provisions and qualifying requirements for the Executive branch to convene a special session of the Legislature shall be clearly specified.<sup>25</sup>

## 2.4 Agenda

- 2.4.1 Legislators shall have the right to vote to amend the proposed agenda for debate in accordance with the rules of procedure.<sup>26</sup>



2.4.2 Legislators in the lower or only house shall have the right to initiate legislation and to offer amendments to proposed legislation.

2.4.3 A substantial proportion of the Legislature's time is set aside for it to consider business proposed by non-Government Members.<sup>27</sup>

2.4.4 There shall be an annual parliamentary calendar to promote transparency.<sup>28</sup>

## **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 legislators to debate Bills prior to a vote.

## **2.6 Voting**

2.6.1 Plenary debates and votes in the Legislature shall be public.<sup>29</sup>

2.6.2 Members in a minority on a vote shall be able to demand a recorded vote.

2.6.3 Only legislators may vote on issues before the Legislature.

## **2.7 Petitions**

2.7.1 The Legislature shall have procedures to allow for the meaningful consideration of petitions.<sup>30</sup>

## **2.8 Records**

2.8.1 The Legislature shall maintain and publish readily accessible records of its proceedings, in a standard and consistent format.<sup>31</sup>

### **3. COMMITTEES**

#### **3.1 Organisation**

- 3.1.1 The Legislature shall have the right and sufficient resources to form permanent and temporary Committees.<sup>32</sup>
- 3.1.2 The Legislature's assignment of Committee Members on each Committee shall include both majority and minority party Members and 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 Once established, Committees shall meet regularly in a timely and effective manner.<sup>33</sup>
- 3.1.5 All Committee votes and substantive decisions, and the Committee's reasons for them, are made public in an accessible and timely manner.<sup>34</sup>

#### **3.2 Powers**

- 3.2.1 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.
- 3.2.2 There shall be a presumption that the Legislature will refer legislation to a Committee, and any exceptions must be transparent, narrowly-defined, and extraordinary in nature.
- 3.2.3 Committees shall scrutinize legislation referred to them and have the power to recommend amendments or amend the legislation.
- 3.2.4 Committees shall have the right and sufficient resources to consult and/or employ experts.<sup>35</sup>

- 3.2.5 Committees shall seek and receive submissions from the public about the business before them and provide reasonable time for written submissions to be prepared.<sup>36</sup>
- 3.2.6 Committees hear evidence from people who wish to be heard, if practicable, or at least ensure that hearings cover the diverse perspectives of submitters.<sup>37</sup>
- 3.2.7 Committees hear evidence in public unless there is good reason to hear particular submissions in closed session.<sup>38</sup>
- 3.2.8 Legislatures shall protect informants such as whistleblowers or public servants and witnesses presenting relevant information to Committees about corruption or unlawful activity.<sup>39</sup>
- 3.2.9 Only Legislators appointed to the Committee, or authorised substitutes, shall have the right to vote in Committee.

## **4. POLITICAL PARTIES, PARTY GROUPS, CROSS PARTY GROUPS AND THE OPPOSITION**

### **4.1 Political Parties**

- 4.1.1 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.
- 4.1.2 The public and private funding of political parties and candidates shall be transparent and accountable.<sup>40</sup>

### **4.2 Party Groups**

- 4.2.1 Criteria for the formation of parliamentary party groups, and their rights and responsibilities in the Legislature, shall be clearly stated in the Rules.
- 4.2.2 The Legislature shall provide adequate resources and facilities for party groups pursuant to a clear and transparent formula that does not unduly advantage the majority party.<sup>41</sup>

### **4.3 Cross Party Groups**

4.3.1 Legislators shall have the right to form interest caucuses around issues of common concern.

### **4.4 The Opposition<sup>42</sup>**

4.4.1 The Legislature shall ensure adequate facilities and allocation of resources for the Opposition, including the leader.

