

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

GENERAL ELECTION 2020:
REPORTS FROM THE CPA BIMR ELECTION EXPERT MISSION AND
THE REGISTRAR-GENERAL OF ELECTORS

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'General Election 2020: Reports from the CPA BIMR Election Expert Mission and the Registrar-General of Electors' dated 10th May 2021 submitted under Rule 17.(9) of the Rules of Procedures of the States of Deliberation and their Committees, they are of the opinion:-

1. To agree the following workstreams should be undertaken by the States' Assembly & Constitution Committee:
 - a) investigate the creation of a dedicated, independent elections body for future elections;
 - b) review the Reform Laws and other relevant legislation underpinning General Elections, including:
 - i. increasing the number of signatories on the nomination form.
 - ii. introducing provisions requiring the publication of candidates and parties' election expenditure.
 - iii. reviewing the deadline for postal vote applications.
 - iv. introducing Deputy Polling Station Officers and Deputy Central Returning Officers to support election administration.
 - v. reviewing provisions relating to the vote count and recount to ensure they meet the requirements of an electronic vote count and recount.
 - vi. reviewing the margin required to trigger a recount;
 - c) introduce proposals for a system of complaints and appeals for future elections;
 - d) investigate the merits of introducing disclosures by candidates/and or Deputies and consider the disqualification provision at Article 8(e) of the Reform Law;
 - e) review the regulation of election finance, considering the findings of the

Committee on Standards in Public Life review of electoral regulation in England.

- f) review communication initiatives including the feasibility of the States of Guernsey co-ordinating 'hustings-type' meetings.
- g) research the feasibility of introducing i-voting for a future election.
- h) undertake consultation with relevant stakeholders in order to identify, and consider how the States of Guernsey can work towards the implementation of, suitable measures for Guernsey as outlined in Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey and Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities
- i) increasing the information provided regarding the role of a States' Member, the States of Guernsey and the election process by the end of 2023.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications in accordance with Rule 4(1) of the Rules of Procedure of the States of Deliberation and their Committees.

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GENERAL ELECTION 2020:
REPORTS FROM THE CPA BIMR ELECTION EXPERT MISSION AND
THE REGISTRAR-GENERAL OF ELECTORS

The Presiding Officer
States of Guernsey
Royal Court House
St Peter Port

10th May 2021

Dear Sir

1 Executive Summary

- 1.1 The States' Assembly & Constitution Committee ('the Committee') is under resolution to submit the Report of the Registrar-General of Electors, together with the Report of the Independent Election Observers, as an appendix to a Billet d'État as soon as possible, and no later than one year after the General Election.
- 1.2 The two reports are appended to this policy letter which has been submitted under Rule 17.(9) of 'The Rules of Procedure of the States of Deliberation and their Committees'¹:
- **Appendix A** **CPA BIMR Election Expert Mission Final Report**
Guernsey General Election - October 2020
 - **Appendix B** **Report of the Registrar-General of Electors**
Review of the 2020 General Election
- 1.3 It is strongly recommended that Members read the appended reports prior to considering this policy letter.
- 1.4 The Committee agreed to submit these reports with a covering policy letter setting out how it will address their findings and recommendations and to provide States' Members with the opportunity to endorse and provide feedback on the workstreams the Committee intends to undertake, and any other areas

¹ ['The Rules of Procedure of the States of Deliberation and their Committees'](#)

they believe the Committee should consider, as it prepares for the 2025 General Election.

2 Introduction

2.1 The 2020 General Election took place on 7th October 2020, having been postponed from 17th June as a result of the COVID-19 pandemic. The next General Election is due to take place in June 2025. The Committee is responsible for advising the States and developing and implementing policies in relation to elections to the office of People's Deputy.

2.2 On 12th December 2019, further to consideration of the amended propositions to the Committee's policy letter entitled 'General Election 2020 – Second Policy Letter'², the States resolved as follows³:

"To agree that, in his post-implementation review of the 2020 General Election and Island-wide voting, the Registrar-General of Electors shall seek the views of:

- *Candidates in the General Election (elected and unelected);*
- *Members of the General Election programme board;*
- *Officers, parish representatives, and volunteers involved in the delivery of the General Election;*
- *Election service providers (e.g. communications, e-count solutions);*
- *The voting public; and*
- *Any other consultees which he considers appropriate;*

and to direct the States' Assembly & Constitution Committee to submit the Report of the Registrar-General of Electors, together with the Report of the Independent Election Observers, as an appendix to a Billet d'État as soon as possible, and no later than one year after the General Election."

Report of the Independent Election Observers

2.3 The Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) conducted a virtual Election Expert Mission to the Guernsey General Election. The CPA BIMR Election Expert Mission Final Report entitled '[Guernsey General Election October 2020](#)'⁴ was published on 7th December 2020 and is attached as Appendix A. This will be referred to as the 'CPA Report' in this policy letter.

² States' Meeting 11th December, 2019: Billet d'Etat XXIV: [General Election 2020 – Second Policy Letter](#)

³ Resolution 11 was the result of an amendment ([P.2019/132 Amdt 5](#)) lodged on behalf of the Committee.

⁴ The [report and accompanying press release](#) are available to download from the Commonwealth Parliamentary Association UK website: www.uk-cpa.org

- 2.4 The CPA BIMR Election Expert Mission “offers 12 recommendations in this report to enhance the conduct of elections in Guernsey and to bring it fully into line with international obligations and standards for democratic elections.”

Report of the Registrar-General of Electors

- 2.5 The Committee received the report from the Registrar-General of Electors on 6th April 2021. This is attached as Appendix B and will be referred to in this policy letter as the ‘Registrar-General’s Report’. This report offers 10 recommendations.

Structure of the policy letter

- 2.6 This policy letter will consider both reports’ findings and recommendations by grouping subjects under relevant headings as set out in the following table. The recommendations of the CPA BIMR Election Expert Mission or the Registrar-General of Electors will be shown in the relevant section (as below).

	Section	CPA	RG of E
3	Independent oversight and administration of elections	R2	R1
4	The legal framework for elections	R1	R2
5	Complaints and appeals	R12	n/a
6	Voter registration	R3	n/a
7	Standing as a candidate	R4	n/a
8	Communication initiatives by the States of Guernsey	n/a	R3
9	Political parties	R5	n/a
10	Election expenditure	R5 & 6	R10
11	Voting: Postal voting, polling stations and i-voting	R7	R4,5 & 6
12	Vote Count and Recount	R8 & 9	R7,8 & 9
13	Participation in elections	R10 & 11	n/a

Submission of the proposition under Rule 17.(9)

- 2.7 Rule 17.(9) of ‘The Rules of Procedure of the States of Deliberation and their Committees’ reads as follows:

“Where a Committee originating a matter for debate before the States is of the opinion that the proposals it is submitting to the States are of general policy, and where it is desirable that the principles of that policy should be considered, the Committee may have its propositions considered by the States without amendment on the understanding that if the propositions are accepted the Committee would return with detailed proposals which could be accepted or rejected with or without amendments. Where a Committee invokes the provisions of this paragraph it shall make express reference to it in its propositions”.

- 2.8 The Committee is submitting the policy letter under this Rule as it believes it is premature to submit firm proposals in respect of the 2025 General Election until the reviews detailed in this report are undertaken. Submitting the policy letter and the reports in this manner provides Members with the opportunity to confirm it agrees with the Committee’s next steps and to provide feedback on any other areas they believe the Committee should consider.
- 2.9 It must be noted that whilst the Committee will undertake the reviews and workstreams set out in this policy letter, given the pressures on public finances and resources that the States will face this political term, any proposals to be considered by the Committee, and the States, will take into account the priorities of the States at that time and set out the financial implications of such proposals.

3 Independent oversight and administration of elections

CPA R2	A permanent dedicated elections body should be constituted so that institutional knowledge and expertise can be embedded in the Guernsey electoral system. This body could provide continuous electoral oversight, including oversight of candidate and voter registration, political parties and campaign finance.
RG R1	It is recommended that SACC should investigate the creation of an independent body to advise on and oversee future elections.

- 3.1 In the ‘General Election 2020’ policy letter⁵, the then Committee identified that ‘the development of a permanent, independent election administration body should be investigated after the 2020 General Election with a view to such a body being established for the 2024 General Election’⁶.
- 3.2 In reaching this conclusion, the then Committee had noted the Commonwealth Parliamentary Association report ‘Recommended Benchmarks for Democratic Legislatures’⁷ stated at point 1.1.5:

⁵ States’ Meeting 24th April, 2019: Billet d’Etat VII: [General Election 2020](#) (P.2019/22)

⁶ Appendix 1, Section 3(a): Independent oversight of Elections (pages 49 – 50).

⁷ CPA [Recommended Benchmarks for Democratic Legislatures](#)

“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”.

and the Venice Commission’s ‘Code of Good Practice in Electoral Matters – Guidelines and Explanatory Report’⁸ which stated that an impartial body must be in charge of applying electoral law.

- 3.3 The CPA report states that the International Covenant on Civil and Political Rights, which applies to Guernsey, has been interpreted as requiring that an independent electoral authority should be established to supervise the electoral process.
- 3.4 The UK Electoral Commission was established in 2001 and its establishment and general functions are set out in the [Political Parties, Elections and Referendums Act 2000](#).
- 3.5 The Committee agrees independent oversight of elections to the office of People’s Deputy is a key workstream to progress and will investigate the options for the creation of a permanent, independent election administration body.
- 3.6 The Committee will consider the type of body that might be appropriate for Guernsey, undertake consultation with existing stakeholders and consider whether there might be options for a pan-Island solution and consult with Jersey, Alderney and Sark accordingly. It will also research the practicalities, costs and timeframes for creating such a body.

4 The legal framework for elections

CPA R1	Greater codification of electoral rules and procedures, either via amending existing election law or via enacting a new omnibus election law, could be considered, in order to ensure that there is certainty and consistency in the law and that it applies equally to all concerned.
RG R2	It is recommended that SACC should review the Reform Law and other legislation relating to the holding of elections and, if it thinks fit, make suitable proposals for consideration by the States, for electoral reform by way of a standalone election Law that reflects modern election practices and is easily accessible.

- 4.1 [The Reform \(Guernsey\) Law, 1948, as amended](#) and [The Reform \(Amendment\) \(Guernsey\) Law, 1972](#) (‘the Reform Laws’) are the key items of legislation which

⁸ Venice Commission’s [‘Code of Good Practice in Electoral Matters – Guidelines and Explanatory Report’](#)

underpin elections in Guernsey. Both items of primary legislation can be found on the Guernsey Legal Resources website⁹.

- 4.2 In advance of each General Election, a number of items of secondary legislation – in the form of Ordinances for approval and Statutory Instruments – are agreed covering matters such as the date of the General Election, electoral expenditure, hours and location of polling etc.
- 4.3 The CPA report confirms that Guernsey’s legal framework for the conduct of elections complies with local, regional and international standards for democratic elections. It states the rights of political participation are well protected, with both the right to vote and the right to stand for election particularly well established.
- 4.4 The CPA report notes that it is not considered good practice to amend electoral law so close to an election, quoting the Venice Commission’s recommendation that: “The fundamental elements of electoral law, in particular the electoral system proper [...] should not be open to amendment less than one year before an election”.
- 4.5 The referendum on Guernsey’s voting system took place in October 2018 and the General Election was scheduled to place in June 2020. Given the need to amend primary legislation as a result of the referendum to implement a new electoral system, and a number of items of secondary legislation, the above principle could not be met in the intervening period. The Committee will endeavour to ensure that any changes to electoral law will be submitted to the States to be in place at least one year ahead of the General Election i.e. before May 2024.
- 4.6 In the ‘General Election 2020’ policy letter¹⁰, the then Committee stated:
- “... after the 2020 Election, it would be timely for the Reform Law to be subject to a comprehensive review from the States’ Assembly & Constitution Committee, to incorporate lessons learnt from the 2020 Election and to review existing provisions against international best practice”.*
- 4.7 The Committee agrees a review of the Reform Laws, and other electoral legislation, is a key workstream to be progressed and that part of this review should consider whether existing legislation should be amended or whether standalone election legislation should be drafted.

⁹ www.guernseylegalresources.gg

¹⁰ Appendix 1, Section 3(b): Future Review of the Reform Law (pages 50-51).

5 Complaints and appeals

CPA R12	Consideration should be given to the introduction of a system of complaints and appeals for all stages of the electoral process. Detailed procedures should be set out regarding the authority responsible to receive and adjudicate upon disputes arising in relation to voter registration, candidate nomination, voting and counting and all other aspects of the electoral cycle. Fair procedures must apply to any such regulations, with clear deadlines providing for the submission of complaints, making appeals and delivery of decisions, as well as rules of standing to lodge complaints.
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- 5.1 The CPA report states there was little detail of any procedures, in electoral law in Guernsey, to facilitate the making of complaints and appeals during the electoral process. The Registrar-General's report does not contain a specific recommendation but highlights the issues caused by the absence of an independent person or body to whom various types of complaints around election matters can be addressed.
- 5.2 Whilst the Reform (Guernsey) Law, 1948 enables the States to make by Ordinance such provisions as they may see fit in respect of the making and determining of complaints in respect of elections, no such Ordinance has ever been made by the States.
- 5.3 The Committee agrees that a system of complaints and appeals is required. This will be considered when considering the options for an independent elections body and during the review of electoral legislation.

6 Voter registration

CPA R3	Formal processes of voter registration could be introduced as part of an ongoing rolling process of registration. Voter registration could be done as part of any annual engagement that residents have with the state, such as filing tax returns.
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- 6.1 For the last three General Elections, a new Electoral Roll has been established each time. This means voters have had to register to vote prior to each General Election and has required the States of Guernsey to extensively publicise the need to register.
- 6.2 Both reports note the gap between those who are registered to vote and those that could be entitled to vote, with only 62.8% of those estimated to be eligible to vote registered on the Electoral Roll.

- 6.3 In April 2019, the States agreed that measures should be taken as may be necessary to enable elections to take place on the basis of an Electoral Roll compiled from an automatically generated list of persons eligible to vote, further to the delivery of Phase 2 of the Rolling Electronic Census Project.
- 6.4 The workstream rests with the Committee *for* Home Affairs to progress. The Committee consulted with the Committee *for* Home Affairs to receive an update on the status of this workstream and its letter of response is attached at Appendix C. The recommendation in the CPA Report should therefore be addressed via an existing workstream, if the States prioritise and resource the workstream.

7 Standing as a candidate

CPA R4	Consider removing the provision in Article 8 of the Reform (Guernsey) Law, 1948, which disqualifies candidates who have been sentenced to imprisonment for a period of six months or more, from eligibility to become a People's Deputy.
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- 7.1 Article 8 of the Reform (Guernsey) Law, 1948 sets out the eligibility criteria to stand as candidate in the General Election. The CPA report notes the disqualification in Article 8 which prevents anyone from standing who, during the five years preceding the election, was sentenced for an offence in the UK, Channel Islands or Isle of Man for a period of six months or more. It advised that the exclusion of all those sentenced to imprisonment, without regard to the nature of the offence, is unreasonable.
- 7.2 In considering the above recommendation, the Committee noted that, prior to and after the General Election, a number of people – including members of the public and Deputies – suggested that candidates and/or elected Deputies should be required to undergo checks by the Disclosure and Barring Service (DBS). It is commonplace for a number of posts of employment to require a form of Disclosure as a condition of a person taking up a post and it has been questioned why such checks are not required of candidates and Deputies.
- 7.3 The Committee has committed to look at this matter as part of its review of election procedures in advance of the 2025 General Election. It will consult with the Law Officers, the Committee *for* Home Affairs and the Office of the Data Protection Authority, as well as looking at practice in other jurisdictions, and the potential benefits and disadvantages of such disclosures being a requirement for candidates and/or elected Deputies. As part of this workstream, it will also look at Recommendation 4 of the CPA Report.
- 7.4 In the Registrar-General's report, under 'voter feedback', the substantial number

of candidates who stood in the General Election was raised by several different groups. Suggestions were put forward on processes that could be put in place to ensure candidates were committed to standing e.g. through the introduction of candidate deposits or requiring additional people to nominate a candidate.

7.5 These two suggestions were considered in the ‘General Election 2020’ policy letter¹¹. The then Committee had unanimously agreed that it would not recommend candidate deposits for the same reasons set out in the Registrar-General’s report.

7.6 At that time, the Committee did not propose increasing the number of signatories to nominate a candidate. However, the Committee has considered the arguments put forward in 2.6 to 2.12 of Appendix 1 to that report and believes the matter should be revisited in light of experience of the 2020 General Election.

8 Communication initiatives by the States of Guernsey

RG R3	It is recommended that consideration be given by SACC to how more hustings-type events can be organised by the States and/or the parishes, also having regard to how the requirements of “special interest” groups can be factored into such hustings.
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8.1 The ‘General Election 2020 – Second Policy Letter’ contained a section entitled ‘Communication initiatives’. At section 9(c) it considered face to face engagement and commented as follows regarding hustings:

“9.10 Hustings have always been organised by the Parishes historically, not the States of Guernsey. In previous General Elections, district-based hustings have provided a useful means of providing two-way communication between the voter and the candidate, in seeing how candidates answer questions under pressure and to hear their views on various issues.

9.11 The Committee does not believe it is appropriate for the States of Guernsey to set-up a series of hustings, as it does not believe they would be equitable or useful for either the candidates or the voters. It may not be possible for hustings to be held in the same manner as previous Elections. It may be possible that candidates may organise their own hustings e.g. candidates grouping together to set out their views on certain policy areas in a hustings style setting”.

8.2 The CPA report noted that there was a strong tradition of public meetings in

¹¹ Appendix 1, Section 2(b) Nominations: number of signatories; 2(c) Candidate deposits (pages 47 – 49)

Guernsey that had somewhat changed with the arrival of Island-wide voting due to the logistical challenges of hosting 119 candidates. It noted that some public events were organised by several civil society groups.

