

PART III

MINISTERS AND THE PUBLIC SERVICE

1. In order that Ministers may be able collectively to frame policy and individually to make decisions and to see that they are carried out, they must have the services of an efficient Public Service.

2. The Public Service must be impartial and responsive and its members non-partisan in attitude, and thus ready to serve whoever are, as the result of democratic process, elected to represent the people. It must serve the people in whose name and on whose behalf it acts.

The Public Service must be efficient in order that all factors (human, material, professional, technical and financial), can be presented to the Minister to enable him to reach his decision; and however wise, valuable and farsighted a ministerial decision may be, it counts for little unless there is an effective Organisation capable of executing the decision and implementing Government policy.

All this applies whether the execution is carried out directly by the Public Service or by means of Statutory Corporations set up by Government, or by non Government organisations.

3. Article 108 of the Constitution provides that the (Governor-General and not the Minister is charged with the power to make appointments to public offices and to remove and to exercise disciplinary control over persons holding or acting in such offices. The Governor-General acts in accordance with the advice of the Public Service Commission. Under Article 123 of the Constitution the grant of any benefits in relation to pensions and gratuities is likewise vested in the Governor-General on the recommendation of the Service Commission.

4. Permanent Secretaries, Directors and other officials have a responsibility to act in support of Ministers' obligations to abide by Cabinet conventions, and a responsibility to advise Ministers in any case where they may perceive a breach, or likely breach, of these conventions.

5. Ministers have a duty to give fair consideration and due weight to informed and impartial advice from public servants, as well as to other considerations and advice, in reaching policy decisions; a duty- to refrain from asking or instructing public servants to do things which they should not do; a duty to ensure that influence over appointments is not abused for partisan purposes; and a duty to observe the obligations of a good employer with regard to terms and conditions of those who serve them.

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Public servants should not be asked to engage in activities likely to call in question their political impartiality, or to give rise to the criticism that people paid from public funds are being used for partisan political purposes.

1. The Permanent Secretary

6. The Public Service Organisation within a Ministry must be headed by a person through whom can be brought to focus all the human, material, professional, technical and financial advice that the public officers under the Minister can give. Article 88 of the Constitution provides that where any Minister has been charged with the responsibility for a matter or department of Government he shall exercise general direction and control over the work relating to that matter and over that department;" ... and subject to such direction and control the work and the department shall be under the supervision of a public officer

7. "Permanent Secretary" is the designation of the Public Officer responsible to the Minister for the Organisation and control of the work of the Ministry. He will submit recommendations to the Minister on questions coming within the scope of the responsibility of the Minister, ensure that decisions are sent to the proper quarter for execution, and keep the Minister informed of the progress made in translating such decisions into action.

8. As the Minister is answerable to the Parliament for the policies and plans in relation to the matters within his portfolio, the advice given to him must be authoritative. The Permanent Secretary must, therefore, not only exercise the supervision of all the work of the Minister, but keep himself fully informed about everything affecting that work: but he would not be expected (nor should he elect) to direct professional or technical work.

9. As the Permanent Secretary is a Public Servant and, therefore, may take no part in politics, he may not be called upon to deal with purely political matters which arise by virtue of the Minister's representative capacity as a Member of Parliament.

10. Direction and control by the Minister of the business or department of Government should be exercised through the Permanent Secretary' The Minister should not himself give direct instructions to a subordinate officer.

11. The Permanent Secretary is the Minister's principal adviser on policy for all the subjects for which the Minister is responsible. When policies and projects are initiated by a Minister, the Permanent Secretary should see that all necessary data are made available for the adequate consideration of the matter, to bring his knowledge and experience to bear and to make a contribution to the task of the Minister both in the elaboration of the policies or plans and to assist the Minister in the determination of the best means of carrying them out.

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12. Subject to Ministerial directions, the Permanent Secretary is responsible for the effective working of the Ministry and, in particular, for the handling of official correspondence passing to and from the Ministry, for the preparation of memoranda to be put before Cabinet by his Minister and for ensuring that effect is given to the decisions reached in Cabinet, or by his Minister on the latter's own initiative, on matters for which his Minister is responsible.