## **5. PARLIAMENTARY STAFF**

### **5.1. General**

5.1.1 The Legislature shall have an adequate non-partisan professional staff to support its operations including the operations of its Committees.

5.1.2 The Legislature, rather than the Executive branch, shall control the parliamentary service and determine the terms of employment. There shall be adequate safeguards to ensure non-interference from the Executive.<sup>43</sup>

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 take measures to ensure that women are represented at all levels of administration.<sup>44</sup>

## 5.2 Recruitment

- 5.2.1 The Legislature shall have adequate resources to recruit staff sufficient to fulfil its responsibilities. The rates of pay shall be broadly comparable to those in the public service.<sup>45</sup>
- 5.2.2 The Legislature shall have transparent and objective recruitment procedures that 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.<sup>46</sup>

## 5.3 Promotion

- 5.3.1 Recruitment and promotion of non-partisan staff shall be on the basis of merit and equal opportunity.<sup>47</sup>

## 5.4 Organisation and Management

- 5.4.1 The head of the parliamentary service shall have a form of protected status defined in legislation or in the Constitution to prevent undue political pressure.<sup>48</sup>
- 5.4.2 The remuneration of the head of the parliamentary service shall be set by an independent body or mechanism.<sup>49</sup>
- 5.4.3 The Legislature should, either by legislation or resolution, establish a corporate body responsible for providing services and funding entitlements for parliamentary purposes and providing for governance of the parliamentary service.<sup>50</sup>
- 5.4.4 All staff shall be subject to a code of conduct.

### III. FUNCTIONS OF THE LEGISLATURE

#### 6. LEGISLATIVE FUNCTION

##### 6.1 General

6.1.1 The approval of the Legislature is required for the passage of all legislation, including budgets.

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

6.1.3 The Legislature shall scrutinize secondary, delegated or subordinate legislation including its authority and scope.<sup>51</sup>

6.1.4 The Legislature shall provide adequate resources for legislators to draft legislation or amendments to any legislation.<sup>52</sup>

6.1.5 The Legislature shall encourage the process of equality impact assessment with respect to the development of legislation, policies and budgets.<sup>53</sup>

##### 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 The Executive shall transmit Bills and other documents for parliamentary action for timely distribution to Members.<sup>54</sup>

6.2.4 The Legislature shall establish procedures for systematic monitoring of the effective implementation and consequences of legislation.<sup>55</sup>

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

## **6.3 The Public and Legislation**

- 6.3.1. Opportunities shall be given for public input into the legislative and Committee process, including the budget process.<sup>56</sup>
- 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 legislation, a constitutional provision or practice that ensures the size of the Cabinet is in proportion to the size of the Legislature.<sup>57</sup>
- 7.1.2. The Legislature shall have mechanisms to obtain information from the Executive branch sufficient to exercise its oversight function in a meaningful and timely manner. There shall be clear and effective procedures requiring the Executive to provide timely responses to oral and written questions and Parliamentary Committee reports and recommendations.<sup>58</sup>
- 7.1.3. The oversight authority of the Legislature shall include effective oversight of the military, security and intelligence services.<sup>59</sup>
- 7.1.4. The oversight authority of the Legislature shall include effective oversight of state-owned enterprises.<sup>60</sup>
- 7.1.5. The oversight authority of the national Legislature shall include effective oversight of compliance with international treaties and obligations, including international human right instruments and the Sustainable Development Goals (SDGs).<sup>61</sup>
- 7.1.6. The Legislature shall establish a position of independent ombudsman, or similar office.<sup>62</sup>

7.1.7 The Legislature shall establish a Human Rights Commission, or similar office, with the mandate to protect against human rights violations.<sup>63</sup>

7.1.8 The Legislature shall receive annual reports and scrutinize the activities of all independent constitutional bodies, such as human rights commissions, anti-corruption bodies and ombudsmen and, where feasible, follow-up on issues arising from their reports.<sup>64</sup>

7.1.9 The Legislature shall ensure that independent constitutional bodies receive adequate resources and the work of such institutions are not subject to political pressure from the Executive.<sup>65</sup>

## 7.2 Financial and Budget Oversight

7.2.1 Budget approval and scrutiny procedures shall be clearly specified in the rules of procedure, the Constitution or relevant legislation.<sup>66</sup>

7.2.2 The Legislature shall have a reasonable period of time in which to adequately scrutinize and debate the proposed national budget.<sup>67</sup>

7.2.3 Oversight Committees shall provide meaningful opportunities for minority or opposition parties and independent MPs to engage in effective oversight of government expenditures.