- 8.3 The Registrar-General's report noted that whilst the 'meet the candidates' event was considered useful, a number of candidates would have liked to have seen more hustings-type events. Some candidates also commented that the hustings events organised by civil society groups, whilst useful, took up considerable time in preparation and attendance. The report suggests there could be more engagement with such groups ahead of the Election to have a more co-ordinated approach.
- 8.4 The Committee notes that a number of hustings-type events were organised by not only civil society groups but candidates themselves. In the question time that followed the General Update Statement¹² delivered by the Committee at the 24th February, 2021 States' Meeting, it was suggested that the Committee look to help co-ordinate 'lobby groups' and their engagement with candidates. It was also suggested that the Committee consider arranging hustings to ensure that every candidate had the opportunity to participate in such sessions.
- 8.5 Notwithstanding the comments of the former Committee regarding the practical difficulties in holding hustings under an Island-wide voting system, given the experience in 2020, the Committee will consider how hustings-type events can be organised, and will liaise with the parishes, civil society groups, members and the public as to how this could be facilitated for 2025.

9 Political parties

CPA R5	Political parties should be subject to oversight, and their finances should be evaluated on an annual basis...
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- 9.1 Three political parties were formally created in 2020 which nominated a number of candidates:

Register of Political Parties	Registered	Candidates	Elected
Alliance Party Guernsey	12.02.2020	11	0
The Guernsey Party	05.08.2020	9	6
The Guernsey Partnership of Independents	18.08.2020	21	10

- 9.2 The CPA report noted that beyond the legislation relating to registration, filing annual accounts and election expenditure, there is no further regulation of

¹² States Meeting on 24 February 2021: [Hansard Report – Wednesday 24th February 2021](#) (page 136)

political parties. It stated that whilst this had not hindered the conduct of the election, further legislative intervention may become necessary to govern the operation of parties in political life.

- 9.3 The Committee notes that the existence of political parties in Guernsey's political life is still very much in its infancy, with only two parties remaining after the 2020 General Election, and current Members of the two political parties make up 18% and 23% of the Assembly respectively¹³. The previous Committee had taken a 'light touch' approach to regulating political parties and it is suggested this is continued, with the Committee maintaining a watching brief of the operation of parties. The Committee will give consideration as to how political parties' finances can be evaluated in line with the CPA report recommendation.

10 Election expenditure

CPA R5	Political parties should be subject to oversight, and their finances should be evaluated on an annual basis. Individual candidates' pre-election fundraising and expenditure should also be assessed and recorded. Reporting should not be onerous but simply conducted by the production of evidence.
CPA R6	Boundaries of pre-election and annual expenditure should be clearly defined. The limitations of expenditure outside the formal period of nominated candidature could be within similar boundaries to those defined for the election period, except with no additional public subsidy.
RG R10	It is recommended that the Reform Law (or any successor) should make explicit the fact that parties' and candidates' individual expenditure returns may be published.

- 10.1 The Registrar-General's report summarises the electoral expenditure rules for candidates and political parties. As noted, it was the first election where campaign finance regulations for political parties had to be introduced.
- 10.2 As part of the review of electoral legislation, the wording of the legislation around election expenditure will be carefully considered. The Committee notes that there is a particular need to clarify the boundaries of pre-election and annual expenditure and will consider this as part of its review. Whilst guidance was produced on electoral expenditure for candidates and parties, it is clear the guidance needs further finesse on how the rules work in practice, based on experience.

- 10.3 In June 2020, the Committee on Standards in Public Life announced a review of

¹³ There are currently seven members of The Guernsey Party and nine Members of the Guernsey Partnership of Independents in the States of Deliberation.

electoral regulation in England. The independent Committee on Standards in Public Life advises the Prime Minister on arrangements for upholding ethical standards of conduct across public life in England.

- 10.4 The review¹⁴ intends to identify the principles and values that should underpin the regulation of donations and campaign expenditure by candidates, political parties and non-party campaigners in election and referendum campaigns. It will also examine the Electoral Commission's remit as a regulator of election finance and associated electoral law and examine the enforcement regime for election finance offences committed by candidates, parties and non-party campaigners.
- 10.5 The review commenced with a public consultation inviting views on the way donations and campaign expenditure by candidates, political parties and non-party campaigners in election and referendum campaigns are regulated and enforced by the Electoral Commission, the Crown Prosecution Service (CPS) and the Police.
- 10.6 The Committee on Standards in Public Life intends to report with any recommendations by June 2021. The Committee believes the findings and recommendations of this review may prove an invaluable resource in reviewing the regulation of finances relating to elections in Guernsey.
- 10.7 The Committee agrees that electoral legislation should explicitly state that parties' and candidates' expenditure may be published and this will need to be communicated to all potential candidates prior to the nominated period in future. This recommendation will form part of the changes suggested further to its review of the electoral legislation.

11 Voting: Postal voting and polling stations

(a) Postal voting

RG R4	It is recommended that SACC should consider moving the deadline for postal vote applications further from polling day.
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- 11.1 69% of those on the Electoral Roll opted to register for a postal vote, with approximately 75% of all votes cast being via postal vote. In light of this uptake, it is likely that postal voting will continue to be a popular option in future elections.
- 11.2 Whilst the issue and return of postal votes was generally successful, as acknowledged by the Registrar-General's report, some problems were

¹⁴ Committee on Standards in Public Life: [Review of electoral regulation - Terms of Reference](#)

encountered, most significantly the challenges in the issuing and return of voting packs to and from overseas voters. The Committee will therefore consider whether the deadline for applications should be brought forward as part of its review of electoral legislation.

(b) Polling stations

CPA R7	The recruitment process for polling station staff should be open and publicly advertised, and increased training for polling station staff should be considered.
RG R5	It is recommended that the Reform Law (or any successor) should in future include provision for Deputy Polling Station Officers to be formally sworn in and given the authority to act across the full range of duties in the absence of a Polling Station Officer.
RG R6	It is recommended that SACC should consider consolidating the polling stations, with a view to reducing the number and/or opening hours of the Parish polling stations and increasing the number of super polling stations.

- 11.3 The Committee would like to place on record its thanks to all the Polling Station Officers and volunteers who manned the advance and parish polling stations. The support of the parishes and volunteers was invaluable in assisting the smooth running of the General Election.
- 11.4 The Registrar-General's report addressed the recommendation in the CPA Report, confirming that the recruitment process was open and publicly advertised. The Committee noted that some felt the training for polling station staff was unnecessary, however it supports training being provided to all polling station staff to ensure consistency in electoral administration.
- 11.5 Whilst postal voting proved a popular option with voters, 42% of all voters visited a polling station, with 25% of voters completing their ballot at a polling station and 17% of postal voters putting their postal votes directly into the ballot box. Voting at polling stations therefore remains a vital part of the election process.
- 11.6 The Committee agrees that there should be provision in the Law for Deputy Polling Station Officers to be sworn in to provide support to the Polling Station Officer and to provide resilience in the process. This recommendation will form part of the changes suggested further to its review of the electoral legislation.
- 11.7 When preparing for the 2020 General Election, the then Committee had acknowledged at the time that the polling station arrangements put in place (advance polling stations on the Saturday and Sunday immediately before the

Election, and two days of parish polling and ‘super’ polling stations) were likely ‘overcompensating’ for the logistical challenges Island-wide voting presented.

- 11.8 With the benefit of experience, and feedback from the parishes, it is clear that the number of polling stations could be reduced, and the number of ‘super’ polling stations could be increased. Further consultation will be undertaken with the parishes and the Registrar-General of Electors to identify an appropriate number of polling stations for future elections.

(c) i-voting

- 11.9 The ability to introduce i-voting was explored by the former Committee as stated in its ‘General Election 2020’ policy letter. I-voting can encompass voting from a personal computer to voting via an app on a mobile device. It could take place anywhere in the world and could largely replace the need for postal voting. Given the limited time available before the 2020 General Election, the Committee concluded that introducing i-voting for 2020 was not possible.
- 11.10 During the 2020 General Election, there was a desire expressed by some that i-voting should be introduced in Guernsey. The Committee will consider the feasibility of introducing i-voting for a future Election looking at the opportunities and challenges of such an option.

12 Vote count and Recount

(a) Vote count

CPA R8	The number of ballot papers cast should be verified at the start of the vote count. Adding an additional verification step should also be explored, namely the verification of the total number of votes cast.
CPA R9	A rigorous countback audit process should be put in place, so that an original ballot paper that is ‘transposed’ can be checked against the newly transposed ballot paper that is used to replace it.
RG R7	It is recommended that SACC should give consideration to amending the Reform Law (or any successor Law) to ensure that it is possible for Deputy Central Returning Officers to be sworn in and given the authority to act across the full range of the Central Returning Officer’s duties in his/her absence.

- 12.1 The votes at the 2020 General Election were counted using electronic counting equipment, a first for Guernsey. Whilst the technology worked well, as detailed in the Registrar-General’s report, administrative issues arose which caused delays in the votes being counted. The Election Project Board have noted these

issues, along with the findings and recommendations in the CPA Report, and will look to ensure comprehensive processes are put in place to avoid a reoccurrence of these issues.

- 12.2 The Committee would like to place on record its thanks to the Central Returning Officer who excelled in their performance of their role. The Committee agrees that the role would benefit from additional support from Deputy Central Returning Officers to assist in running the vote count and dealing with returns of expenditure. This recommendation will form part of the changes suggested further to its review of the electoral legislation.

(b) Recount

RG R8	It is recommended that SACC should consider the margin of votes required to trigger a recount after a General Election and, if appropriate, make recommendations for amendments to the Reform Law (or any successor) to reduce the that margin.
RG R9	It is recommended that the Reform Law (or any successor) should, in future, provide for the possibility of an electronic recount and, accordingly, afford the Bailiff more discretion over the exact requirements for a recount.

- 12.3 Whilst the CPA Report did not make a specific recommendation in relation to the margin of votes required to trigger a recount, it highlighted it was ‘a generous margin’ which election authorities may wish to re-evaluate. Noting that in the 2020 General Election, a candidate with nearly 500 votes below the last successful candidate could request a recount, the Committee agrees that the margin should be reviewed, and will consider the CPA report’s suggestion that:

“It might be more practical if the margin of difference between the candidate placed 38th and those below him/her would relate to a percentage of the difference between these contestants in the number of votes cast, rather than a percentage of the total number of ballots issued”.

- 12.4 Electronic counting equipment will be used again in future General Elections and the relevant provisions of electoral legislation will be reviewed to ensure that it accommodates such a count, in particular offering flexibility in how a recount can be undertaken, in line with the recommendation of the Registrar-General.

13 Participation in elections

CPA R10	Extension of Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey should be pursued without delay. This will entail enactment of legislation to enable fulfilment of convention obligations in advance of the extension.
CPA R11	Extension of Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities should be pursued without delay. This will entail enactment of equality legislation to enable fulfilment of convention obligations in advance of the extension.

13.1 The Extension of Articles of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey and the Convention on the Rights of Persons with Disabilities fall within the mandate of the Committee *for* Employment & Social Security. The Committee consulted with the Committee *for* Employment & Social Security on the comments and recommendations in the CPA Report and its letter of response is attached at Appendix D.

13.2 The Committee notes that whilst the Committee *for* Employment & Social Security supports the extension of these Conventions to Guernsey at the earliest opportunity, it would not be possible to select only specific Articles for extension. It further notes that its comments that:

“...even if Guernsey meets the requirements of the priority Articles identified by the CPA BIMR Election Expert Mission, it would not be possible to seek to extend these Articles to Guernsey until we meet the pre-requisites set out above, which may or may not be relevant to those specific Articles.

Of course, the fact that the UK’s ratification of these Conventions has not yet been extended to Guernsey is no barrier to the States of Guernsey working towards the implementation of the measures outlined in Articles 4 and 7 of CEDAW and Articles 21 and 29 of CRPD”.

13.3 The Committee will undertake consultation with relevant stakeholders in order to identify, and consider how the States of Guernsey can work towards the implementation of, suitable measures for Guernsey as outlined in the aforementioned articles as part of its preparations for the 2025 General Election.

13.4 The Registrar-General’s report details the considerable effort that was made to ensure that candidates and potential candidates had access to information that would help them to understand the election process as well as gain insight into the role of a Deputy.

13.5 In a bid to reduce the barriers to people standing, the States funded and

organised the following which was available to all candidates:

- Comprehensive guidance published in advance of the Election and presentations for prospective candidates.
- A grant of £500 for each candidate.
- The ability to include a manifesto (two sides of A4 sized paper) in a candidate manifesto booklet, produced by the States of Guernsey and delivered to all homes on the Electoral Roll and published online on the election's website.
- A free dedicated web page on each candidate.
- The production of a short video promoting their candidacy published on the website.
- An event organised to facilitate voters meeting candidates at Beau Sejour.

13.6 Whilst acknowledging the improvements made to the support for candidates in advance of the 2020 General Election, the Committee is keen that work is undertaken providing information to the public about the work of Deputies and the work of the States, to demystify what being a Deputy entails in reality, for both the public and potential candidates. This will be aimed at all sectors of society but will look at some of the perceived barriers that may exist for those currently underrepresented in the States e.g. women, persons with disabilities etc.

13.7 The Committee will be working with Members, organisations and the public to ascertain what information should be produced and will be working with the Parliamentary Team to ensure this is provided as part of its outreach work. It will also seek to provide information on the General Election well in advance of it taking place (rather than just in the months immediately prior to the Election) to assist individuals who might consider standing.

14 Conclusion

14.1 As confirmed by the CPA BIMR Election Expert Mission, the 2020 General Election was a successful democratic exercise and Guernsey's legal framework for elections complies with international standards for democratic elections. The report from the Registrar-General of Electors shows that the criteria to measure the success of the 2020 General Election, set by the former Committee and the Committee *for* Home Affairs were largely met.

14.2 The only criteria that was not fully met was "A high percentage of those eligible to vote are registered on the Electoral Roll". Whilst acknowledging that those registered on the Electoral Roll exceeded 2016 figures, with only 62% of those eligible to vote registering on the Electoral Roll, it is noted that this cannot be claimed to be a high percentage. However, the workstream under the Committee *for* Home Affairs should resolve this, if the States prioritise and

resource the workstream.

14.3 The introduction of a new electoral system and its practical implementation was always expected to raise matters that would need to be reviewed. Both reports put forward constructive recommendations to assist the Committee in preparing for the next General Election and have helped to assist in identifying key areas for review by the Committee.

14.4 As set out in the policy letter, the key areas for further work, arising from consideration of the appended reports, can be summarised as follows:

- a) investigate the creation of a dedicated, independent elections body for future elections;
- b) review the Reform Laws and other relevant legislation underpinning General Elections, including:
 - i. increasing the number of signatories on the nomination form.
 - ii. introducing provisions requiring the publication of candidates and parties' election expenditure.
 - iii. reviewing the deadline for postal vote applications.
 - iv. introducing Deputy Polling Station Officers and Deputy Central Returning Officers to support election administration.
 - v. reviewing provisions relating to the vote count and recount to ensure they meet the requirements of an electronic vote count and recount.
 - vi. reviewing the margin required to trigger a re-count;
- c) introduce proposals for a system of complaints and appeals for future elections;
- d) investigate the merits of introducing disclosures by candidates/and or Deputies and consider the disqualification provision at Article 8(e) of the Reform Law;
- e) review the regulation of election finance, considering the findings of the Committee on Standards in Public Life review of electoral regulation in England;
- f) review communication initiatives including the feasibility of the States of Guernsey co-ordinating 'hustings-type' meetings;
- g) research the feasibility of introducing i-voting for a future election;
- h) undertake consultation with relevant stakeholders in order to identify, and consider how the States of Guernsey can work towards the implementation

of, suitable measures for Guernsey as outlined in Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey and Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities; and

- i) increasing the information provided regarding the role of a States' Member, the States of Guernsey and the election process by the end of 2023.

14.5 There will be other areas that the Committee will consider when undertaking its review of the General Election before reporting back to the States with proposals. The Election Project Board will also consider how improvements can be made to the administration of the electoral procedures.

15 Compliance with Rule 4

15.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

15.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

15.3 In accordance with Rule 4(4) of the Rules of Procedure of the States of Deliberation and their Committees, it is confirmed that the propositions above have the unanimous support of the Committee.

15.4 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee in relation to elections to the office of People's Deputy.

15.5 Also, in accordance with Rule 4(5), the Committee consulted with the Committee *for* Home Affairs and the Committee *for* Social Security.

Yours faithfully

Deputy C.P. Meerveld
President

Deputy L.C. Queripel
Vice-President

Deputy S.P. Fairclough
Deputy J.A.B. Gollop
Deputy L.J. McKenna



GUERNSEY GENERAL ELECTION

OCTOBER 2020

CPA BIMR ELECTION EXPERT MISSION FINAL REPORT



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EXECUTIVE SUMMARY

"This was an election of firsts. The first time election observers were invited by Guernsey; the first use of a new electoral system; the first inclusion of advance polling days; and, on top of all this, the first election to be conducted during a global pandemic.

The Guernsey Election was a successful democratic exercise. Guernsey's legal framework for elections complies with international standards for democratic elections. The introduction of new island-wide voting has led to some challenges. Many of these were effectively dealt with while others still remain as outlined in our report."

Jim Wells MLA, Head of Mission

The Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) conducted a virtual Election Expert Mission to the Guernsey General Election in October 2020. This was the first time that international election observers had been invited by the States of Guernsey. Due to the Covid-19 pandemic, research was carried out online, and interviews with a wide range of stakeholders were conducted using digital meeting platforms.

Guernsey's legal framework that provides for the conduct of elections complies with local, regional and international standards for democratic elections. The right to vote is well protected, including the voting rights of prisoners. The right to stand for election is also well protected, except for anyone who, during the five years preceding the election, was sentenced to imprisonment for a period of six months or more by a court in the UK, the Channel Islands or the Isle of Man.