13. He must see that his Minister is kept in touch with all the happenings in his own Ministry and in other Ministries, and elsewhere, which may have an important bearing on the policies or plans in hand. He must, of course, see that such material of interest or value presented to the Minister is in suitable form, that is to say, adequately but economically expressed.

14. In particular a Permanent Secretary will brief his Minister on matters brought before Parliament, for example, by providing material for replies to parliamentary questions or material which will assist the Minister in dealing with the Budget Estimates.

15. The Permanent Secretary has also a positive function as adviser to the Minister; that is to say, he is not merely concerned with meeting situations as they arise. In the light of the Minister's general objectives, the Permanent Secretary must advise on the formulation of policy, especially in its early stages. It is he who must see that there is a flow of significant facts and information, and that essential data are distinguished; he, with the aid of the professional/technical officers in the Ministry, must interpret the facts and discover any considerations relevant to the policies or plans in hand or in prospect, and define and weigh alternative issues or courses of action.

16. The Permanent Secretary has a special responsibility to advise the Minister on the development of what might be called the permanent policies of the portfolio, and to attend to those things which aim at amending, modifying or developing long-term projects or policies. Much of this kind of policy is shaped by forces which change only slightly with the progress of time, and continuous efforts by a permanent officer in those fields of policy produce the best results.

17. On advising his Minister, the Permanent Secretary must not lose sight of the responsibility of other Ministers in the machinery of Government and of the powers of statutory or other, bodies, particularly, of course, the responsibilities of the Minister of Finance.

18. Paragraphs herein describe how all available advice is brought to a focus for the Minister through the Permanent Secretary in order that the individual responsibility of the Minister and the collective responsibility of Cabinet for formulation of policy may be effectively discharged. It is apparent from those paragraphs that the

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relations between the Permanent Secretary and the Minister must be very close; but the relations of both with the principal professional/technical officer (or officers) of the Ministry must be equally close. In general, it can be said that every policy matter which requires the personal decision of the Minister comes from or across the desk Of his Permanent Secretary.

19. Clearly, in a large Ministry, the Permanent Secretary has only the time to attend to some of the more important matters himself, but he must nevertheless' satisfy himself that the work of the whole Ministry is properly organised, and that operations are coordinated and that effective means of checking upon the results obtained are established.

20. The Permanent Secretary should ensure that the following functions are adequately provided for within the Ministry:

- (a) **Interpretation.** The spelling out of the meaning of determined policies, including the briefing of legal draftsmen with a view to legislation; the drawing up of regulations or explanatory statements, white papers, position papers and the preparation of press releases on Government policy.
- (b) **Research.** The regular collection of data on which policies are to be based, improved or kept up to date.
- (c) **Advice.** The gathering of specialised advice, for example, legal advice or advice in some highly technical field.
- (d) **Co-ordination.** The Permanent Secretary may be called upon to use his influence and authority in the co-ordination of Ministry matters, especially where functions touch or overlap. It is almost inevitable that competing claims for the use of finance or services in pursuit of particular activities will arise, and there are often pressures from outside the Ministry in support of particular claims. Regular meetings and discussions with his Minister and with senior officials in the Ministry are a feature of the Permanent Secretary's work. He must also keep in close touch with the other Permanent Secretaries in other Ministries whose policies or activities impinge on his Ministry, and must see that, where necessary, inter-Ministry meetings are arranged or committees set up with a view to harmonising the policies of the Ministry with those pursued elsewhere
- (e) **Execution and Checking of Results.** A Permanent Secretary must know to what extent the activities of the Ministry can secure results in accordance with the plans and policies of the Minister,

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and that, where necessary, realistic amendments to policies and plans are made without delay. He should, in consultation with the heads of the finance and technical divisions of the Ministry, ensure that the executive Organisation is as efficient as can be and that machinery exists whereby he is made aware of the following:

- (i) significant differences between planned and committed expenditure under various votes;
 - (ii) the progress of planned work, including the physical state of the more important projects in hand;
 - (iii) arrears of work and causes thereof;
- (f) The Permanent Secretary must ensure that the operations of the Ministry and its Departments are carried out with efficiency and economy.