7.2.4 In addition to the draft annual budget, the Legislature shall receive and assess medium-term and annual budget strategies and be informed of the main assumptions that underlie the annual budget's revenue and expenditure projections.<sup>68</sup>

7.2.5 The Legislature shall receive regular in-year budget reports and an audited annual financial statement from the government within 12 months after the end of the fiscal year.<sup>69</sup>

7.2.6 The Legislature shall have access to sufficient financial scrutiny resources and/or independent budget and financial expertise to ensure that financial oversight is conducted effectively.<sup>70</sup>



- 7.2.7 There shall be an independent, non-partisan Supreme or National Audit Office whose reports are tabled in the Legislature in a timely manner.
- 7.2.8 The Supreme or National Audit Office shall be provided with adequate resources and legal authority to conduct audits in a timely manner.
- 7.2.9 All reports of the Supreme or National Audit Office shall stand referred to the Public Accounts Committee, or a designated Committee, for further report.<sup>71</sup>

### **7.3 No Confidence and Impeachment**

- 7.3.1 In bicameral systems, only a popularly elected house shall have the power to bring down the government.
- 7.3.2 The Legislature shall have mechanisms to impeach or censure the Executive branch, or express no-confidence in the government.
- 7.3.3 If the Legislature expresses no confidence in the government, the government is obliged to offer its resignation. If the head of state agrees that no other alternative government can be formed, a general election should be held in an appropriate time frame that is clearly specified in the Constitution or in any other related law.<sup>72</sup>

## **8. REPRESENTATIONAL FUNCTION**

- 8.1.1 The Legislature shall be organised in such a way as to enable the substantive representation of women in its work.
- 8.1.2 The Legislature shall provide all legislators with adequate and appropriate resources to enable them to fulfil their constituency responsibilities.

## **9. PARLIAMENTARY ASSISTANCE, NETWORKING AND DIPLOMACY**

- 9.1.1 The Legislature shall have the right to seek and receive development assistance to strengthen the institution of Parliament.<sup>73</sup>
- 9.1.2 The type of assistance, budget and the use of development assistance received by the Legislature shall be determined by the Legislature in a transparent and accountable manner.<sup>74</sup>
- 9.1.3 Members and the staff of Parliament shall have the right to receive technical and advisory assistance, as well as to network and exchange experience with individuals from other Legislatures.

## **IV. VALUES OF THE LEGISLATURE**

### **10. ACCESSIBILITY, OPENNESS AND ENGAGEMENT**

#### **10.1 Citizens and the Press**

- 10.1.1 The Legislature shall be accessible and open to citizens and the media, subject only to demonstrable public safety and work requirements.
- 10.1.2. The Legislature shall be accessible and open to persons with disabilities.<sup>75</sup>
- 10.1.3 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.
- 10.1.4 The Legislature shall have a non-partisan media relations facility.
- 10.1.5 The Legislature shall promote the public's understanding of the work of the Legislature.

10.1.6 The Legislature shall identify demographic groups whose perspectives are not well represented in parliamentary decision-making and make efforts to increase their participation.<sup>76</sup>

10.1.7 The Legislature shall have a regularly updated and accessible website to enhance and promote information sharing and interaction with citizens and the outside world.<sup>77</sup>

## **10.2 Languages**

10.2.1 Where the Constitution or parliamentary rules provide for the use of multiple working languages, the Legislature shall make every reasonable effort to provide for simultaneous interpretation of debates and translation of records.