Election administration in Guernsey is not a permanent aspect of the governmental infrastructure, which caused pressure on the elections team in the lead up to the election. Voter registration in Guernsey is voluntary, and an extensive media campaign took place in the lead up to the election to encourage eligible voters to register, which was temporarily interrupted due to the outbreak of COVID-19.

A record total of 119 candidates were nominated for this election. This offered voters an unprecedented level of choice, while it also required them to read a broad range of manifestos. In the lead up to the election, three new political parties were registered and presented candidates, a total of 41 between the three of them.

This election saw a variety of new measures being introduced, including new campaign finance regulations for political parties, advance polling days, and new vote count technology. Voting took a significantly different form compared to previous elections, as some two-thirds of the registered electorate registered for a postal vote.

There is an absence of equality law and of any special measures to promote the increased participation of women in political life in Guernsey. The political participation right of persons with disabilities is protected by the legal regime, and commendable efforts were made by the elections team to ensure access to polling stations for persons with physical disabilities.

The CPA BIMR Election Expert Mission offers 12 recommendations in this report to enhance the conduct of elections in Guernsey and to bring it fully into line with international obligations and standards for democratic elections.

INTRODUCTION TO THE MISSION

At the invitation of the Guernsey States' Assembly & Constitution Committee (SACC), the Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) conducted a virtual Election Expert Mission (EEM) to the Guernsey General Election in October 2020. The SACC's invitation followed consultation with the Policy & Resources Committee and agreement by the States of Deliberation. This was the first time that CPA BIMR had been invited to observe elections in Guernsey.

The Mission was composed of:

- Jim Wells MLA – Head of Mission (Northern Ireland)
- Anne Marlborough – Legal/Political Analyst (Ireland)
- John Ault – Electoral/Campaign Analyst (UK)
- Fleur ten Hacken – CPA BIMR Election Coordinator (The Netherlands)
- Jessica Onion – CPA BIMR Election Administrator (UK)

The Mission held virtual meetings between 28 September and 9 October. The Mission was guided by the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers.

The Mission conducted an independent assessment of the Guernsey election against international legal standards, commitments and obligations as well as domestic laws. Its assessment considered the legal framework, election administration, political campaign, media, and opportunities for complaints and appeals. In addition, the Mission considered a number of wider issues such as gender equality and participation of persons with a disability. The Mission met key stakeholders, including the Bailiff, the Chief Minister, HM Procureur and HM Comptroller, the Chief Officer of the Guernsey Police, the Registrar-General of Electors, election officials, candidates, political parties, civil society groups, media outlets and voters.



The CPA BIMR Team of international observers

Election observers were introduced into the law of Guernsey for the first time in anticipation of this election. Article 72B was added to the Reform (Guernsey) Law, 1948, which enables the States' Assembly & Constitution Committee, after consultation with the Policy & Resources Committee, to appoint observers. Such observers will have the right to receive a copy of the Electoral Roll, to be present at any polling station, and to be present during the counting of votes.

An invitation was accepted by CPA BIMR to observe this election. Due to the COVID-19 pandemic, the Mission was originally planned to be delivered as a hybrid mission. The observers would conduct virtual meetings with stakeholders and visit Guernsey for a limited period of time to conduct in person observations of Advance Voting, Election Day and the Vote Count in Guernsey. In consultation with Public Health Guernsey, the observers were granted Critical Worker Travel Permits and had agreed to adhere to strict regulations, including daily COVID-19 testing, while in Guernsey.

Shortly before departure to Guernsey, the Mission was informed that there was increased concern in Guernsey around interacting with observers visiting from abroad due to the risk of COVID-19. Consequently, restrictions were proposed on the observers' access to polling stations, which led to the abandonment of plans to observe the election in person. In close consultation with the Registrar-General of Electors, the decision was taken to continue the Mission virtually. CPA BIMR had prior experience with this innovative adaptation of election observation methodology, as it had carried out a successful virtual Election Expert Mission to the Anguilla General Election in June 2020.

The Mission acknowledges its limitations, in particular the inability of members to visit the island in person and to observe the proceedings on Advance Polling Day, Election Day and the Vote Count. Despite this, the Mission has striven to look at the wider electoral process to the best of its abilities.

This report will offer a number of recommendations which it is hoped will be given due consideration by all the election stakeholders, particularly the States of Guernsey, for the improvement of future elections in Guernsey.

BACKGROUND & ELECTORAL SYSTEM

The "Bailiwick of Guernsey" is one of three British Crown Dependencies and is located in the English Channel, off the coast of France. The Bailiwick of Guernsey consists of three separate sub-jurisdictions, namely Guernsey, Alderney and Sark.

Guernsey is an island of 24 square miles and has a population of around 63,000.¹ Guernsey is administered by the States of Guernsey. Its assembly is the States of Deliberation, which comprises of 38 elected People's Deputies and two representatives of the States of Alderney who are elected separately in Alderney. The Election Expert Mission's mandate covers the election of the 38 deputies in the October 2020 General Election. This was the first time that deputies were elected via a First-Past-The-Post system on an island-wide basis.

The States of Deliberation acts as the overarching executive and legislative assembly with the power to raise taxation and determine expenditure. The States of Deliberation meets every month, except in school holidays, to discuss and debate reports, draft legislation and other matters.

The States of Deliberation has three unelected ex-officio members. The Bailiff of Guernsey is a member and presides over the States. The Bailiff is unelected and non-political, and also serves as the Chief Justice of Guernsey. Both Her Majesty's Procureur (Attorney-General) and Her Majesty's Comptroller (Solicitor General) also sit ex-officio.

¹ States of Guernsey website, available on: www.gov.gg/population

COVID-19 PANDEMIC

The COVID-19 pandemic, inevitably, had an impact upon the electoral process in Guernsey. The election was initially due to take place on 17 June 2020, but in April 2020 it was postponed by a year until June 2021. However, Guernsey's policies to stop the outbreak of COVID-19 worked well, and life in Guernsey returned to normal earlier than expected. Therefore, after several weeks, some Members of the States started lobbying for the election to take place later in 2020. This would mean the delay of the election by an entire year, which had been criticised by some sitting deputies and members of the public, would be shortened to a few months. Eventually, a decision was taken by the States of Deliberation on 1 July 2020 that the election would take place on 7 October 2020.

LEGAL FRAMEWORK

The fundamental law of Guernsey governing elections is found in the Reform (Guernsey) Law, 1948. This law establishes the overarching system of government and the electoral system, including provisions on the right to vote and the right to stand for election. Amended frequently since 1948, the most recent amendments have their origins in a referendum conducted in 2018² which mandated revision of the electoral system. The Reform (Guernsey) (Amendment) (No.2) Law, 2019 gave effect to the changes arising from the decision taken in the referendum. The Reform (Guernsey) (Amendment) (No.2) Law, 2019 (Commencement) (Ordinance), 2020 brought this law into force on 22 April 2020.

This was just short of six months in advance of the election date, offering minimal time for the legal changes to be put into effect. It is usually not considered good practice to amend electoral law so close to an election. The Venice Commission³ recommends that "the fundamental elements of electoral law, in particular the electoral system proper [...] should not be open to amendment less than one year before an election".

Subsidiary legislation, in the form of ordinances and regulations, provides detail on some aspects of the electoral process, including on the registration of political parties, electoral expenditure by candidates, postal voting and the location and timing of polling. Rules on other aspects of the electoral process are dispersed across other pieces of legislation including, for example, the Land Planning and Development (Exemptions) Ordinance, 2007, which provides for an exemption from planning restrictions on the erection of election signs. Some matters are largely unregulated, such as procedures for complaints and appeals relating to voter registration and candidate nomination. Other aspects of the electoral process are governed by customary law and practice, resulting in a lack of certainty in the absence of clear written rules.

International human rights law creates obligations in relation to the conduct of elections in Guernsey. While Guernsey is a British Crown Dependency, international instruments applicable to the UK are not directly applicable in Guernsey⁴ but must rather be extended on an individual basis. Several of the main international instruments pertinent to democratic elections have been

² Conducted on 10/10/2018, five options were given to voters who chose Option A, to have a single island-wide election for 38 deputies to the States of Determination, with a four-year term in office.

³ European Commission for Democracy through Law (Venice Commission) [Opinion No. 190/2002 CDL-AD\(2002\)023rev2-cor](#) (2002) Paragraph II.2 Regulatory levels and stability of electoral law.

⁴ UN ICCPR Committee (2015) [CCPR/C/GBR/CO/7](#), in reviewing UK record, noted with concern that the human rights instrument applicable to the UK was not directly applicable to Crown Dependencies

extended to Guernsey.⁵ These include the International Covenant on Civil and Political Rights and the International Convention on the Elimination of Racial Discrimination. The Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of Persons with Disabilities have not yet been extended to Guernsey. The relatively recent 2017 UK national report⁶ under the Universal Periodic Review of the UN Human Rights Council stated that work is underway on a broad equality and human rights programme in Guernsey, including on disability and inclusion.

The European Convention on Human Rights applies to Guernsey and has been given domestic effect in the Human Rights (Bailiwick of Guernsey) Law, 2000, which came into force in 2006. This legislation is binding upon public authorities and enforceable in the local courts. A broad swathe of political rights is protected in the Human Rights Law.

Guernsey's legal framework that provides for the conduct of elections complies with local, regional and international standards for democratic elections. Rights of political participation are well protected, with both the right to vote and the right to stand for election particularly well established. The Human Rights (Bailiwick of Guernsey) Law, 2000, and the access to the local courts to vindicate the rights comprised therein, is significant.

Recommendation 1: Greater codification of electoral rules and procedures, either via amending existing election law or via enacting a new omnibus election law, could be considered, in order to ensure that there is certainty and consistency in the law and that it applies equally to all concerned.

BOUNDARY DELIMITATION

Previously, the States deputies were elected in seven multi-member constituencies, called districts (Castel, St Peter Port North, St Peter Port South, St Sampson, South East, Vale and West). These districts elected between five and six deputies, depending on the population of each district. In previous elections, all candidates were independent. However, there was frustration on the island that voters could only vote for a limited number of candidates in their district. There was a call for change by supporters of island-wide votes.

Following considerable discussion in Guernsey, a multi-option referendum was conducted on 10th October 2018 which offered voters the opportunity to vote on the future structure of the electoral system. The States had agreed to adopt the outcome of the referendum if 40% of people on the electoral roll cast their ballot. The referendum was decided on via preferential and transferable voting, with voters ranking up to five options in order of preference. The details of the referendum were set out in The Electoral System Referendum (Guernsey) Law, 2018.⁷ These options were either:

- Option A, one 38-member constituency covering the whole island. Deputies would serve four-year terms;

⁵ [UN HRI/CORE/GBR/2014 Common core document](#) forming part of the reports of States parties: UK, has an extensive commentary on & catalogue of human rights instruments relevant to Guernsey

⁶ [UPR National Report of the UK, British Overseas Territories and Crown Dependencies](#) (2017)

⁷ Available on: <http://www.guernseylegalresources.gg/article/165225/Electoral-System-Referendum-Guernsey-Law-2018>

- Option B, seven districts with five or six seats. Deputies would serve four-year terms. This option was essentially the status quo;
- Option C, seven district constituencies with three, four or five seats, and one 10-member constituency covering the whole island. Voters would vote in one district constituency and the whole-island constituency. Deputies would serve four-year terms;
- Option D, four constituencies with 9, 10 or 11 seats. Deputies would serve four-year terms;
- or Option E, a single island-wide 38-member constituency with one-third of the members (12 or 13) elected every two years for a six-year term.⁸

Option A, which proposed island-wide voting, secured the greatest number of votes in the final round of counting, having received 52.48% of the votes ahead of Option C which received 47.52%. Option B came third in the referendum. The turnout was 45.1%, which meant that the referendum result was adopted.

Thus, the 2020 election saw the institution of a novel format for all stakeholders to deal with the election of States deputies. Deputies were elected in a single island-wide district for the first time. Voters had 38 votes and were able to choose from the full list of candidates. Deputies were elected to serve for a term of 4 years.⁹ The formation of political parties was provided for by law, and three parties were registered to participate in the election.

The institution of island-wide voting had the effect of creating several outcomes that perhaps had not been entirely predicted before the election, such as a complex ballot paper and a significantly elongated counting process requiring the use of ballot scanning and electronic tabulation.¹⁰

ELECTION ADMINISTRATION

Election administration in Guernsey is not a permanent aspect of the governmental infrastructure. The staff are drawn from other parts of the civil service, including the Registrar-General of Electors who maintains electoral registration. The elections team seems to have general respect among stakeholders for carrying out its activities in an independent and impartial manner and for its readiness to provide information to voters and candidates. Nonetheless, the International Covenant on Civil and Political Rights, which applies to Guernsey, has been interpreted as requiring that an independent electoral authority should be established to supervise the electoral process.¹¹

The elections team is responsible for the planning and implementation of all aspects of the election process from publicity to polling day and from staff recruitment to engaging technology to conduct the counting process. The work is extremely demanding, with fixed deadlines and limited resourcing. The staff are to be commended for their work in achieving an effective election operation and polling day.

⁸ States of Guernsey website, available on: www.gov.gg/referendum

⁹ Due to the change in election dates due to COVID-19, the States agreed that the next election should be held in June 2025. Effectively, the deputies will therefore serve a term of 4 years, 8 months and 14 days.

¹⁰ Island-wide voting had previously been used to elect a smaller number of Conseillers for the island.

¹¹ UN Committee on Human Rights (27 Aug 1996) [General Comment 25 "The Right to Participate in Public Affairs, Voting Rights and the Right to Equal Access to Public Service," 1510th meeting \(fiftyseventh session\)](#)

The Mission was told that nearly all arrangements for the June 2020 General Election were in place in early March, and that postponing the election to October meant a number of changes were needed, including adapting the recruitment of volunteers, amending the www.election2020.gg website, reorganising services being offered by third parties (in particular the production of ballot papers and the provision of electronic ballot scanners), reorganising training sessions, rewriting guidance and introducing contingency plans to cover all eventualities should the island move backwards in relation to COVID-19.

The restrictions imposed by the States of Guernsey to combat the spread of COVID-19 interrupted the election preparations for several months. Public outreach activities resumed once restrictions were lifted. The election administration should be commended for producing engaging public service announcements and making these available to the public on online platforms. This election took place in a context of extraordinarily challenging barriers, but the elections team still managed to deliver an effective election.

Recommendation 2: A permanent dedicated elections body should be constituted so that institutional knowledge and expertise can be embedded in the Guernsey electoral system. This body could provide continuous electoral oversight, including oversight of candidate and voter registration, political parties and campaign finance.

THE RIGHT TO VOTE

The right to vote is well protected in the law of Guernsey. Article 27 of the Reform (Guernsey) Law, 1948, sets out the qualifications to vote. Any resident on the island may apply to be included in the Electoral Roll, without any criteria as to nationality or citizenship. The only requirement is that a voter be “ordinarily resident”, which is defined as meaning that someone is living lawfully, and has a home, in Guernsey. One may be ordinarily resident without a fixed or permanent address.

In addition to being ordinarily resident when applying for inscription in the Electoral Roll, the intending voter must have been ordinarily resident for a period of at least two years immediately prior to the date of registration, or else for a period or periods of five years in total at any time prior to this. Persons aged 16 and above may vote, but they may be included in the Electoral Roll from the age of 15. Article 30 of the Reform (Guernsey) Law, 1948, provides that voting is by secret ballot.

The voting rights of prisoners are protected in the Reform (Guernsey) Law, 1948, in Article 27A. Two possibilities are available, in that prisoners may register for a postal vote or may vote in person, at the discretion of the Prison Governor. Postal voting has been available to all absent voters since 1972. Advance voting was provided for the first time in this election.



Polling stations

VOTER REGISTRATION

Voter registration in Guernsey is voluntary. There is no requirement for residents to be on the register. The Electoral Roll opened in December 2019 and was subject to an extensive media campaign. As a result of the outbreak of COVID-19 in March 2020, outreach initiatives had to be scaled back and reconsidered in light of the uncertain situation the island found itself in.

It was originally decided to delay the election from June 2020 to the same time in 2021. However, following the decision of the States of Guernsey to proceed with the election in October 2020, the election team campaigned extensively from 1st July onwards to encourage voters to register, with an extensive multi-channel approach, from radio, television, door drops, bus advertising and social media to more traditional methods.

The voting age in Guernsey is 16. In order to vote residents should have been registered by 21st August. The Election Expert Mission was informed that when the Electoral Roll closed at midnight on Friday 21st August, 31,301 voters had registered to vote. The population of Guernsey was 63,021 at the end of December 2019.¹² This number includes residents of Alderney and Sark (approximately 2,500), as well as people under the age of 16, neither of whom are eligible to vote in this election. An estimated 79% of people were eligible to vote (49,807).¹³ Of these estimated eligible voters, only 62.8% were registered on the electoral roll. So, although the number of registered voters was higher than in the past two General Elections in 2012 and 2016, there is still a significant gap between those who are registered to vote and those that could be entitled to vote. And even though this election saw a record voter turnout of registered voters (79%), only an estimated 49.6% of eligible voters voted in this election.

Voter registration is conducted on an ad hoc basis in the lead up to a General Election, and there is no rolling register of electors throughout the years in which no election is being held. This means the election team conducts voter registration campaigns, while having to organise all other aspects of the election simultaneously. The electoral roll is available for public inspection on an annual basis in March. However, access to the roll ahead of the election, as amended since March, was unclear.

Recommendation 3: Formal processes of voter registration could be introduced as part of an ongoing rolling process of registration. Voter registration could be done as part of any annual engagement that residents have with the state, such as filing tax returns.