21. Section 18 of the Financial Administration and Audit Act provides for the minister of Finance to designate, in writing, officers who shall be principal receivers of revenue or accounting officers. The said Act also provides that an accounting officer means, inter alia, any person who is charged with the duty of controlling expenditure thereunder or under any other Act.

- (a) A Permanent Secretary is a designated accounting officer. Accounting Officers are responsible for the collection of revenues and the payment of revenues into the Consolidated Fund.
- (b) The primary duties and responsibilities of an accounting officer are found in the Financial Regulations and principally concern the keeping of books and records, the rendering of departmental accounts and the duty to ensure that funds expended are applied only for the purpose intended by Parliament. Other functions of an accounting officer include the submission of purchase orders and contracts to the Treasurer.
- (c) The head of department has different responsibilities from those of an accounting officer under the Financial Regulations, for example, the issuing of warrants (regulation 21) and powers of virement (regulation 24). Regulation 2 of the Financial Regulations provides that the head of department includes, in relation to a Ministry, the Permanent Secretary of the

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Ministry. Accordingly, the head of department may be, but need not be, a Permanent Secretary.

22. While Article 88 of the Constitution provides for a department of Government to be under the supervision of a Permanent Secretary, the specific functions and responsibilities of a Permanent Secretary in that regard are not stated. It is implicit, though, that there would be other persons within the department who would be required either by statute or administratively by the Permanent Secretary to perform duties which fall within the portfolio of the department.

23. Where the holder of a public office has powers conferred or duties imposed upon him by any written law, in accordance with section 39 of the Interpretation and General Clauses Act, the holder of that public office may delegate to any other public officer the exercise of powers to perform the duties on his behalf: provided that the Governor-General has issued a notice in the Gazette specifying the public office either generally or for the purpose of any particular written law.

24. Whilst any responsibilities that are administratively imposed upon a Permanent Secretary may be delegated, the delegation of the general supervisory function of a Permanent Secretary is not permissible.

II. Control and Accountability for Public Expenditure

25. The principal objectives of the system of control of Government expenditure are:

- (a) to achieve, among the different services of the Government, a distribution of the available financial resources that reflects policy decisions on priorities;
- (b) to ensure that the money so allocated is, in fact, used for the purposes for which it was provided and in accordance with statutory authority and pertinent administrative instructions;
- (c) to ensure that full value is obtained for the money which is disbursed.

26. It is the duty of all Ministers to see that these objectives are reached and to support the Minister of Finance in the implementation of such measures as he may deem necessary to discharge his overall responsibilities for financial control. Further, there are two principles of cardinal importance which must always be borne in mind. These principles are that:

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- (a) finance and policy are complementary from the outset. It is impossible to divorce the one from the other; this remains true at all levels of Government activity;
- (b) in the presentation of policy to Parliament, the Government is one and indivisible: decisions reached in Cabinet are collective decisions; and they must be loyally implemented by all branches of the Executive.

27. Final authority for financial decisions does not rest with the Minister of Finance as an individual; it rests, ultimately, subject to the consent of Parliament, with the Government as a whole. The functions which the Minister of Finance exercises are thus essentially those of control, and, with the exception of the Departments within his portfolio, they are not those of direction. Policy, with its resultant expenditure, is normally proposed by the spending Ministries to the Ministry of Finance.

III. Relationship between Ministers and among Permanent Secretaries and Professional and Technical Officers

28. Although a Permanent Secretary may be required by his Minister to provide information for him for a speech which the Minister may have to make, and may be required to submit for the Minister's consideration a draft of such a speech, the Permanent Secretary and other officials in the Ministry are not responsible for and should not assist in the preparation of a political speech, or in any other purely political activity undertaken by the Minister.

29. The Permanent Secretary should appoint a clerk in the Ministry to have the responsibility for ensuring that any copies of the Laws in the Ministry are kept up to date. This work could be done by the clerk in consultation, if necessary, with the clerk in the Cabinet Office who has that duty in that office.