## **11. ETHICAL GOVERNANCE**

### **11.1 Transparency and Integrity**

11.1.1 Legislators should maintain high standards of accountability, transparency, responsibility and propriety in the conduct of all public and parliamentary matters including strict adherence to codes of conduct, and interest disclosure rules.<sup>78</sup>

11.1.2 The Legislature shall approve and enforce codes of conduct, including rules on conflicts of interest and the acceptance of gifts.<sup>79</sup>

11.1.3 Legislatures shall require legislators to periodically, fully and publicly disclose their financial and other relevant interests.<sup>80</sup>

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

### **11.2 Freedom of Information (FOI)**

11.2.1 There shall be an effective FOI regime to give the public access to information held by public authorities.<sup>81</sup>

## ENDNOTES

<sup>1</sup> In 2006, the Commonwealth was made up of 52 countries.

<sup>2</sup> The 2018 Study Group noted that some CPA regions had specified relevant international standards to be followed for genuine and transparent elections, for example those contained in the *Declaration of Principles for International Election Observation* and *Code of Conduct for International Election Observers*.

<sup>3</sup> New Benchmark agreed by the 2018 Study Group. The Study Group noted the *Cost of Politics* study undertaken by the Westminster Foundation for Democracy (WFD), which highlights the risks and negative impact of high-cost politics (including fears concerning corruption, exclusion from the political process and the quality of democracy).

<sup>4</sup> New Benchmark agreed by the 2018 Study Group to strengthen electoral integrity through the presence of strong institutional safeguards, including the authority to review and audit the financial reporting of candidates and parties.

<sup>5</sup> Amended by the 2018 Study Group.

<sup>6</sup> This section was amended by the 2018 Study Group to broaden the immunities section – one of the purposes of the freedom of speech privilege is to ensure that Parliament has all the information

it needs to do its work, and the Study Group agreed there was a good principled basis for expanding the 2006 Benchmarks.

<sup>7</sup> The freedom of speech immunity is held by the Legislature itself and not individuals. It covers the words and actions not only of legislators, but also witnesses appearing before Committees and staff who provide services that directly facilitate the Legislature's proceedings. The test for whether or not the immunity applies in a particular case turns on whether the words or acts form part of proceedings or directly facilitate proceedings.

<sup>8</sup> The judiciary can use parliamentary proceedings in judicial proceedings for some limited purposes, such as interpreting the will of the Legislature regarding a particular statute, or establishing a historical fact. Determining what constitutes an appropriate versus an inappropriate use of parliamentary proceedings is complex, and will always depend on the specific context. The main principle is that the judiciary should not “question or impeach” the Legislature's proceedings, because doing so would undermine the independence of the Legislature and the separation of powers between the two branches.

<sup>9</sup> Ideally, this Benchmark should be realised by including provision in the rules of procedure for the Presiding Officer to consider such matters. For example, the rules of procedure can include a general prohibition on such references, subject to

the Presiding Officer's discretion. Members of the Legislature can then be required to provide written notice to the Presiding Officer of their intention to make such a reference and the justification for doing so. The Presiding Officer can then rule on the matter following due consideration, having regard to the public interest and the constitutional relationship between the Legislature and the judiciary. This should include specific consideration of the risk of prejudicing a matter awaiting or currently under adjudication by the judiciary.

<sup>10</sup> Amended by the 2018 Study Group.

<sup>11</sup> New Benchmark agreed by the 2018 Study Group.

<sup>12</sup> New Benchmark agreed by the 2018 Study Group to ensure that new and returning Members receive some induction training in the rules of procedure.

<sup>13</sup> New Benchmark agreed by the 2018 Study Group to encourage the continuous professional development of Members.

<sup>14</sup> Amended by the 2018 Study Group to ensure resignations follow agreed procedures.

<sup>15</sup> New section introduced by the 2018 Study Group.