THE RIGHT TO STAND FOR ELECTION

The right to stand for election is set out in Article 8 of the Reform (Guernsey) Law, 1948. This requires only that a candidate be of full age, which is 18 years of age, and be ordinarily resident on the island on the date of nomination. A candidate must have been ordinarily resident in the island for either a period of two years immediately before the date of nomination, or for a period or periods of at least five years in total at any time prior to nomination. The candidate must also be a registered voter, a qualification which was introduced in advance of this election.

¹² States of Guernsey (29 Oct 2020) 'Guernsey Quarterly Population, Employment and Earnings Bulletin', p.9, available on: <https://www.gov.gg/CHttpHandler.ashx?id=132534&p=0>

¹³ Ibid

Nomination requires the support in writing of two voters who are on the Electoral Roll. No deposit or fee is payable. The nominee must submit a declaration of eligibility to hold the office of People's Deputy. The person must also declare any unspent convictions which resulted in imprisonment anywhere in the world, or else the absence of such convictions.

There is a disqualification in Article 8 which excludes anyone who, during the five years preceding the election, was sentenced to imprisonment for a period of six months or more by a court in the UK, the Channel Islands or the Isle of Man. The International Covenant on Civil and Political Rights, applicable to Guernsey, provides, in Article 25, that citizens shall have the right and opportunity to take part in the conduct of public affairs. This has been interpreted to mean that the right to stand for election may be suspended or excluded only on grounds which are "objective and reasonable".¹⁴ It is arguable that the exclusion of all those sentenced to imprisonment, without regard to the nature of the offence, is unreasonable.

Recommendation 4: Consider removing the provision in Article 8 of the Reform (Guernsey) Law, 1948, which disqualifies voters who have been sentenced to imprisonment for a period of six months or more, from eligibility to become a People's Deputy.

CANDIDATE REGISTRATION

A record total of 119 candidates were nominated for this election. This offered voters an unprecedented level of choice, while it also required them to read a broad range of manifestos. Although the vast majority of candidates stood as independents, three political parties were registered and nominated candidates, a total of 41 between the three of them. These were:

- the Alliance Party, registered in February 2020, which nominated eleven candidates, two of whom were women;
- the Guernsey Party, registered in August 2020, which nominated nine candidates, including one woman;
- and the Guernsey Partnership of Independents, also registered in August 2020, which nominated 21 candidates, nine of whom were women.

Political parties are narrowly defined in the Reform (Guernsey) Law, 1948, which provides that a political party is "a free association of persons, one of the aims of which is to participate in the management of public affairs, including through the presentation of candidates to free and democratic elections." Applications for registration are made to the States' Greffier, who maintains a register of political parties. Registration depends upon a party having certain office holders, a constitution, and submission of an application signed by two party members who are registered voters, and payment of a fee of £80.¹⁵ Parties will be registered on satisfaction of these requirements, unless the name or emblem of the party is offensive or confusing.

In addition to rules on registration, political parties also have obligations to file annual accounts with the Greffier. They must also comply with the rules on election expenditure, set out in Article 45 of the Reform (Guernsey) Law, 1948, and the Electoral Expenditure Ordinance, 2020. Beyond

¹⁴ UN Committee on Human Rights (27 August 1996) [General Comment 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service \(Art. 25\)](#), paragraph 4.

¹⁵ [The Registration of Political Parties \(Fees\) Regulation, 2020](#)

these rules, there is no further regulation of political parties. While this has not hindered the conduct of the election, further legislative intervention may become necessary to govern the operation of parties in political life.

ELECTION CAMPAIGN

Not visiting the island has considerably restricted the Mission's ability to analyse the nature of the campaign in Guernsey, but aspects have been possible to assess through evidence gathered from online and social media, as well as through interlocutor meetings.

The election campaign appears to have been extremely competitive, with a large number of candidates, 119, seeking one of the 38 seats available. Independent candidates and political parties campaigned freely and peacefully, with no reports of impediments to campaign activities. The creation of party politics saw 41 candidates stand for one of the three political parties, while the remaining 78 candidates fought as independents.

There is a strong tradition of public meetings in Guernsey. This has somewhat changed with the arrival of island-wide voting due to the logistical challenges of hosting 119 candidates. Previously, these events were based in the local constituencies with a more manageable number of candidates in attendance. However, some public events were organised by several civil society groups. These include: the Guernsey Disability Alliance; Standing up for Guernsey's Environment; Life in Guernsey 2020 Work, Rights and Wellbeing Hustings; Guernsey Churches Convention for Candidates; Guernsey Institute Stakeholder event for candidates; Grammar School Meet the Candidates, and the Royal College of Nursing Hustings.

Campaigning has been different in this election, with some candidates campaigning on their own and others through one of the three parties. The introduction of parties was a focus point in the campaign of many candidates.

Candidates issued literature of their own, and posters were displayed. Whilst canvassing was once seen as the norm in smaller district constituencies, the practical limitations of candidates visiting every registered elector meant that in-person meetings and campaigning have been less frequent than in previous elections.

CAMPAIGN FINANCE

In a small jurisdiction like Guernsey, access to candidature is relatively open and the issues of campaign finance were not raised to any great extent with the Election Expert Mission. However, because of the significant change in boundary delimitation that took place for this election, moving from local smaller constituencies to an island-wide system, there are possible challenges to future potential candidates accessing the process.

Each nominated candidate received some support for their candidature from the States of Guernsey. Support took the form of:

- A candidate manifesto booklet containing a maximum of two sides of A4 sized paper per candidate, produced by the States of Guernsey and delivered to all homes on the Electoral Roll.
- A grant of £500 for each candidate.

- A free dedicated web page consistent with the manifesto booklet for each candidate.
- An event organised to facilitate voters meeting candidates. Each candidate was given an allocated table and chairs in a large sports hall. Arranged alphabetically they were either grouped by political party, or individually. Members of the public were encouraged to meet each candidate as desired. Whilst not a financial benefit there is an implicit 'in kind' financial element to this event.

There is no nomination fee or deposit required to stand for election, which facilitates ease of access to participate in the election. Campaign finance regulations for political parties were introduced for the first time this election. The regulations stated that the candidate expenditure limit would be £6,000 (including the generous £500 state support) and that the expenditure by a political party was only permissible by virtue of candidates affiliated to that party assigning a maximum of 50% of their permitted electoral expenditure to the party, and that such expenditure by a political party in any election may not exceed in total twice the permissible electoral expenditure for an individual candidate or £9,000, whichever is the lesser.¹⁶

The appearance of three registered parties in this election was a matter of considerable discussion. The nature of the parties' appearance in the election meant that their capacity to campaign, share finance and collaborate in saving on costs of their campaigns made them potentially better resourced than their independent opponents.

Some consideration should be given to the so-called pre-election period. Whilst election expenses are defined and limited for the period when the election campaign is 'live' and candidates have been nominated, no such limitations or reporting requirements exist for the period before an election, when a candidate or party has indicated its intent to contest an election. This period could potentially see high levels of spending by election campaigners without any oversight or limitation. With the advent of parties in the Guernsey context this may become an area of concern where parties exist and function throughout the period of a session of the States of Deliberation but there is limited oversight of their funding, finances or campaign expenditure except to make an annual declaration of their accounts to the nominated officer – the Greffier. This could lead to a significant imbalance in campaign parity between parties, richer individuals and ordinary citizens who wish to seek election in the future, whether as a party-affiliated candidate or as an independent candidate.

Recommendation 5: Political parties should be subject to oversight, and their finances should be evaluated on an annual basis. Individual candidates' pre-election fundraising and expenditure should also be assessed and recorded. Reporting should not be onerous but simply conducted by the production of evidence.

Recommendation 6: Boundaries of pre-election and annual expenditure should be clearly defined. The limitations of expenditure outside the formal period of nominated candidature could be within similar boundaries to those defined for the election period, except with no additional public subsidy.

¹⁶ Guernsey Election Website (August 2020): 'Information for Prospective Candidates: Guidance Notes', p.15, available on: <https://election2020.gg/media/k0ghm3qj/guidance-for-candidates-final-26-08-2020.pdf>

MEDIA

Although not extensive, Guernsey is served by an active, engaged, and local media. There is also active social media engagement, which appears to have been especially popular during the election campaign, spawning accessible processes for voters to assess who they might be most aligned with. There is a healthy media landscape which, although small, is free and open.

BBC Guernsey is a dedicated arm of the UK's BBC, which is funded by a license fee. It is based in Guernsey and reported on the campaign. During the election, BBC Guernsey broadcast a series of candidate hustings on the radio and it reported extensively on the various changes and novelties of the election reflecting the changing nature of the process, such as the number of candidates and the length of the ballot paper.

Guernsey is also served by ITV, in the form of Channel TV and a news website. It covers all of the Channel Islands, not simply Guernsey.

The Guernsey Press is the newspaper in Guernsey. Founded in the nineteenth century, the daily newspaper has significant coverage in Guernsey. As well as covering the election it also took paid advertising from candidates and parties. It has had no stated editorial line on support for parties or individual candidates. Guernsey is also served by The Bailiwick Express, an online media platform, which also covers Jersey.

Some media outlets faced challenges when covering the election because of quarantine restrictions in Guernsey due to COVID-19, as it impeded their ability to move equipment and personnel to Guernsey. Whilst not a limitation on press freedom, this does seem to have had some effect on the variety and depth of some of the media channels' capacity to offer its planned programming concerning the election.

Although some media respected an informal period of silence in their reporting on election-related matters during Advance Voting days and Election Day, this was not formalised. One aspect of the media coverage that was notable was the approach taken by the media towards incumbent politicians. The media's policy and practice of maintaining impartiality during the election period to afford equal and fair access to all candidates, whether incumbent or otherwise, was commendable.



Poster inside a polling station

Guernsey also has an active social media landscape, which was especially active during the island-wide election, where the 119 candidates may have been less individually known to the electorate. Interlocutors shared significant commentary that the electorate was active on social media and that it engaged with the issues of the campaign. Little or no evidence of intimidation or abuse was provided beyond the normal cut and thrust of political debate during an intensive election campaign. No comments or significant concerns were shared by the election authorities, law enforcement or candidates about intimidation, or worse, on social media.

TECHNOLOGICAL INNOVATION

Whilst much of the technology used in the election was focused on the process of encouraging residents to register to vote through social media there was also significant investment in technology to assist the vote count because of the significant change in the voting process.

As voters were offered up to thirty-eight votes on their ballot paper, scannable ballots were issued to voters that could either be cast in a polling station or by post.

As part of the counting process these ballot papers were then scanned, using commercially available scanning equipment. Optical Mark Recognition (OMR) technology was used to scan each vote on the ballot paper and record it. This was supplied by a UK-based company that was brought to Guernsey with all the necessary equipment to conduct the count. One of the challenges discussed with the interlocutors was the impact of the high number of returned postal ballots that were creased and ripped, which meant that ballots could not get scanned by the software.

This led to a high number of votes being rejected by the scanners and then being replaced (transposed) with a new non-creased ballot which the scanning equipment could accept. Whilst the equipment worked well, from the virtual observations that the Election Expert Mission could conduct, there was still a high number of human interactions with the ballots such as the 'transposition' process and the need for manual adjudication. Please see the section on Counting for further comment on this.

VOTING

Voting took a significantly different form compared to previous elections, as 69% of the registered electorate registered for a postal vote. In total, 21,271 postal votes were issued, including those sent to voters outside Guernsey.

Guernsey also saw significant extensions to the methods of voting for those who wished to vote in person at a polling station. As the information from the elections team indicates, 'it was agreed to introduce advance polling stations to increase the number of days that people on the Electoral Roll could cast their votes, and to enable voters to choose from voting in their parish polling station or at a 'super-polling' station.'¹⁷

Polls were open from 8am to 8pm as follows:

- Saturday 3 and Sunday 4 October: St Sampson's High School and The Princess Royal Performing Arts Centre;
- Tuesday 6 and Wednesday 7 October (formal polling day): all parish polling stations (14 in total) and The Princess Royal Performing Arts Centre.

Voters could attend the polls in person and vote for up to 38 deputies. Those who had been issued with a postal ballot were not eligible for a replacement ballot but could deliver their completed postal ballot to a polling station at any stage in the process.

¹⁷ Guernsey Election 2020 website, available on: <https://election2020.gg/voting/where-to-vote/>

To be issued with a ballot paper, voters are only required to give their name and no identification is required. The process depends on trust that the voter will not impersonate another voter on the electoral register, and no concerns about this practice were shared with the Mission. Voters also have the capacity, at the discretion of the Registrar General of Electors, to register to vote in the polling station on polling day if they have been inadvertently left off the register due to administrative error. The Mission was informed that this facility was used on a handful of occasions.



Polling booths inside a polling station

The staffing of polling stations is done on an unpaid voluntary basis. In previous elections, staffing of polling stations was arranged by the Douzaines, the administrative bodies of the parishes. For the first island-wide General Election the polling stations were the responsibility of the Registrar-General of Electors. The Douzaines still ran the polling stations using parish officials and volunteers and the States also advertised for volunteers to carry out various tasks on polling days. If extra staff were required, they were co-opted by members of the Douzaine from the local area as required. There did not seem to be an open process of application for these roles. With polling station staff working in shifts throughout polling days, there can be a high turnover of staff on the same day. This could potentially lead to a variable service for voters visiting the polling stations at different times throughout the day and lead to an inconsistency of electoral administration. The elections team provided training to all staff working in polling stations, which most staff attended. However, some staff felt strongly that training was unnecessary and there is evidence that some staff volunteered without having received training.

Recommendation 7: The recruitment process for polling station staff should be open and publicly advertised, and increased training for polling station staff should be considered.

The ballot paper caused a number of concerns for third sector groups, especially those associated with voters with partial sight or motor problems. The nature of the ballot required voters to fill in small oval shapes on the ballot (which could be scanned and recorded using the electronic counting equipment). This posed challenges for some voters as these ovals were relatively indistinct on investigation.

COUNTING

Counting began on Thursday 8 October at the Beau Sejour Leisure Centre in St Peter Port. Ballot boxes started to arrive from secure storage at 6am, with staff and counting teams arriving from approximately 8am. The Chief Returning Officer briefed those candidates attending the count at 8.30am. The first ballot boxes were opened at 9am and counting began.

Counting staff are paid a fee of £15 per hour. Specialised ballot scanners and software were engaged from the UK to conduct the count. The staff associated with the scanning technology were afforded critical worker status to conduct their work in Guernsey.

Counting should have three separate stages in the following order, in line with international best practice:

1. a verification of the number of ballot papers cast;
2. a verification of the number of votes cast (this stage is only relevant if voters can vote for more than one candidate, such as in the Guernsey 2020 election);
3. a vote count verifying how many votes the candidates received.

These three steps ensure a rigorous counting process. However, in this election the first two steps did not appear to take place as separate parts of the counting process. The first step would involve the counting staff counting how many ballots were received before moving on to counting votes, which would be relatively easy to implement. The second step would be more complex. Bearing in mind each elector had anywhere between 1 and 38 votes to cast, the total number of votes cast could have been up to approximately 900,000 votes in this instance. This could potentially be labour intensive and time consuming.

Recommendation 8: The number of ballot papers cast should be verified at the start of the vote count. Adding an additional verification step should also be explored, namely the verification of the total number of votes cast.

Once the ballots had been opened, in the case of postal ballots, and emptied from ballot boxes, they were fed through the electronic scanning equipment to analyse whom the elector had chosen. Two scanning machines were used for this purpose. Ballots were checked for accuracy by staff on desktop screens and approved as required.

Numerous ballot papers were rejected because the scanning equipment was unable to assess them correctly, due to being creased when returned in the post or ripped when envelopes were opened by counting staff. In these cases, counting staff assessed the ballot paper and then 'transposed' the original information onto a fresh ballot paper that would be accepted by the ballot scanner. This was a labour-intensive process, and to third party observers it was an unusual and potentially concerning method, due to the large amount of human engagement which could facilitate possible human error. While no evidence of malpractice was observed virtually, this could have been a possibility, particularly as a significant number of ballots were transposed via this method (852 in total). Once the original ballot had been transposed, it was kept in a separate pile from the newly transposed ballots, with no apparent audit trail in place linking the two ballot papers. This could have prevented a rigorous countback audit process. If candidates or agents had wanted to check the audit trail to ensure no errors had been made in this transposition process, this would not have been possible.

Recommendation 9: A rigorous countback audit process should be put in place, so that an original ballot paper that is 'transposed' can be checked against the newly transposed ballot paper that is used to replace it.

The declaration of the results was issued in the early hours of Friday morning 9 October, broadcast live on BBC Radio Guernsey and other media outlets. All candidates were announced in alphabetical order, and those elected were listed separately in the order of their election.

Following the declaration, a recount was requested, which had been widely anticipated. As per the Reform (Guernsey) Law, 1948, a recount could be requested by unsuccessful candidates if the margin of difference between them and the successful candidate placed 38th was 2% of the total number of people voting. Under the new island-wide voting system, this translated to a margin of approximately 400-500 votes. This is a generous margin which means the chances of a recount are high. In this election, six candidates were eligible to request a recount, and four of them did. Election authorities may wish to re-evaluate the basis on which recounts can be requested in future elections under the current island-wide system. It might be more practical if the margin of difference between the candidate placed 38th and those below him/her would relate to a percentage of the difference between these contestants in the number of votes cast, rather than a percentage of the total number of ballots issued.

The recount was conducted on Saturday 10 and Sunday 11 October, with the final results being available on Sunday evening. There was no material difference between the original declaration and that made after the weekend recount.

PARTICIPATION OF WOMEN

Women have long been participants in the States of Deliberation, but in numbers which have been quite inconsistent. In 2016 twelve women were elected, amounting to 32% of the representation of Guernsey in the assembly. This was the cause of some celebration, as just five women had been elected in 2012, amounting to 11% of the then membership.

Of the 119 candidates in this election, only 28 were women. Just eight of them were elected, among the total of 38 deputies representing Guernsey, amounting to 21%. This figure falls short of the minimum advocacy goal of 30% of women in parliament espoused in the Beijing Platform for Action, and very far short of the goal of gender parity of 50% men and women.