30. The Head of Department will be responsible to the Minister for:

- (a) the administration of his Department, and will act as adviser to the Minister on professional or technical matters falling within the scope of his Department. It will be the duty of the Head of Department to keep the Minister fully informed, through the Permanent Secretary, of all the important activities of the Department, and to execute such decisions of policy as come within the scope of the Department.
- (b) The Head of Department will not take any action involving a change of policy or the likelihood of public controversy without a reference to the Minister. through the Permanent Secretary.

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- (c) The Head of Department will have the right of access to the Minister.
- (d) If a Head of Department considers that compliance with a direction or decision of his Minister will have a seriously adverse effect upon the work of his Department he should so inform the Minister and he may request the Minister to have the matter referred to Cabinet. Every effort should be made to avoid recourse to this procedure.

IV. Channels of Communication

31. The senior professional/technical officers of the Ministry will frequently be drawn into policy discussions and the principal professional or technical officer (the "head of department") must always have the right of direct access to the Minister and the right to have his professional/technical advice put before the Minister in full. But in order that the Permanent Secretary may effectively carry out his duty of being the focus for Public Service advice to the Minister and in order that the non-professional considerations may be fully presented to the Minister's mind, professional/technical submissions should be made through the Permanent Secretary, and he should be present when such matters are discussed with the Minister.

32. The normal channel of communication between the Minister and Head of Department will be through the Permanent Secretary to the Ministry. Ministerial files will not normally be referred to Heads of Departments but correspondence should ordinarily be by typed memorandum or minute, of which a copy will be retained in the file of the Ministry.

Departments should correspond direct with one another on matters pertaining to their respective functions. When the Head of Department is in charge of matters which pertain to different Ministries he will deal, as may be necessary, with the Head of the Department concerned, keeping the Permanent Secretary of his own Ministry informed as may be necessary.

V. Consultation between Ministers

33. Meetings of Cabinet will provide a regular opportunity for discussions., between Ministers on matters of general policy, but frequent consultation between Ministers, the Attorney General and the Minister of Finance will be necessary on matters of mutual concern. Ministers, Permanent Secretaries and Heads of Departments will ensure that all officers for whose supervision and direction they are

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responsible are mindful of the importance of inter-Ministerial consultation and co-operation at all levels.

VI. Financial Matters

34. The Ministry of Finance should be consulted in all cases where authority has not been obtained for the expenditure of public funds, and on all matters affecting general financial policy. Annual Estimates will be submitted to the appropriate Ministry by Heads of Department and transmitted by the Permanent Secretaries to the Ministry of Finance after detailed scrutiny and, if necessary, revision in the Ministry.

35. Requests for supplementary provision will be submitted by Heads of Departments to the appropriate Ministry. The Permanent Secretary, if the Minister approves the application, will ensure that the Ministry of Finance is consulted before the matter is submitted to Cabinet in accordance with the procedure set out in section 34 above. Addenda for all financial Resolutions should be approved by the Ministers responsible before transmission to the Ministry of Finance.

VII. Consultation with Law Officers

36. Ministers and Permanent Secretaries will seek legal advice, as may be necessary, from the Attorney General's Chambers. Departmental requests for legal advice will normally be made through the Ministry concerned. Where legislation is required, the policy involved should normally be referred to Cabinet before the legislation is drafted.

VIII. Personnel

37. The responsibility for appointments, promotions, transfers and disciplinary control is vested in the Governor-General who will act in accordance with the recommendations of the Public Service, the Judicial and Legal Service or Police Service Commission, as the case may be.

(a) All matters appropriate for the attention of the Services Commissions will be sent by Heads of Department, or Permanent Secretary in the case of Ministries, to the Permanent Secretary of the Department of Public Service.

(b) Article 109 Constitution, however, requires that the Prime Minister be consulted on appointments to certain very senior posts, e.g. Permanent Secretary and Head of Department.

(c) All routine matters relating to staff and personnel will also be addressed to the Permanent Secretary of the Department of Public Service.

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IX. Establishment

38. Questions of establishment (which include the number and grading of posts, salaries, allowances, pension and travel policy, and all matters of this kind affecting the Public Service) are the responsibility of the Public Service Commission.