<sup>16</sup> New Benchmark agreed by the 2018 Study Group.

<sup>17</sup> New Benchmark agreed by the 2018 Study Group.

<sup>18</sup> New Benchmark agreed by the 2018 Study Group.

<sup>19</sup> New Benchmark agreed by the 2018 Study Group.

<sup>20</sup> Amended by the 2018 Study Group to improve knowledge of the Legislature's work among the wider citizenry and to enable their participation.

<sup>21</sup> Amended by the 2018 Study Group to recognise that, in some circumstances, Presiding Officers are appointed under the Constitution.

<sup>22</sup> New Benchmark agreed by the 2018 Study Group.

<sup>23</sup> New Benchmark agreed by the 2018 Study Group. The Study Group felt that previous rulings or decisions of the Presiding Officer that have ongoing force and relevance should be accessible for Members and others to guide their participation in the Legislature's business. However, it was accepted that this might be a challenge for many small Parliaments.

<sup>24</sup> New Benchmark agreed by the 2018 Study Group.

<sup>25</sup> Amended by the 2018 Study Group.

<sup>26</sup> Amended by the 2018 Study Group to ensure that specific rules of procedure are followed whenever legislators vote to amend the proposed agenda for debate.

<sup>27</sup> New Benchmark agreed by the 2018 Study Group.

<sup>28</sup> New Benchmark agreed by the 2018 Study Group to ensure greater predictability and transparency in the scheduling of parliamentary business.

<sup>29</sup> The 2006 Study Group noted that one possible exception to this may be the election of officers. Amended by 2018 Study Group to ensure that plenary debates are open to the public.

<sup>30</sup> New Benchmark agreed by the 2018 Study Group.

<sup>31</sup> Amended by the 2018 Study Group.

<sup>32</sup> Amended by the 2018 Study Group as the Legislature can only form effective permanent and temporary Committees if it has sufficient resources.

<sup>33</sup> New Benchmark agreed by the 2018 Study Group.

<sup>34</sup> Amended by the 2018 Study Group.

<sup>35</sup> Amended by the 2018 Study Group.

<sup>36</sup> New Benchmark agreed by the 2018 Study Group.

<sup>37</sup> Agreed by the 2018 Study Group.

<sup>38</sup> New Benchmark agreed by the 2018 Study Group. The Study Group accepted that closed hearings may be necessary for reasons of personal safety, or the provision of sensitive information that is necessary to proceedings.

<sup>39</sup> Amended by the 2018 Study Group. The Study Group noted that a number of recent decisions by Maltese courts, including the Constitutional Court, had ruled on the applicable guidelines to witnesses appearing before Parliamentary Committees with the result that the Committee's power to summon witnesses has been curtailed.

<sup>40</sup> New Benchmark agreed by the 2018 Study Group. The Benchmark is designed to improve the transparency and accountability of political party funding (whether public or private) and safeguard the integrity and fairness of public decision-making. The Study Group noted that international instruments such as the *United Nations Convention against Corruption*, requires State Parties to “*enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.*”

<sup>41</sup> The 2006 Study Group considered it best practice for Legislatures to provide party groups with funding allocations and to all each party group to make their own

decisions on the types of facilities they require. This Study Group also recognised the special circumstances of small and/or under-resourced jurisdictions.

<sup>42</sup> The 2018 Study Group added a new section to highlight the important role of the Opposition in Parliament.

<sup>43</sup> Amended by the 2018 Study Group to restrict Executive interference in all cases (including instances where parliamentary services are drawn from the public service).

<sup>44</sup> New Benchmark agreed by the 2018 Study Group.

<sup>45</sup> The 2018 Study Group noted that the Maltese Parliamentary Service is finding difficulties in engaging employees such as IT and Finance primarily because it offers pay comparable to those in the public service.

<sup>46</sup> Amended by the 2018 Study Group.