This is a disappointing outcome from the perspective of gender equality. Guernsey's legal framework offers scant regulation promoting equality of access to political office for women. The absence of equality law, particularly in the sphere of employment rights and equal pay, offers some evidence of historical and cultural discrimination against women which has yet to be eradicated. There is also an absence of any special measures to promote the increased participation of women in political life.

The UN Convention on the Elimination of All Forms of Discrimination against Women has not yet been extended to Guernsey. Attention was drawn to this fact when the Committee on the Elimination of Discrimination against Women most recently examined the 2017 report of the UK on compliance with the treaty obligations. In its concluding observations the Committee stated¹⁸ that it remained concerned that the provisions of the Convention have not been given effect in Guernsey.

¹⁸ UN Committee on the Elimination of Discrimination against Women (14 March 2019) [CEDAW/C/GBR/CO/8 Concluding Observations on the Eighth Periodic Report of the UK](#), page 4/16.

A new Discrimination Ordinance is under preparation in Guernsey, but this is narrow in focus. Article 4 of CEDAW would, if extended to Guernsey, make provision for the enactment of temporary special measures to accelerate de facto equality for women, such as to promote the candidacy of women. Among measures to support to women, political parties, in particular, could be encouraged “to adopt effective measures, including the provision of information, financial and other resources, to overcome obstacles to women’s full participation and representation and ensure that women have an equal opportunity in practice to serve as party officials and to be nominated as candidates for election”.¹⁹ Article 7 of CEDAW obliges parties to the convention to “take all appropriate measures to eliminate discrimination against women in the political and public life of the country” which includes ensuring that women “hold public office and perform all public functions at all levels of government”.

Recommendation 10: Extension of Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey should be pursued without delay. This will entail enactment of legislation to enable fulfilment of convention obligations in advance of the extension.

PARTICIPATION OF PERSONS WITH DISABILITIES

The Convention on the Rights of Persons with Disabilities makes provision in Article 29 for the participation in political and public life of persons with disabilities. Article 21 of the convention further requires that parties shall take all appropriate measures to ensure the freedom of expression and opinion and access to information of those concerned. The convention has yet to be extended to Guernsey. Legislative preparations are underway to allow such extension, as equality law in the form of a new discrimination ordinance has been drafted and appears likely to be enacted soon.

Recommendation 11: Extension of Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities should be pursued without delay. This will entail enactment of equality legislation to enable fulfilment of convention obligations in advance of the extension.

In the meantime, the present legal regime protects the political participation rights of persons with disabilities. In 2016 a provision was added to the Reform Law which abolished “the mental incapacity” to vote. Article 27B now provides that any rule of law which provides that a person is subject to a legal incapacity to vote “by reason of his or her mental state” is abolished. This represents a liberal approach to voters with intellectual disability or mental illness.

Commendable efforts were made by the Registrar-General and her team to ensure access to polling stations for persons with physical disabilities. Polling stations were almost entirely accessible independently, with the exception of the polling station in St. Andrews. This deficiency was well communicated in advance and all voters wishing to do so could vote instead at the super polling station at the Performing Arts Centre, which was accessible.

¹⁹ UN CEDAW (1997) [General Recommendation 23: Political and Public Life](#), paragraph 32.

The ballot paper, which required the careful shading in of small ovals, to be recorded by optical scanner, gave rise to some concerns regarding difficulties posed for voters with visual or motor impairments. The ovals were relatively indistinct on investigation. Magnifiers were available for those who wished to use them. Voters may, by law, be assisted to vote, but secrecy is compromised for such voters. They do not have the facility to vote independently.

ELECTORAL JUSTICE

One of the fundamental elements of a legitimate electoral process is that provision is made for access to justice to resolve any disputes which may arise. International law provides for the right to an effective remedy, which includes both fairness and timeliness.²⁰ There is little detail of any procedures, in electoral law in Guernsey, to facilitate the making of complaints and appeals during the electoral process. There is no evidence, however, that there was any denial of access to justice or fair procedures during this election.

Electoral disputes are not segregated from other legal disputes in Guernsey. There is a presumption that fair procedures will be applied throughout the electoral process, including in relation to voter registration and candidate nomination. Recourse to judicial review before the courts is available. Uniquely in the Guernsey electoral sphere, the rules on the registration of political parties provide that decisions of the Greffier may be challenged in the Royal Court, with an appeal from that decision available to the Court of Appeal.

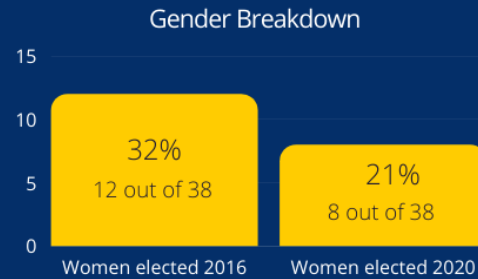
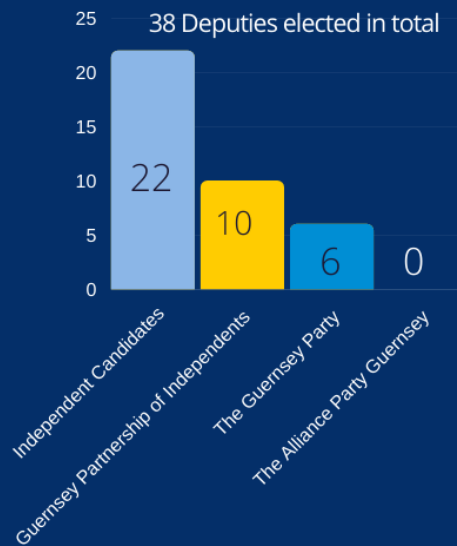
There were no complaints or appeals brought to the courts related to this election.

Recommendation 12: Consideration should be given to the introduction of a system of complaints and appeals for all stages of the electoral process. Detailed procedures should be set out regarding the authority responsible to receive and adjudicate upon disputes arising in relation to voter registration, candidate nomination, voting and counting and all other aspects of the electoral cycle. Fair procedures must apply to any such regulations, with clear deadlines providing for the submission of complaints, making appeals and delivery of decisions, as well as rules of standing to lodge complaints.

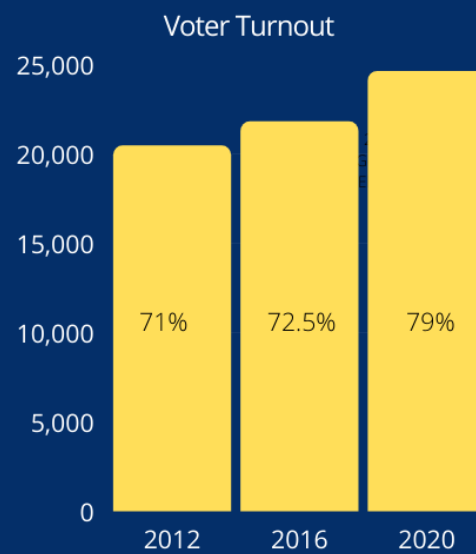
²⁰ The International Covenant on Civil and Political Rights establishes the right to an effective remedy in Article 2.3; the Universal Declaration of Human Rights also provides for an effective remedy in Article 8, and for a fair and public hearing by an independent and impartial tribunal in Article 10.

ELECTION RESULTS

Guernsey 2020 Election Results



Over 67% of registered voters opted for postal votes.



RECOMMENDATIONS

1. LEGAL CODIFICATION

Greater codification of electoral rules and procedures, either via amending existing election law or via enacting a new omnibus election law, could be considered, in order to ensure that there is certainty and consistency in the law and that it applies equally to all concerned.

2. ELECTIONS BODY

A permanent dedicated elections body should be constituted so that institutional knowledge and expertise can be embedded in the Guernsey electoral system. This body could provide continuous electoral oversight, including oversight of candidate and voter registration, political parties and campaign finance.

3. VOTER REGISTRATION

Formal processes of voter registration could be introduced as part of an ongoing rolling process of registration. Voter registration could be done as part of any annual engagement that residents have with the state, such as filing tax returns.

4. RIGHT TO STAND

Consider removing the provision in Article 8 of the Reform (Guernsey) Law, 1948, which disqualifies voters who have been sentenced to imprisonment for a period of six months or more, from eligibility to become a People's Deputy.

5. OVERSIGHT OF POLITICAL PARTIES

Political parties should be subject to oversight, and their finances should be evaluated on an annual basis. Individual candidates' pre-election fundraising and expenditure should also be assessed and recorded. Reporting should not be onerous but simply conducted by the production of evidence.

6. CAMPAIGN EXPENDITURE

Boundaries of pre-election and annual expenditure should be clearly defined. The limitations of expenditure outside the formal period of nominated candidature could be within similar boundaries to those defined for the election period, except with no additional public subsidy.

7. POLLING STATION STAFF

The recruitment process for polling station staff should be open and publicly advertised, and increased training for polling station staff should be considered.

8. VOTE COUNT

The number of ballot papers cast should be verified at the start of the vote count. Adding an additional verification step should also be explored, namely the verification of the total number of votes cast.

9. COUNTBACK AUDIT PROCESS

A rigorous countback audit process should be put in place, so that an original ballot paper that is 'transposed' can be checked against the newly transposed ballot paper that is used to replace it.

10. PARTICIPATION OF WOMEN

Extension of Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women to Guernsey should be pursued without delay. This will entail enactment of legislation to enable fulfilment of convention obligations in advance of the extension.

11. PARTICIPATION OF PERSONS WITH DISABILITIES

Extension of Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities should be pursued without delay. This will entail enactment of equality legislation to enable fulfilment of convention obligations in advance of the extension.

12. ELECTORAL JUSTICE

Consideration should be given to the introduction of a system of complaints and appeals for all stages of the electoral process. Detailed procedures should be set out regarding the authority responsible to receive and adjudicate upon disputes arising in relation to voter registration, candidate nomination, voting and counting and all other aspects of the electoral cycle. Fair procedures must apply to any such regulations, with clear deadlines providing for the submission of complaints, making appeals and delivery of decisions, as well as rules of standing to lodge complaints.

ACKNOWLEDGEMENTS

The CPA BIMR Election Expert Mission wishes to express its gratitude to the States of Guernsey, election officials, candidates and to the people of Guernsey for their cooperation and assistance during the course of the virtual Mission.

For further information about this Mission, please contact cpauk@parliament.uk.

CPA BIMR ELECTION OBSERVATION SERVICES

The first objective of the BIMR Strategy is to strengthen parliaments and the skills of their members. As part of this work, CPA BIMR facilitates election observations when invited to do so.

For more information about these services, please contact the CPA BIMR Secretariat at cpauk@parliament.uk.



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REVIEW OF THE 2020 GENERAL ELECTION

REPORT OF THE REGISTRAR-GENERAL OF ELECTORS

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Introduction

The 2020 General Election took place on 7th October 2020. It was the first island-wide General Election and took place during a global pandemic. Both of these factors meant that the complexity of delivering the election was greatly increased and it is therefore a credit to all involved that it has largely been deemed a success by the community and that this was confirmed in the report of the Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR), which had conducted a virtual Election Expert Mission to the election, and concluded that “[t]he Guernsey Election was a successful democratic exercise.”¹

The first island-wide General Election saw 24,647 voters turn out, which was an increase of almost 3,000 over the 2016 election. Turnout was 79.77%, again higher than in 2016 when 72.5% of those on the Electoral Roll cast their votes. There were 30,899 people on the Electoral Roll and eligible to vote, a slight increase on the 2016 figure. (There were also some under-16’s registered who were not eligible to vote on this occasion.)

Prior to the General Election, the States’ Assembly & Constitution Committee (SACC) and the Committee *for* Home Affairs agreed the following criteria to measure the success of the 2020 General Election:

- i. A high percentage of those eligible to vote are registered on the Electoral Roll;
- ii. A good number of candidates stand for election;
- iii. The majority of those on the Electoral Roll cast their votes; and
- iv. There is a fair, efficient and democratic election.

A review of the election has been carried out, which has considered the above criteria and other matters, and, in accordance with the Resolution of the States dated 12th December 2019² the following have been consulted in preparing this review:

- Candidates in the General Election (elected and unelected);
- Members of the General Election programme board;
- Officers, parish representatives, and volunteers involved in the delivery of the General Election;
- Election service providers (e.g. communications, e-count solutions); and
- The voting public

Broadly speaking, feedback was positive, particularly around some of the communications tools that were offered to assist voters, and a number of constructive suggestions have been put forward for consideration of how future elections might be improved. This report

¹ CPA BIMR Election Expert Mission Final Report, available on: <https://www.uk-cpa.org/media/3806/final-report-cpa-bimr-eem-to-guernsey-2020.pdf>

² Billet d’Etat XXIV, 2019

considers and expands on those suggestions and includes a number of recommendations for consideration by SACC, which are repeated at the end of the document.

The report does not focus on operational improvements, as these fall within the remit of the Election Project Board and are not matters for the SACC or States to determine but, where relevant, they are mentioned to provide reassurance that they have not been overlooked.

Timing of the Election

No report on the Election would be complete without reference to the timing of the Election, which was originally scheduled to take place on 17th June 2020. When the Covid-19 global pandemic emerged, as a result of which Guernsey entered lockdown on 25th March 2020, SACC swiftly considered the implications of this for the island's ability to hold a General Election and submitted a policy letter to the States³ recommending that the Election be delayed, as it would not be possible to hold a free and fair Election if activities such as canvassing, hustings and, in particular, voting were likely to be prohibited or at least significantly impacted. On 15th April the States agreed that the Election should be postponed until 16th June 2021. Consequently, Election resources were scaled back, with temporary contracts being terminated and Election-related work streams deprioritised.

Before long it became apparent that Guernsey's lockdown measures had proved extremely successful, to the extent that, with the exception of travel restrictions, activities on island largely returned to pre-pandemic levels. Against this backdrop, SACC was asked to reconsider the feasibility of holding the election in 2020. After considering the resultant policy letter from SACC⁴, which was submitted as an urgent proposition under Rule 18 of the States' Rules of Procedure, the States resolved, on 1st July 2020, that the General Election should take place on 7th October 2020.

This meant that activity had to be stepped up immediately in order to ensure the election could be delivered in October 2020. Contracts were reinstated and work streams were resumed as soon as practicable. Whilst this meant that the election was successfully delivered on 7th October, the effort required to pick up all the work again at short notice, combined with the need for considerable contingency planning, should not be underestimated and it is important to acknowledge the contribution of everyone who played a part in making the election happen. This includes not only officers of the States but also Parish officials and volunteers, who willingly gave up their time to help.

³ Billet d'Etat VII, 2020

⁴ Proposition P.2020/117 available [here](#).

Legislative Framework

The Reform (Guernsey) Law, 1948 sets out the requirements for elections in Guernsey. The Law deals not only with General Elections but also with other separate, but related, matters such as the election of Parish officials and the constitution of the States of Deliberation. The Law has been amended many times in response to the changing requirements of democracy, and underwent extensive and significant amendment in 2019 by way of the Reform (Guernsey) (Amendment) (No. 2) Law, 2019, following the decision to move to island-wide voting.

Some of the details around elections are set out in Ordinances and Regulations made under the primary legislation. For example, the Advance and Super Polling Station Ordinance, 2020 sets out the dates, times and locations of advance polling and super polling stations, while the Elections (Presence of Candidates at Count) Rules, 2020 set out the rules around candidates attending the vote count.

The need to deal with certain matters by way of Ordinance or Regulation, rather than their being a permanent feature of the Law, can lead to “gaps” in the delivery of elections. For example, in respect of complaints regarding the conduct of elections, Article 38D of the Reform Law gives the States the power to make by Ordinance such provisions as they may see fit in respect of the making and determining complaints in relation to:

- The conduct of elections
- Breaches of procedures concerning elections
- The conduct, during elections, of candidates, returning officers and other persons or classes of persons prescribed by Rules under Article 38C of the Law and
- Breaches by such persons of their functions during elections

Any Ordinance made by the States under Article 38D may include, among other things, the person or body to whom complaints should be addressed; the persons or bodies who may make complaints; and the matters in respect of which complaints may be made.

Given the limitations on time in the lead up to the 2020 election to develop and implement a suitable solution regarding who/what would consider complaints, SACC agreed to maintain the status quo of previous elections rather than ask the States to approve an Ordinance to deal with it but that agreed that the matter would be revisited in the future.

In the absence of any legislation setting out rules around complaints, they tended to be received by the Registrar-General who, while able to give advice about many aspects of the election, had no power to arbitrate in complaints. In order to prevent this situation recurring, it is important that this is addressed. Ideally, such matters would be included in the Law rather than an Ordinance, as the latter approach means that it is possible for the matter to be left in abeyance. Inclusion of relevant provisions in the Law also provides greater certainty for all concerned.

In addition to the Reform Law, there are other relevant pieces of legislation and other guidance. For example, there is advice from the Law Officers of the Crown that dates back to 1973 regarding the display of posters and soliciting of votes inside polling stations but this is not reflected in any legislation, nor is there any consolidated guidance easily available to election officials, which is a particular concern because there has tended to be, in recent years, a lack of continuity of such officials.

Such lack of continuity is understandable because General Elections take place only once every four years and, during the period covered by a political term, officers often move on for a variety of reasons. There is also a reliance on temporary staff which will always be the case because of the intense period of activity preceding an election that cannot be absorbed by the existing workforce but more thought needs to be given to how greater continuity can be achieved between elections.

One possibility would be the creation of an Electoral Commission or similar, which would have the advantage of independence from government. Such a body could provide consistent, impartial advice as well as much-needed continuity. It also removes any potential issues around election officials having to give unwelcome advice to candidates with whom they may have a working relationship, if they are standing Deputies, or with whom they may need to work in the future if their election campaign is successful.