X Police Administration and Public Order

39. Police administration and the preservation of public order are under the general control of a Cabinet Minister. The Commissioner of Police has certain constitutional obligations for administration and control of the Police Force and all members of the Force have statutory obligations relating to the enforcement of law and order with particular reference to the detection of crime and the prosecution of offences. Whilst these duties are precise and definite and must be performed with complete freedom from direction and interference, the Commissioner will consult with the Minister on broad questions of public policy. Accordingly, the Commissioner of Police is required to:

- (a) advise the Minister on all aspects of Police Administration and establishment; and
- (b) bring to the notice of the Minister any matters affecting Police Administration and establishment.

Xi. Intra-Ministry

40. As explained in Section I paragraphs 6 - 24, the Permanent Secretary is the focus for official advice to a Minister; but in most matters a major part of that advice will be of a technical nature. The framing of that advice and its submission through the Permanent Secretary are the responsibility of the principal technical officer and that officer, the Head of Department, or whatever title he carries, is responsible for organising and supervising the carrying out of the technical work resulting from policy decisions.

41. The Permanent Secretary should not interfere with the daily technical work of the branch operations, i.e. the department, of the Ministry. Neither should a Minister nor a Permanent Secretary give direct instructions to a subordinate officer. Directions and instructions issued by a Minister should be communicated through the Permanent Secretary. But in giving or conveying directions regarding the execution of policy, neither the Minister nor the Permanent Secretary should give instructions on how technical work should be executed. The Permanent Secretary can direct what the Minister wants to be done, but if it is a technical matter he should not, save in the most exceptional circumstances, say how it is to be done. That is the responsibility of the technical officer.

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42. The maintenance of good relations between and among the administrative and technical officers in a Ministry, and particularly between the Permanent Secretary and the Head of the technical branch of the Ministry, is fundamental to its efficient operation. The Permanent Secretary should regard the fostering of good relations within his Ministry as being one of the most important of his duties.

43. The Permanent Secretary is responsible for the building up of a proper and efficient filing system in his Ministry. There should be one set of files in a Ministry which should be available for action, as may be necessary, by both the administrative and technical officers and on which submissions would be made to the Minister.

44. External correspondence issuing from a Ministry (except that sent from the Minister's private office and semi-official correspondence) on all matters touching policy, particularly that between Ministries, should go out by or on behalf of the Permanent Secretary, and letters dealing with the practical details of the execution of policy handled in the operations branch of a Ministry should be signed by or on behalf of the Head of the relevant Department of the Ministry.

45. The general aim must be for the administrative and technical branches of a Ministry to co-operate fully. All branches are equally part of the Ministry and each has its own particular tasks to perform, and there should be regular consultation between and among them at all levels.

46. The direction of the administrative branch of a Ministry involves more than receiving reports, making rules and regulations and issuing instructions, but requires, rather, the giving of inspired guidance and leadership, based on knowledge, practical experience and understanding of the work involved.

47. The effective and efficient joint functioning of the administrative and technical officers of a Ministry is primarily a matter of Organisation. Care is necessary to ensure that nothing is done to damage the morale of the service or harm the esprit de corps in the administrative and technical/professional branches of Government.

48. Ministries should be so organised that administrative officers, under the Permanent Secretary, should be responsible for formulating policy, general administration, finance and establishment matters, thus enabling technical/professional officers to concentrate on giving professional advice and on execution. It is to be remembered, however, that the formulation of policy in certain Ministries depends heavily upon professional and technical considerations and so requires close consultation between the administrative and technical sections of each Ministry. In this way the best possible policies would emerge from an easy exchange and regular flow in all directions of ideas and professional opinions.

49. Technical officers should work on parallel lines with administrative officers. In an executive Ministry, one line, the technical one, will be much longer than the

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administrative line. But there is no question of the professional/technical or technical group being subordinate to the administrative group, for each has its particular sphere of duty and there should be continual consultation between them. Technical/professionals are an integral part of a Ministry, but insofar as their professional activities are concerned, they fall under the control of a professional head.