<sup>47</sup> Rather than banning political activity by non-partisan staff, the 2006 Study Group recommended that all staff be subject to a code of conduct and that staff are assessed on their conduct annually. A code of conduct should make clear what is acceptable staff behaviour and serve to prevent staff from using their position to influence the functioning of the Legislature in a political manner.

<sup>48</sup> Amended by the 2018 Study Group.

<sup>49</sup> New Benchmark agreed by the 2018 Study Group, taking note of the recommendations of the CPA Study Group on *'The Financing and Administration of Parliament'*, held in Zanzibar, Tanzania from 25 to 29 May 2005.

<sup>50</sup> This 2006 Benchmark was taken directly from the recommendations of the previous CPA's Study Group on *'The Financing and Administration of Parliament'*, held in Zanzibar, Tanzania from 25 to 29 May 2005.

<sup>51</sup> New Benchmark agreed by the 2018 Study Group to ensure that due attention and focus is given to delegated legislation, an area of increased importance and highlighted by many Legislatures as a gap in the original Benchmarks.

<sup>52</sup> New Benchmark agreed by the 2018 Study Group to ensure that Private Members can fairly exercise their rights to initiate and introduce legislation.

<sup>53</sup> New Benchmark agreed by the 2018 Study Group.

<sup>54</sup> New Benchmark agreed by the 2018 Study Group.

<sup>55</sup> New Benchmark agreed by the 2018 Study Group to ensure that the legislative process places sufficient attention on the consequences and impact of legislation (post-legislative scrutiny).

<sup>56</sup> Amended by the 2018 Study Group to encourage Parliament to provide opportunities for civil society and the general public to engage in discussions about how public resources are raised and spent.

<sup>57</sup> New Benchmark agreed by the 2018 Study Group to ensure that a Parliament's oversight function is not restricted by the size of the Cabinet (a particular concern in small Legislatures). A small Cabinet ensures a larger parliamentary component for the oversight Committees and relieves pressure on backbenchers from the ruling party/parties. The Study Group noted that the *Government of Wales Act 2006* permits a maximum size of the Welsh Government of 12 Ministers, including Deputy Welsh Ministers, and the First Minister and the Counsel General (therefore 14 in total). In total, there are 60 Assembly Members.

<sup>58</sup> Amended by the 2018 Study Group to establish the expectation that the Executive provides appropriate information to enable effective and timely scrutiny and stresses the need for the Executive to respond oral and written questions and Committee reports and recommendations—a concern frequently raised by legislators.

<sup>59</sup> Amended by the 2018 Study Group.

<sup>60</sup> Amended by the 2018 Study Group.

<sup>61</sup> New Benchmark agreed by the 2018 Study Group. The oversight of international treaties and obligations forms part of the Legislature's core responsibility. The SDGs, adopted by United Nations resolution in 2015, establish a clear set of indicators to measure progress towards sustainable human development, and form the basis of the Post-2015 Development Agenda. The Study Group noted that Points 6 and 7 of SDG 16 on Peace, Justice and Strong Institutions are particularly significant to the question of accountable governance and the role of Parliaments:

*16.6 Develop effective, accountable and transparent institutions at all levels*

*16.7 Ensure responsive, inclusive, participatory and representative decision-making at all levels*

<sup>62</sup> New Benchmark agreed by the 2018 Study Group. The function and role of this office, as defined by the *International Ombudsman Institute*, is to protect a country's citizens "against violation of rights, abuse of powers, error, negligence, unfair decisions and maladministration" and to encourage the government and the public administration to be more accountable to the public and more open and transparent. According to *Transparency International*, the Ombudsman is one of the key pillars of a country's governance system, as considered by the National Integrity System Assessments.



<sup>63</sup> New Benchmark agreed by the 2018 Study Group.

<sup>64</sup> New Benchmark agreed by the 2018 Study Group to ensure that the Legislature sits at the apex of broad accountability structures in order to provide a framework for their activity, publicise their existence and use the information they provide to challenge Ministers. See *Report of the Hansard Society Commission on Parliament Scrutiny. The Challenge for Parliament: Making Government Accountable*, Vacher Dod Publishing Limited 2001.