The CPA also commented on this in its Election Expert Mission Report, pointing out that *“the International Covenant on Civil and Political Rights, which applies to Guernsey, has been interpreted as requiring that an independent electoral authority should be established to supervise the electoral process.”*

Recommendation 1:

It is recommended that SACC should investigate the creation of an independent body to advise on and oversee future elections.

It would also assist greatly if consideration could be given to the creation of a new Law that focuses on elections and facilitates the delivery of an election in modern times. For example, as explained later in this report, the Reform Law does not give discretion to the Bailiff to carry out anything other than a full recount of votes in the event that a recount is requested. This does not reflect the use of ecount machines, which are proven to be highly accurate, which may mean that the Bailiff would be content to review only those ballot papers that have been manually adjudicated. This is the custom and practice in other jurisdictions and would reduce the resource requirement for a recount if it were the Bailiff's preferred approach.

Recommendation 2:

It is recommended that SACC should review the Reform Law and other legislation relating to the holding of elections and, if it thinks fit, make suitable proposals for consideration by the States, for electoral reform by way of a standalone election Law that reflects modern election practices and is easily accessible.

The Electoral Roll

In April 2019, following consideration of a policy letter from the Committee *for* Home Affairs⁵, the States approved the establishment of a new Electoral Roll for the 2020 General Election of People's Deputies. This followed the practice established for the 2012 and 2016 General Elections. The new Electoral Roll opened on 1st December 2019.

Mindful of the need to ensure that a high number of those eligible to vote were registered on the Electoral Roll, considerable effort was put into publicising the fact that the Electoral Roll was open and encouraging eligible islanders to sign up. Initiatives and events included:

- The creation of a dedicated website for the election, including the facility to sign up to the Electoral Roll online
- Over 26,000 household registration forms delivered to all properties, including freepost return envelopes
- The launch of the #countmein campaign which saw some local faces backing the message that islanders needed to ensure they were able to cast their votes if they wanted to have a say in decisions
- Registration roadshows at a range of venues, where islanders could sign up to the Electoral Roll and obtain information about the election
- Frequent media releases, often supplemented with interviews
- Press and radio advertisements

Despite the fact that life in Guernsey returned to near normality in the run-up to the election, it was recognised that some sections of the community remained anxious about the possibility of contracting Covid and, in order to respect their desire to limit contact with others, the Election Project Board decided not to carry out any door-to-door enumerating as had been done in 2016, and planned visits to residential and care homes were cancelled.

Notwithstanding the fact that certain activities had to be curtailed, the number of people registered on the Electoral Roll was slightly higher than the 2016 total. The Roll closed on 21st August 2020, with 31,301 voters registered, of whom 30,899 were eligible to vote in the General Election, the remainder still being aged 15 on 7th October and not able to vote until their 16th birthdays.

Whilst this was an improvement on the 2016 numbers, only about 62% of those eligible to do so actually registered to vote, meaning that there were still potentially about 10,000 eligible residents who did not sign up. Although it is not possible to give an exact figure, as not everyone in the requisite age bracket will necessarily meet the residence criteria for signing up to the Electoral Roll, it shows that there is a significant number of islanders who are not exercising their democratic rights, despite every effort being made to ensure that signing up is as straightforward as possible. Therefore the first success criterion agreed by SACC and the

⁵ Billet d'Etat VII, 2019

Committee for Home Affairs, that a high percentage of those eligible to vote are registered on the Electoral Roll, was partially met, as the percentage is higher than in previous years but it is clear that there is room for improvement in this respect.

After the 2016 election it was noted that the process for compiling the Electoral Roll is difficult to administer and requires significant resource. Consequently a number of options were considered with the aim of making it easier for the community to sign up to the Electoral Roll as well as reducing the resources needed to administer the process. It was subsequently agreed by the States in April 2019⁶:

“5. To direct the Policy & Resources Committee when delivering Phase 2 of the Rolling Electronic Census Project (as approved by the States on 26th March 2013) to ensure that:

- i) there is included in its functionality, the capacity for automated generation of a list of persons eligible to vote; and*
- ii) any relevant legislation is submitted to the States for approval,*

in accordance with a time-scale which will enable use of the capacity for automated generation of such a list for the purposes of the 2024 general election and all elections thereafter.

6. To direct the Committee for Home Affairs to take such measures as may be necessary to enable elections to take place on the basis of an Electoral Roll compiled from an automatically generated list of persons eligible to vote, as soon as possible following delivery of Phase 2 of the Rolling Electronic Census Project in accordance with Proposition 5.”

Such an approach is in keeping with comments made by the Electoral Reform Society (ERS) in 2019: *“You shouldn’t have to opt in to your right to vote. we need to move towards automatic registration now, starting with being able to check you are registered online, and being able to register whenever you engage with government bodies or services. We know this works from other countries.”*

This work referred to in Resolution five above has been completed and the matter is now being progressed by the Committee for Home Affairs, as per Resolution six above.

⁶ Billet d’Etat VII, 2019

Candidates

There were 119 candidates in the first-ever island-wide General Election, which was a considerable increase on both 2012 (78) and 2016 (81). Therefore the second success criterion, namely that a good number of candidates stand for election, was fulfilled.

Candidate Support

In anticipation of a higher number of candidates, particularly new candidates, considerable efforts were made to ensure that candidates and potential candidates had access to information that would both help them to understand the election process as well as gain some insight into the role of a Deputy. Up to the point at which nominations closed, activities and material included:

- Officers and Deputies speaking at WEA talks for prospective candidates.
- Two presentations for prospective candidates, explaining key deadlines related to the election, both of which were well attended.
- A comprehensive pack from the Presiding Officer for candidates at the point of nomination.
- The preparation of Electoral Rolls for purchase.

Once the nomination period had closed, support for candidates continued, as follows:

- The creation of an Election website – election2020.gg – containing information for voters and candidates.
- The creation of a candidates' guide, which included comprehensive information about the Election, including links to relevant legislation, as well as a section setting out some of the demands of being a Deputy. This was made available prior to nominations opening, which meant that prospective candidates had access to a wealth of information in advance of putting themselves forward for election.
- A candidate page on election2020.gg.
- The opportunity of having two pages in the combined manifesto booklet, a printed copy of which was delivered to all households where residents had signed up for the Electoral Roll, with an electronic copy available on the website.
- The opportunity of creating a short video promoting their candidacy on the election website.
- A "meet the candidates" event at Beau Sejour, which gave the public an opportunity to speak to those candidates who participated, with the majority doing so.
- A £500 grant towards the production and distribution of campaign material.

Candidate Feedback

Of the 119 candidates, 48 provided feedback after the Election, either by responding to a short survey or direct to the Registrar-General of Electors. Just over half of those who responded were new Deputies who had not stood previously for election.

In terms of the support offered, the combined manifesto was rated as the most helpful element of the support provided, followed by the meet the candidates event.

Although respondents were generally satisfied with the support given, several constructive points were made about how it could be improved for the next General Election. Whilst, inevitably, candidates' opinions differed, there was broad agreement in a few areas.

Despite the fact that the "meet the candidates" event was considered useful, a number of candidates would have liked to have seen more hustings-type events. The difficulties inherent in organising such events for a field of 119 candidates were acknowledged but it was suggested that they could perhaps be organised by parish, open to the whole electorate but with only candidates resident in the parish in question attending.

The practicality of organising something by parish largely depends on the spread of candidates across the parishes. Based on the distribution of candidates in the 2020 election, this approach would be unlikely to work, as some parishes had very few candidates, whilst others had many, although possibly something based on the old electoral districts would be more feasible.

Some candidates found the number of hustings events organised by "special interest" groups, whilst useful, took up considerable time, both in terms of preparation and attendance. It would not be appropriate for the States to discourage such groups from holding events but more engagement with them ahead of the Election could result in a more co-ordinated approach and this is worthy of further investigation.

Recommendation 3:

It is recommended that consideration be given by SACC to how more hustings-type events can be organised by the States and/or the parishes, also having regard to how the requirements of "special interest" groups can be factored into such hustings.

It was suggested by a number of candidates and also members of the public that the "meet the candidates" event would have been of greater value if it had taken place after the distribution of the manifesto booklet, thereby giving time for the electorate to look at candidates' manifestos and formulate questions before attending. Manifestos were available online prior to the event, as well as candidate videos, but it appears that many people preferred to rely on the booklet as their prime means of finding out about candidates. This has already been acknowledged by the outgoing Election Project Board and will be passed on to the next Project Board as part of the "lessons learnt".

Voter Feedback

Feedback from voters was that they were in favour of island-wide voting but found the number of candidates, and therefore the amount of choice, overwhelming. The website and manifesto booklet were positively received but voters found it onerous to read the entire book, with some pointing out that only those with a keen interest in local politics would be likely to do so. The facility to select "yes", "no" and "maybe" via the election website was cited as being of great assistance and, as such, should be retained for future elections.

The number of candidates is something that was raised by several different groups providing feedback, which is unsurprising as it is relevant to so many different aspects of running an election, including the size of the ballot paper; organising hustings and other events; and the voter experience. Although the consensus is that election officials did a good job in addressing issues, particularly voter experience, there have been calls for limitations on the number of candidates.

Notwithstanding this, it would be contrary to the principles of democracy to seek to put barriers in the way of potential candidates. For example, it was suggested that candidates could be required to pay deposits, which would be returned only if they achieved a specified percentage of the vote. This is common in many jurisdictions around the world. In the UK, parliamentary candidates have to place a deposit of £500, which is returned if they poll over 5% of the total votes cast in the relevant constituency.

In the Republic of Ireland independent candidates for election to Dail Eireann must provide:

- A Certificate of Party Affiliation; or
- Statutory declarations signed by 30 constituents; or
- A deposit of €500

As in the UK, candidates who pay the deposit have the money refunded if they receive more than a specified percentage of votes cast in their constituency. At one time, all candidates had to pay a deposit until a High Court Ruling decreed that the obligatory payment of deposits by all candidates was “repugnant to the Constitution of Ireland”.

The UK Electoral Commission is not in favour of deposits for any candidate and its 2015 report *Standing for Election in the United Kingdom: Report and Recommendations*⁷ said the following about the use of deposits:

“... it does not seem reasonable to have a barrier to standing for election that depends on someone’s financial means. We do not think that the ability to pay a specified fee is a relevant or appropriate criterion for determining access to the ballot paper. We therefore recommend that deposit requirements are abolished.”

The purpose of requiring a deposit is to discourage any candidates who may not be serious about pursuing an election campaign but it has limited effect. In the 2017 UK General Election 1,568 candidates (47.5% of all candidates) lost their deposits and in the 2019 General Election the number who lost their deposits was 1,273.

In light of the comments above, plus the limited effectiveness of requiring deposits, it is not recommended that this approach be adopted in Guernsey, as it could make it more difficult for less affluent candidates to participate in an election and would therefore be likely to hinder achievement of the success criterion of ensuring a good number of people stand. It is also possible that some groups may be more disadvantaged than others by such an approach,

⁷ Available at: [Standing for election in the United Kingdom: Report and recommendations | Electoral Commission](#)

which could lead to a less diverse group of candidates and, ultimately, a less diverse Assembly.

It may, however, be worth exploring the possibility of requiring additional people to nominate candidates, along the lines of the UK, where nomination forms have to include the names of 10 registered electors from the constituency in question. A similar approach could help to ensure that candidates are serious about standing and would be more rigorous than the current system which requires only a proposer and seconder.

Whilst this may merit more consideration, any moves to ensure that candidates are truly serious about standing for election would need to be finely balanced with the requirement to ensure that barriers are not placed in the way of anyone seeking to become a Deputy, particularly if there is any possibility that such barriers might inadvertently disadvantage some groups more than others.

It is not yet known whether the high number of candidates will feature in future elections. The 2020 election was bound to attract a high level of interest in terms of candidates and voters, as it was the first ever island-wide general election. Whether interest remains as high in years to come remains to be seen and it may be that the issue does not recur.

Consequently, no firm recommendation for action is made in this respect, although it would be wise for SACC to keep a watching brief on this issue.

Postal Voting

In its December 2019 policy letter⁸ SACC recognised that island-wide voting would present new logistical challenges and acknowledged that it would have to address these:

“It is essential that there is sufficient capacity for all registered voters to vote either by post or in person. In light of this, the Committee has looked to offer an array of opportunities for members of the community to cast their vote.”

The Committee set targets for different elements of the suite of actions being undertaken, including a target of 30% of votes to be postal votes. In order to assist with the achievement of this target, the Election Team heavily promoted the option of postal voting.

Perhaps as a result of this promotion, the 2020 General Election saw a much bigger take-up of postal votes than in previous Elections, with 69% of those on the Electoral Roll opting to register for a postal vote. This meant that 21,271 postal votes were issued to addresses both within and outside of Guernsey. Completed ballot papers, accompanied by a Declaration of Identity, could be returned by post or placed into a ballot box at a polling station. The majority were returned by post. Approximately 75% of all votes cast were postal votes, meaning that the 30% target was exceeded by a considerable margin.

There were a number of reasons cited for the preference for postal voting. The fact that each voter was able to cast up to 38 votes was given by some as a reason for their choice, as they were able to consider their votes at their leisure in the comfort of their own homes. Covid-19 and uncertainty about the ability to attend a polling station was another relevant factor, as was the requirement for self-isolation for anyone returning to the island from elsewhere. This last factor was recognised by the States of Deliberation, which passed Regulations which meant that persons finding themselves having to self-isolate were able to register for a postal vote after the deadline for doing so had passed. The necessity of doing this was demonstrated by the fact that a handful of voters needed to rely on these Regulations.

In anticipation of a high number of voters opting for a postal vote, the preparation of postal vote packs was done by the provider of the ballot papers, UK company UK Engage (UKE), rather than, as had been the case in the past, manually by the Election Team. UKE also produced “spare” packs for use as replacement packs if necessary, or for issue after the print deadline had passed.

Postal voting has been embraced to such an extent by the electorate that it would be difficult to change the approach for the next election. It must be acknowledged, however, that potential risks have been identified in respect of postal voting, in so far as this method of voting could allow voters to be placed under undue pressure by others to vote in a certain way and also raises the possibility of “family voting”.

⁸ Billet d’Etat XXIV, 2019

The Venice Commission, in its Code of Good Practice in Electoral Matters⁹, offers the following guidance on postal voting:

“...postal voting should be allowed only where the postal service is safe and reliable; the right to vote using postal votes may be confined to people who are in hospital or imprisoned or to persons with reduced mobility or to electors residing abroad; fraud and intimidation must not be possible”.

Most of the postal votes issued went to Guernsey addresses and there are no concerns that the Guernsey postal service is anything other than safe and reliable. Whilst it would be extremely difficult to eliminate the possibility of fraud or intimidation in any voting system there is no reason to suspect it is sufficiently widespread in Guernsey to affect the result of an election. In the UK voters are given the opportunity to opt for a postal vote and it would be counterintuitive not to offer the same to voters locally, as the risks are almost certainly lower than in the UK, given the comparative scale of the two jurisdictions.

Whilst postal voting was embraced by the electorate and proved successful for most of those who opted for it, it must be acknowledged that some problems were encountered. The most significant was that logistical difficulties meant that, despite the best efforts of all involved, some overseas voters did not receive their voting packs in time to return their completed ballot papers.

There were a number of reasons for this, including the fact that contingency measures had to be developed alongside routine election preparation, thereby stretching the capacity of staff and suppliers. Whilst it is anticipated that the 2025 election will take place in less challenging circumstances, the Election Project Board has nevertheless made recommendations to its successor to ensure that postal votes are available and despatched, particularly to overseas voters, earlier.

Conversely, it is also important that postal vote packs are not sent to local addresses too early, as some candidates were frustrated to find that, during door-to-door canvassing, they were being told that postal votes had already been despatched.

Historically, the deadline for applying for postal votes has been five days prior to election day, which left only three working days to process applications received on the day of the deadline. SACC's December 2019 policy letter acknowledged that this had been problematic and, in light of the advance polling days, SACC took the opportunity to move the five day window to before the opening of polling, which therefore provided more time overall.

Consequently, the deadline for applications for postal voting was 25th September, which left seven working days before the General Election date. Notwithstanding the change, this

⁹ [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2002\)023rev2-cor-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2002)023rev2-cor-e)

remained a fairly short window within which to process the applications and despatch voting packs. It meant that UKE could not produce voting packs for those who registered later in the process and the “spares” had to be used and processed manually. Whilst this was achievable, it did create pressure and the potential for errors. In the UK, the deadline for registering for a postal vote is 11 days prior to polling day and, with the benefit of experience, it is considered that it would be helpful to ensure that in future more time is allowed between the deadline for postal vote registration and polling day.

Recommendation 4:

It is recommended that SACC should consider moving the deadline for postal vote applications further from polling day.

Polling

Polling Days

A higher than usual voter turnout was anticipated as a result of moving to island-wide voting. With each voter able to cast up to 38 votes, meaning that completing a ballot paper would take longer than previously, it was necessary to take steps to ensure that voters did not have to stand in long queues awaiting their turn to enter a polling booth.

Consequently, pre-polling days were used for the first time and the concept of super polling stations was introduced. Super polling stations could be used by voters from any parish, as distinct from parish polling stations which were only available to residents of the parish in question.

Polling stations were open from 8am to 8pm on polling days as follows:

- Saturday 3 and Sunday 4 October: St Sampson's High School and The Princess Royal Performing Arts Centre (both super polling stations);
- Tuesday 6 and Wednesday 7 October (formal polling day): all parish polling stations (14 in total) and The Princess Royal Performing Arts Centre.

Staffing of Polling Stations

Prior to the 2020 General Election, the parishes voluntarily carried out a significant part of the running of general elections, including providing venues for voting (with associated costs being reimbursed by the States) and people to administer polling stations. Polling stations were established in each district by the Constables of the Parishes in question, in accordance with relevant Resolutions of the States.