50. These principles are particularly important in Ministries which actually execute policy and have a cadre of professional/technical staff employed for that purpose. Two outstanding examples are the Ministries dealing with Education and Public Works. In each case the policy making branch is headed by a Permanent Secretary assisted by a number of administrative staff while the professional/technical section is under the general supervision of a technical officer of high rank (a Director of Education or Director of Public Works) whose professional/technical staff are also supported by administrative assistants who relieve the professional/technical officers of routine matters and who take their instructions from the technical/professional officer.

51. As the technical/professionals in a Ministry must be able to look to a technical/professional head, even though the latter is subordinate to a Permanent Secretary, so also must the senior professional be in a position of authority over the technical/professional staff in the Ministry. He must be the person to give technical instructions on the carrying out of policy decided by Cabinet or by the Minister and conveyed to him by the Permanent Secretary.

52. In no circumstances except the most urgent should instructions on technical matters or on the implementation of policy be given to a technical professional officer or to the administrative assistant to a technical/professional officer than through the technical/professional head. In the same way, whenever technical/professional advice is required, the matter should be referred to the technical/professional head whose duty is to consult his staff and present their collective view to the Minister. Any subsequent meeting for further discussion should be held in the presence of the technical/professional head and requests for further information or for clarification should be channeled through the technical/professional head.

53. The foregoing remarks about technical/professionals do not run counter to the principle that there must be in each Ministry one person to whom the Minister can look for the final submission of a problem for a decision. The Minister should not be expected to have to arbitrate between the administrative and technical/professional views. Any purely technical/professional advice from the chief technical/professional officer should be submitted through the Permanent Secretary, but the latter would not recommend that a Ministry should act contrary to technical/professional advice on a purely technical matter, without very strong reasons.

54. A nicety of judgment is needed to achieve the right balance between the administrative and technical sides of a Ministry, preserving a clear chain of responsibility and command and ensuring that the Minister receives, by co-operation among all the members of his staff, through the Permanent Secretary, the best combined administrative and technical advice that the Ministry can command on each and every subject.

Xii. Relations with Statutory Authorities

55. Statutory Corporations perform an important role in the implementation of Government policy. As members of the Boards are appointed by the Governor-General or the Minister, after approval by Cabinet, the Chairmen and members of the Boards will normally have direct access to their Ministers. However, correspondence with the Ministry on the business of the Board should normally be addressed to the Permanent Secretary who should consult with the Minister before decisions of policy affecting the Board are taken.

56. Conditions of service of employees of Statutory Corporations normally equate with posts of equivalent grading in the Public Service. In particular:

- (a) subject to any Cabinet directives, Boards should, on matters affecting the conditions of service of their staff including the regarding of posts, seek the prior approval of their own Ministries. On these matters Permanent Secretaries should in turn consult with the Permanent Secretary of the Department of Public Service, and, where appropriate, refer the matters to Cabinet, before decisions are taken;
- (b) discussion between the Minister and Chairmen of Corporations should normally be attended by the Permanent Secretary or some other official of the Ministry deputed by him. If this cannot conveniently be arranged, the Chairman concerned should be asked to submit to the Permanent Secretary a note of the discussion for confirmation by the Minister.

57. Relations between Ministries and Statutory Corporations must be more flexible than between Ministries and Government Departments, and the Minister responsible should feel himself free to prescribe the procedural guidelines which he considers the most suitable in the circumstances of a particular Corporation/Board.

58. The degree to which directions can be given to a Corporation/Board by a Minister will depend on the terms of the relevant legislation. In some instances a Minister can give general directions; in other cases he can give both general and specific directions. Whatever the legislative position might be, the relationship between a Minister and a Statutory Corporation/Board must rest upon a basis of mutual understanding and an exchange of information, otherwise the Minister cannot exercise his responsibilities.

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59. Statutory Corporations/Boards must, as a matter of course, keep Ministers constantly informed through their Permanent Secretaries about their affairs. A suitable way for policies, procedures and practices to be coordinated properly is for the Minister, the Chairman of the Corporation and the General Manager to have regular meetings and for the Permanent Secretary to be present. If the Permanent Secretary is not present, he should always be informed of what took place at the meetings.