<sup>65</sup> New Benchmark agreed by the 2018 Study Group.

<sup>66</sup> New Benchmark agreed by the 2018 Study Group to ensure regulations and laws are in place specific to Parliament budget scrutiny.

<sup>67</sup> Amended by the 2018 Study Group to focus on the principles of adequate notice and time to consider as means to the end of meaningful scrutiny and parliamentary control of public spending. The Study Group noted the work of the *International Monetary Fund (IMF)* and *Organisation for Economic Co-operation and Development (OECD)* in establishing international good practice in the area of Parliament and the budget, including the practice that the presentation of the draft budget should be no less than three months prior to the start of the fiscal

year and the budget should be adopted in advance of the new fiscal year.

<sup>68</sup> New Benchmark agreed by the 2018 Study Group to reflect recognised international good practice.

<sup>69</sup> New Benchmark agreed by the 2018 Study Group to facilitate parliamentary oversight of budget execution/implementation.

<sup>70</sup> New Benchmark agreed by the 2018 Study Group to ensure the Legislature is able to make the best use of information available to it through independent support whether through Committee staff, special advisers and consultants or a budget office or officer to offer independent advice on budgetary matters and to assist with budget-related research and analysis.

<sup>71</sup> New Benchmark agreed by the 2018 Study Group, taking account of international good practice.

<sup>72</sup> Amended by the 2018 Study Group to ensure that a general election is held as soon as practicable after taking into account factors such as the time required for election preparations which may differ between countries.

<sup>73</sup> Amended by the 2018 Study Group to ensure that the Legislature has the right to seek development assistance (and does not need to rely on the Executive).

<sup>74</sup> New Benchmark agreed by the 2018 Study Group.

<sup>75</sup> New Benchmark agreed by the 2018 Study Group.

<sup>76</sup> New Benchmark agreed by the 2018 Study Group as it was noted that the long-term legitimacy of Parliaments would depend to a great extent on improving the inclusion of all demographic groups in the Legislature (such as young people).

<sup>77</sup> New Benchmark agreed by the 2018 Study Group.

<sup>78</sup> Amended by the 2018 Study Group to reinforce the importance of high standards in the conduct of all public and parliamentary matters as well as the need for strict adherence to codes of conduct, codes of ethics and asset disclosure rules.

<sup>79</sup> Amended by the 2018 Study Group. The Study Group noted the *Recommended Benchmarks for Codes of Conduct applying to Members of Parliament*, developed by the Commonwealth Parliamentary Association in partnership with Monash University in Australia.

<sup>80</sup> Amended by the 2018 Study Group to ensure the regular disclosure of financial assets and business interests and demonstrate a clear commitment to protecting the integrity of the parliamentary institution. Guidelines released by the *Transparency and Accountability Initiative*, in support of *Open Government Partnership*, also state that MPs should be required to disclose systematic information on regular basis, including information on assets, liabilities, sources of income, gifts, and conflicts of interest.

<sup>81</sup> Agreed by the 2018 Study Group to underlie the importance of Freedom of Information as a fundamental human right that serves as a cornerstone of democracy and good governance. Parliaments and Parliamentarians have a responsibility to the people to defend and promote this human right. The right to Freedom of Information has been recognised in numerous international instruments including the *United Nations Universal Declaration of Human Rights*, the *International Covenant on Civil and Political Rights*, the *Inter-American Declaration of Principles on Freedom of Expression*, the *Inter-American Convention Against Corruption* and the *Commonwealth FOI Principles* adopted by Law Ministers in 1999.

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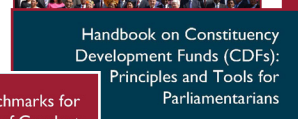
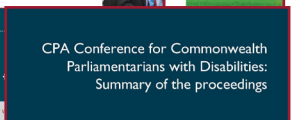
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