In April 2019¹⁰ the States agreed that given the move to Island-wide voting; the intention to introduce advance polling stations; and the need for flexibility as to where polling stations were established, the Law should be amended to require the Registrar-General to establish polling stations, further to consultation with the Constables of the Parishes concerned.

The Reform Law therefore now provides that: *"Polling stations shall be established by the Registrar-General in accordance with any Resolution of the States for the time being in force in that behalf and the Registrar-General may provide for the establishment of such additional polling stations as he may deem convenient to the electorate."*

With the shift of responsibility to the Registrar-General, combined with the changes to the structure of the election – i.e. moving away from Parish- or district-based voting and with the addition of pre-polling days and the introduction of super polling stations – it was considered prudent to introduce training for all volunteers, from Polling Station Officers to those providing more general assistance to the electorate. Polling station volunteers were recruited

¹⁰ Billet d'Etat VII, 2019

both through the Douzaines and directly by the Election Office. Whilst this generally worked well, it did allow for potential inconsistency. Whilst it is recognised that some Parish volunteers are very experienced in election administration, the CPA, in its Election Expert Mission Report, commented on the fact that it was possible for volunteers to attend without receiving training and the report includes the following recommendation:

“The recruitment process for polling station staff should be open and publicly advertised, and increased training for polling station staff should be considered.”

Adverts did appear in local media, including social media, which means that the recruitment was “open and publicly advertised” but there was no requirement for training, although it was very much encouraged and most volunteers attended. While it is accepted that all concerned acted with good intentions, for the sake of good governance, plus consistency of voter experience, it is considered that the Election Mission’s recommendation should be pursued so that all helpers undergo the same recruitment and training experience.

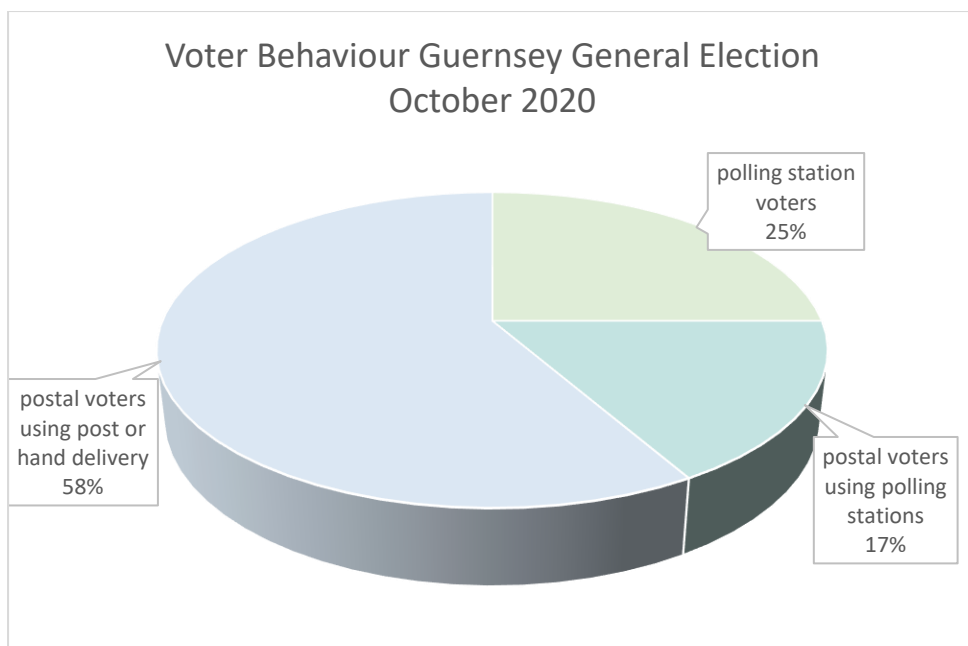
Every polling station had a designated Polling Station Officer (PSO) who was sworn in by the Royal Court. There was a great deal of responsibility placed on these officials and, while they had deputies, the responsibility was always carried by the PSO. These individuals worked long days with few breaks and should be commended for their dedication. However, for future elections, it is recommended that deputy PSOs should be formally sworn in and given sufficient authority to act in across the full range of duties in the absence of a PSO. This would mean that PSOs could take proper breaks and would also ensure greater resilience in the event that illness or unforeseen circumstances prevented a PSO from fulfilling his or her role.

Recommendation 5:

It is recommended that the Reform Law (or any successor) should in future include provision for Deputy Polling Station Officers to be formally sworn in and given the authority to act across the full range of duties in the absence of a Polling Station Officer.

Use of the Polling Stations

With 21,000 people opting for a postal vote it would be easy to overlook the importance of polling stations in the successful delivery of an Island-wide election. Approximately 18,000 postal ballots were returned, which represents 75% of all ballot papers received. However, as 4,000 of those postal voters chose to return their ballot papers via a polling station it meant that 40% of all voters visited a polling station as shown overleaf.



The number of users per polling is shown below:

Polling station	Number of users
St Andrew's Douzaine Room	293
St Sampson's Douzaine	596
Vale Douzaine Room	1232
St Martin's Parish Hall	887
Performing Arts Centre	2620
St Peter Port Constables' Office	956
Castel Douzaine Room	805
St Sampson's High School	451
St Saviour's Community Centre	414
St Sampson's Church Community Hall	320
St Pierre du Bois Community Hall	392
Castel KGV	302
Forest Douzaine Room	276
Torteval Church Hall	201

NB: The figures for the Performing Arts Centre are for four days' polling, whereas the others are for two days.

Parish Feedback

Notwithstanding the high proportion of voters who used the polling stations, it is evident from the above that some were considerably less busy than others. Feedback from the Parishes suggested that some Parish polling stations need not be open for two days and that one would suffice. The Castel Parish also felt that one polling station in the Castel Parish

would be adequate. If implemented, these measures would reduce the need for volunteers as well as bringing the cost down.

It was felt that the super polling stations had proved a great success, and it has been suggested that it would be helpful to locate one in the west/centre of the island as well as St Peter Port and St Sampson's. This idea certainly merits further consideration.

Recommendation 6:

It is recommended that SACC should consider consolidating the polling stations, with a view to reducing the number and/or opening hours of the Parish polling stations and increasing the number of super polling stations.

Vote Count

The vote count was overseen by the Central Returning Officer and, as such, sits outside the remit of the Registrar-General. However, issues that arose during the vote count will need to be addressed by SACC and/or the States and therefore need to be mentioned in this report.

In anticipation of a large number of votes being cast, SACC recommended¹¹, and the States agreed, that electronic counting equipment should be used for the 2020 election. Following a competitive tender process, a UK-based company, UKEngage (UKE), was selected to provide the necessary technology to count votes electronically. This included production of the ballot papers in order to ensure that they were of a suitable specification to be used with the technology.

In addition, as touched on previously, UKE oversaw the production of the postal ballot packs, as this would have been beyond the capacity of the small team if totally reliant on manual processing.

From the perspective of the Election Project Board, UKE provided a good service in difficult circumstances, particularly during the time leading up to the election, when representatives of the company were present on the island for the first time. This meant that they had to have daily Covid tests, isolate when not working, observe strict social distancing and hand hygiene practices and wear masks when with others. Despite these challenges, their communication with the team was of a high standard.

The vote counting machines were essentially high-powered scanners that captured images of the ballot papers and recorded a vote every time one of the ovals to the right of a candidate's name was shaded. If the mark was unclear or the voter intent was otherwise ambiguous then the ballot paper was automatically sent for adjudication; that is to say, it was examined by a small team of scrutineers, working in pairs, who made a decision as to how the ballot paper should be interpreted.

As each ballot paper listed 119 candidates they were very long, which meant that it was difficult to fit them into the envelope provided for the return of postal votes. This meant that frequently they were damaged when they were removed from the envelopes, which in turn caused problems with the scanners because the ballot papers could not pass through without difficulty and were being rejected.

Consequently, it was necessary to transcribe manually the information on such ballot papers onto fresh ballot papers. This task was undertaken by teams of civil servants working in pairs: one to read out what was on the ballot paper; one to mark the votes on a clean ballot paper. Once a ballot paper had been transcribed, the pair swapped papers and double-checked, with

¹¹ Billet d'Etat VII, 2019

the other reading out whilst his/her colleague checked that the ballot paper was marked correctly.

Whilst this activity was carefully monitored and there is no cause to suspect any fraudulent activity, it did, understandably, raise questions. It will be important to reduce the number of papers transcribed in future, whilst still maintaining the integrity of the election.

The count took place in the Sarnia Hall at Beau Sejour Leisure Centre. It commenced at 10am on the day after the election, 8th October 2020, and concluded at around 1am, with the results being announced by the Central Returning Officer at about 1.45 am. This was longer than original estimates, largely because of unforeseen difficulties with scanning the ballot papers, which are explained above. A further delaying factor was that postal ballots were not separated from other ballot papers at polling stations; they were all placed in the same ballot boxes. This meant that the outer envelopes and the Declarations of Identity could not be opened and checked until the count commenced, whereas this initial step could have been completed earlier had the postal ballots been kept separate. This point has also been picked up by the Parishes in their feedback, and should be addressed by the Election Team for the next election.

The length of time taken to complete the count featured in various stakeholder feedback, including candidate feedback. Some candidates felt that there was a sense of anti-climax when the results were issued, as few people were inclined to attend Beau Sejour at such a late hour. Others felt that the wait was too long and it would have been preferable to call a halt at some point during the evening and recommence the following morning. It has also been suggested that the count could have commenced earlier in order to bring forward the announcement of the results.

With the benefit of experience, there is every expectation that the count could be shortened in future, and it would also be worth the Central Returning Officer considering whether to commence much earlier – e.g. 8am or possibly earlier on the day after the polls close.

Central Returning Officer

Under the previous Parish-based election system, there was a Returning Officer for each district, making seven in total, each of whom had responsibility for ensuring an accurate vote count in his/her electoral district. With the move to island-wide voting, the task of overseeing the vote count fell to a Central Returning Officer who was sworn in by the Royal Court.

Whilst the appointee did an excellent job, the appointment of only one official not only placed a considerable burden on that one person but also created a single point of failure. Should he have become unavailable – for example through illness – on or close to the day of the count, it would have been extremely difficult, if not impossible, to find a suitable replacement able to take over at short notice.

There are certain parallels with the situation regarding Polling Station Officers and, as such, the recommendation is similar in so far as it is considered important that there should be provision in the Law to allow Deputy Central Returning Officers to be sworn in and given the authority to act across the full range of duties in the absence of the Central Returning Officer. Any Deputies appointed could not only step up in the absence of the Central Returning Officer but could also act in support of the individual concerned, which would help to ease the appointee's heavy workload.

Recommendation 7:

It is recommended that SACC should give consideration to amending the Reform Law (or any successor Law) to ensure that it is possible for Deputy Central Returning Officers to be sworn in and given the authority to act across the full range of the Central Returning Officer's duties in his/her absence.

Recount

Unsuccessful candidates had the right to ask for a recount in the event that the difference between the number of votes they received and the number of votes received by the candidate in 38th place was less than 2% of the total number of votes cast.

In the 2020 election, this was the case for six unsuccessful candidates, four of whom requested a recount. The candidate in 39th place received 126 fewer votes than the candidate who came 38th, and the candidate in 44th place, who polled 493 votes fewer than the 38th-placed candidate, was also able to seek a recount.

As pointed out by the CPA in its Election Expert Mission report:

“This is a generous margin which means the chances of a recount are high. ... Election authorities may wish to re-evaluate the basis on which recounts can be requested in future elections under the current island-wide system. It might be more practical if the margin of difference between the candidate placed 38th and those below him/her would relate to a percentage of the difference between these contestants in the number of votes cast, rather than a percentage of the total number of ballots issued.”

In light of the experience of the 2020 General Election, and given the above comments, it is recommended that SACC should consider the margin of votes required to trigger a recount.

Recommendation 8:

It is recommended that SACC should consider the margin of votes required to trigger a recount after a General Election and, if appropriate, make recommendations for amendments to the Reform Law (or any successor) to reduce the that margin.

Under the Reform Law, recounts are the responsibility of the Bailiff, who appointed a number of Jurats to oversee the administrative aspects of the recount.

UKE advised that it is usual in other jurisdictions where recounts are required, to examine only those ballot papers that had been manually adjudicated, as the ecount machines would not give a different answer, whereas different adjudicators might interpret voter intention differently.

This would be a logical approach but the Reform Law does not give such flexibility, as it was drafted with a manual count in mind and has not been updated to reflect the current reality of electronic vote counting. Consequently, there was no option but to run the entire count again, which is of course more costly and time-consuming than simply re-examining the adjudicated ballot papers.

Given that this was Guernsey’s first experience of using an e-count system, it nevertheless provided assurance when the recount did not result in any changes to those elected. It was

therefore a worthwhile exercise in the context of a new system but it is recommended that the Reform Law should be amended in order to allow the Bailiff to exercise more discretion over the exact parameters of any recount, given that electronic counting is set to become the norm.

Recommendation 9:

It is recommended that the Reform Law (or any successor) should, in future, provide for the possibility of an electronic recount and, accordingly, afford the Bailiff more discretion over the exact requirements for a recount.

Election Expenditure – Candidates and Parties

The Rules

Rules regarding the amount of expenditure permissible by candidates and political parties are governed by Article 44 of the Reform Law and the Electoral Expenditure Ordinance 2020, made under the Reform Law.

In summary, the Law and the Ordinance between them set out the permitted maximum levels of expenditure for candidates and political parties, and the transfer of permitted expenditure from candidates to parties; the value of assistance given in kind (“in money’s worth”); the need to maintain financial records; and the way in which spending before the Election period is counted towards a candidate’s or party’s permitted expenditure.

To understand the rules around expenditure it is necessary first to understand what is meant by the regulated period. This runs from the first day on which a nomination of a candidate may be delivered to the Presiding Officer (for the 2020 election 1st September, 2020) and ends on the date of the General Election.

Any money spent, and any materials used, during this period to promote a candidate’s election (or to promote a party and its policies) – regardless of when those materials were originally bought or created – must be recorded and counted towards a candidate’s (or party’s) permitted expenditure.

For the 2020 election candidates were permitted to spend up to £6,000 in money or money’s worth.

For the first time, political parties were able to form and endorse candidates for the General Election. Three political parties were registered during 2020: The Alliance Party Guernsey (registered 12th February 2020); The Guernsey Party (registered 5th August 2020); and The Guernsey Partnership of Independents (registered 18th August 2020).

Candidates who were supported or endorsed by political parties had the option of transferring up to £3,000 of their expenditure allowance to the relevant political party, to be used by the party to spend on the promotion of the party and its policies. The expenditure limit for political parties was £9,000.

The issue of campaign expenditure became contentious during the period preceding the election, with concerns being raised that political parties were being treated differently to individual candidates, and complaints that some candidates and parties might have been circumventing the rules by spending money on campaigning outside the regulated period.

With regard to candidates, the interpretation of the term “candidate” is that no-one can become a candidate until his or her nomination has been accepted. Consequently, expenditure prior to the regulated period on “one-off” items – e.g. newspaper or radio advertisements – would not contravene the rules because, although related expenditure

would have occurred outside the regulated period it would not constitute expenditure by a “candidate” and, as such, would not have to be declared in candidates’ returns.

Expenditure on items that were less discrete or short-term – for example posters displayed prior to and during the regulated period – would have to be declared because they would be being used during the regulated period, even if the expenditure had occurred in advance.

Notwithstanding the fact that it seems that candidates adhered to the letter of the Law, feedback from the community both before and after the election was that perhaps not everyone had abided by the spirit of the Law. Whether or not such claims are justified, there is little that can be done about them, providing the Law is observed.

A significant issue appears to be the point at which someone becomes an election candidate, as the expenditure rules apply only to candidates. This distinction is not well understood in the community, and it may be that it needs to be emphasised in communications.

In theory, a would-be candidate could incur considerable expenses on promoting his/her candidacy during the nomination period but not submit a nomination form until close to the deadline, meaning that one-off expenses incurred prior to the nomination date do not have to be declared. The only advantage in such an approach would be to enable expenditure in excess of the £6,000 limit. Few candidates came near the expenditure threshold and so this is unlikely to prove a motivation for many.

In the UK, the situation regarding expenditure during the regulated period is the same as in Guernsey but the determination of when someone is deemed to be a candidate, and therefore subject to expenditure rules, differs slightly.

Prior to a UK General Election, the UK Parliament is dissolved. The earliest date that anyone can officially become a candidate is the day of Parliament’s dissolution. Parliament is dissolved 25 working days before a General Election. In 2019, the General Election was held on 12th December and Parliament was therefore dissolved on 6 November.

The difference between the UK and Guernsey is that, in the former, if a person has already announced his/her intention to stand, formal nomination is not a pre-requisite for the expenditure rules to apply. A person will become a candidate on the date when Parliament is dissolved if they or others have already announced the intention to stand. If the intention to stand has not been announced by the day of the dissolution of Parliament, people will officially become candidates on the earlier of:

- the date the intention to stand is announced, which may be by the candidate or a third party; or
- the date when the candidate is nominated. This must be prior to the close of nominations.

In Guernsey there is no formal dissolution of Parliament, although the States of Deliberation do not meet during the period preceding an election. Because Guernsey's parliament and government are one and the same, the dissolution of the States would also mean the dissolution of government. Committee business can, and often does, continue throughout the election period and indeed beyond, until the elected Deputies are formally sworn in.

It is difficult to devise and enforce rules in this respect, particularly as prospective candidates can promote themselves via social media at no cost. In practical terms it would be impossible to prevent all pre-election expenditure if a prospective candidate decides to declare his/her intentions very early. However, given that this issue caused much comment from the community, it is suggested that consideration be given to ensuring that formal nomination is not a pre-requisite for the rules to apply, once nominations have opened. This would need to be reinforced with careful communications about the rules, as a lack of understanding contributed to some of the queries received.

It has to be recognised that the nature of political party spending is inherently different from that of an individual election candidate. Political parties endure beyond elections in a way that individual candidates do not. Political parties may incur ongoing expenses associated, for example, with premises from which they are operating, as well as one-off events, potentially linked to promoting the party and its policies but not necessarily directly linked to an election.

Guidance issued by the UK Electoral Commission for the 2019 General Election¹² explains that *"campaign spending is what your party spends on activities to promote the party or criticise other parties during a particular period in the run-up to the election"*, which is a helpful way to distinguish such expenditure from other party expenditure.

One of the issues in respect of party spending in 2020 was that there was little time (ranging between eight months and seven weeks) between the formal establishment of the parties and the election. In such circumstances it is perhaps understandable that there was a perception among some members of the community that parties were disregarding the rules in respect of spending, as it was difficult to separate the everyday expenditure of a political party, particularly one in its infancy, and therefore incurring costs associated with the start-up and promotion of any party, from campaign spending.

This situation is unlikely to recur, as legislation enabling the establishment and recognition of political parties is now in place, well before the next election, whereas there was a much smaller window of opportunity in respect of the 2020 election.

In the 2020 election, the Guernsey Partnership of Independents saw 11 candidates elected (although one has since opted to leave the party), and the Guernsey Party six. No Alliance Party candidates were elected and the party has been dissolved. It is not yet known how Guernsey's political system will mature in respect of political parties. Given that 2020 saw the

¹² [UK Parliamentary General Election 2019: Political Parties \(GB & NI\)](#)

first island-wide General Election which also happened to be the first election featuring political parties, it is perhaps not surprising that a degree of confusion existed around some of the rules pertaining to party expenditure.

Consequently, it is considered that more consideration needs to be given to how the rules are clarified and communicated to parties, candidates and the community but there is no overriding reason to revise the rules at this time.

Candidate Expenditure

As stated above, election candidates were permitted to spend up to £6,000 in money or money's worth. They were able to claim a grant of up to £500 in respect of receipted expenditure for the production and distribution of campaign material, as part of the overall expenditure limit.

There have been many calls for individuals' election expenses to be published but the Law does not expressly permit publication and candidates were not asked to consent to these details being made public, although they are at liberty to publish their own expenditure should they wish. The same is true of political parties' election expenditure, although they are required to file annual accounts.

In light of the understandable desire for transparency, it is recommended that the Law be amended to ensure that the ability to publish individuals' expenditure is captured.

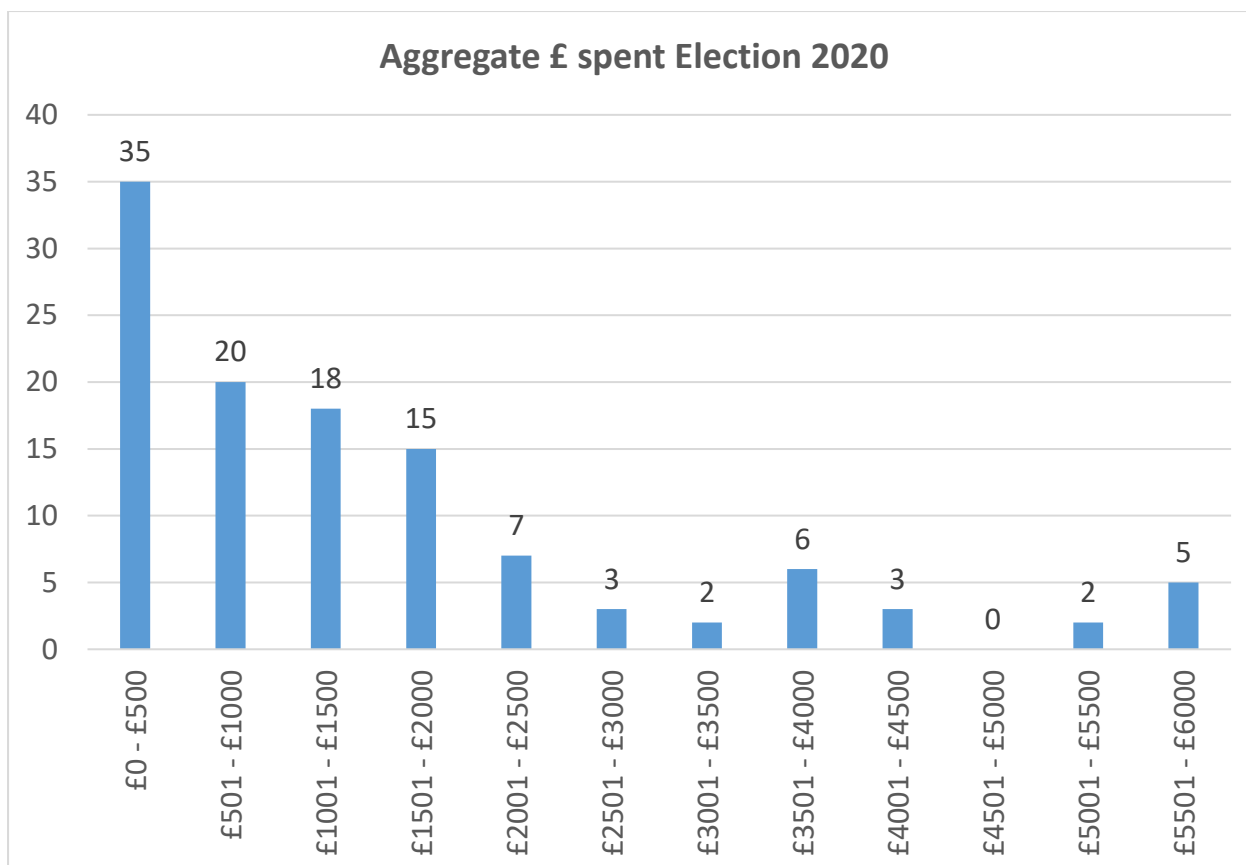
Recommendation 10:

It is recommended that the Reform Law (or any successor) should make explicit the fact that parties' and candidates' individual expenditure returns may be published.

Notwithstanding the fact that individual expenses cannot be published without consent, it has been possible to compile some aggregated data that gives an overview of expenditure.

Aggregated candidate expenditure is shown in the graph below¹³:

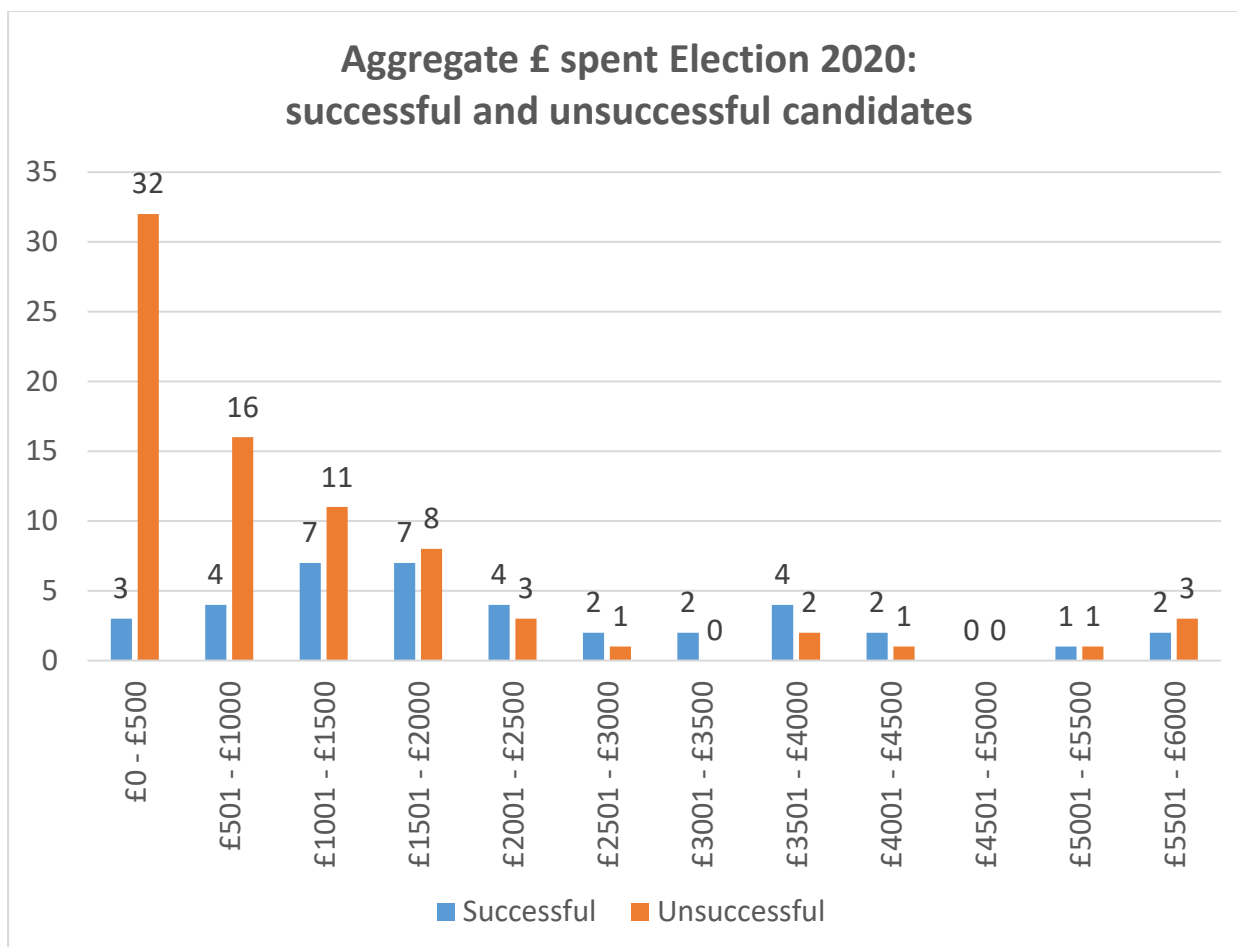
¹³ The data relates to 116 candidates, as three (all of whom were unsuccessful) did not submit any returns.



As can be seen, the majority of candidates (98 in total) spent no more than 50% of the £6,000 limit, with most spending significantly less.

There has been speculation over whether it might have been possible to “buy” election success, particularly as the expenditure limit was higher than in past elections. The graph below, which breaks down aggregated expenditure between successful and unsuccessful candidates, shows that greater spending did not necessarily mean success in the election, with three out of five of the highest spenders failing to be voted into political office. Of the successful candidates, 27 spent less than 50% of the permitted expenditure limit. Spending for successful candidates ranged from £285 to £5,859, demonstrating that election success was possible with minimal expenditure.

Despite this, on average, successful candidates spent more than those who were unsuccessful. The average spend by those who were elected was £2,242, whilst for those who were not it was £1,178. Three candidates did not incur any expenditure, none of whom was elected.



The ten successful candidates with the lowest expenditure spent between £265 and £1,034. Of these, five had been Deputies in the 2016-2020 term, whilst five had not.

It is difficult to draw any conclusions based on expenditure alone because the data relates only to those activities and items that had to be declared on an expenses return. It does not take into account the fact that many candidates also went door knocking and/or used free social media or other free activities to promote themselves, nor can it account for existing public profiles. It does show, however, that it was not necessary to spend anything close to the £6,000 expenditure limit to secure election success.

The position regarding publication of party expenditure is the same as for individuals. Aggregate expenditure across all three parties was just under £19,000, with no party exceeding the £9,000 limit. Two parties, the Guernsey Partnership of Independents and the Guernsey Party, have confirmed publicly their election expenditure as £6,500 and £6,200 respectively.

Election Costs

It was difficult to plan the budget for the first island-wide election because, understandably, there were many unknown factors, particularly in the early stages, and it also became necessary to factor in contingency planning occasioned by Covid.

The table below shows expenditure against budget for both the election and the creation of a new Electoral Roll.

Area	Expenditure Category (Per	Budget	Expenditure	Variance
Election	Staffing of Polling Stations and Vote Count	91,000	14,226	76,774
Election	Postal voting	35,000	59,951	(14,951)
Election	Postage (general)	10,000		
Election	Candidate manifesto booklet	82,000	134,505	(42,505)
Election	Printing	10,000		
Election	Contingency	25,000	3,543	21,457
Election	Advertising	24,000	189,894	7,107
Election	IT - hardware / website	38,000		
Election	E-Count Solution	110,000		
Election	Contingency	25,000		
Election	Election Observation Mission	50,000	16,611	33,389
Election	Grants for candidates	50,000	50,454	(454)
Election	Administration - meetings etc.	50,000	43,022	6,978
Election	TOTAL	600,000	512,205	87,795
Electoral Roll	Staffing	260,000	249,476	10,524
Electoral Roll	Staffing (uplift in respect of pay awards)	5,593	0	5,593
Electoral Roll	Printing	11,000	16,997	(5,997)
Electoral Roll	Postage (general)	33,500	22,258	11,242
Electoral Roll	IT - hardware / website	25,000	44,201	(19,201)
Electoral Roll	Administration / Stationery	8,500	(728)	9,228
Electoral Roll	Advertising	42,000	32,622	9,378
Electoral Roll	TOTAL	385,593	364,826	20,767
COMBINED	TOTAL	985,593	877,031	108,562

As can be seen from the table, the cost of running the election was just over £512k, whilst the cost of creating a new Electoral Roll was a little less than £365k, giving a combined total of £877k.

There were a number of factors that influenced the total expenditure. First, the high number of candidates (119) meant that the combined manifesto document was larger than anticipated, which meant that the printing and postage costs increased. The budget for candidate grants was based on 100 candidates claiming the full £500 but, as expected, not all candidates claimed the full amount and therefore the overspend in this area was marginal.

Owing to uncertainty regarding the possible re-emergence of Covid in the community, the decision was made to put a contingency in place should the island have to revert to a previous phase of lockdown over the election period. This contingency plan required a postal voting

ballot paper to be created for all persons on the electoral roll, regardless of whether they were signed up for a postal vote. The cost for this was c. £20k. Fortunately this contingency was not triggered, and thanks to careful budget management, the cost was covered from general contingency and underspends within other areas.

The uptake for postal votes was considerably higher than had originally been anticipated, which may have been influenced by both the number of candidates, meaning that voters preferred to vote in the comfort of their own homes, and also, potentially, concerns about Covid. This area exceeded the budget by c£15k. Feedback from voters has shown that postal voting was very popular and the high uptake is likely to endure, which should be noted for budget planning for future elections.

Owing to the restrictions on travel at the time of the election, it was decided that an in-person election observation mission would not be possible. A remote expert mission was undertaken instead. This meant a significant reduction in the actual cost because of savings on travel, accommodation, staffing costs, etc. The final cost of the election observation mission was £16.6k against a budget of £50k. There is no need to have an election observation mission at every General Election and this is therefore a cost that need not feature in the budget for the next election and, in all likelihood, the one after that too.

The experience gained during the 2020 General Election will help to inform budget decisions in respect of the 2025 election, meaning that a more accurate budget should be achieved.

Conclusion

The 2020 General Election was unique. It was the first General Election to be run on the basis of island-wide voting; it was the first to feature political parties; and it was organised in the middle of a global pandemic.

All of these circumstances threw up issues for those planning and running the election but, notwithstanding the challenges, it can be concluded that the success criteria agreed by SACC and the Committee *for* Home Affairs, were largely met. To recap, those criteria were:

- i. A high percentage of those eligible to vote are registered on the Electoral Roll;
- ii. A good number of candidates stand for election;
- iii. The majority of those on the Electoral Roll cast their votes; and
- iv. There is a fair, efficient and democratic election.

As set out in the report, more needs to be done in order to increase the percentage of the electorate who are registered on the Electoral Roll but that work is in train and it is hoped that it will have been concluded in time for the 2025 election.

The other criteria are considered to have been met; again the reasons for this conclusion are set out in the report.

Regardless of the success of any undertaking, lessons can always be learnt and improvements made, which is what the recommendations in the report (and attached as an appendix for ease of reference) are designed to achieve.

Finally, I should like to thank all those who contributed to the delivery of the election and also those who kindly gave up their time to provide feedback afterwards. It is much appreciated.

Colette Falla
Registrar-General of Electors

31st March 2021

Appendix: Recommendations

1. It is recommended that SACC should investigate the creation of an independent body to advise on and oversee future elections. (See p.6)
2. It is recommended that SACC should review the Reform Law and other legislation relating to the holding of elections and, if it thinks fit, make suitable proposals for consideration by the States, for electoral reform by way of a standalone election Law that reflects modern election practices and is easily accessible. (See p.6)
3. It is recommended that consideration be given by SACC to how more hustings-type events can be organised by the States and/or the parishes, also having regard to how the requirements of “special interest” groups can be factored into such hustings. (See p.11)
4. It is recommended that SACC should consider moving the deadline for postal vote applications further from polling day. (See p.16)
5. It is recommended that the Reform Law (or any successor) should in future include provision for Deputy Polling Station Officers to be formally sworn in and given the authority to act across the full range of duties in the absence of a Polling Station Officer. (See p.18)
6. It is recommended that SACC should consider consolidating the polling stations, with a view to reducing the number and/or opening hours of the Parish polling stations and increasing the number of super polling stations. (See p.20)
7. It is recommended that SACC should give consideration to amending the Reform Law (or any successor Law) to ensure that it is possible for Deputy Central Returning Officers to be sworn in and given the authority to act across the full range of the Central Returning Officer’s duties in his/her absence. (See p.23)
8. It is recommended that SACC should consider the margin of votes required to trigger a recount after a General Election and, if appropriate, make recommendations for amendments to the Reform Law (or any successor) to reduce the that margin. (See p.24)
9. It is recommended that the Reform Law (or any successor) should, in future, provide for the possibility of an electronic recount and, accordingly, afford the Bailiff more discretion over the exact requirements for a recount. (See p.25)
10. It is recommended that the Reform Law (or any successor) should make explicit the fact that parties’ and candidates’ individual expenditure returns may be published. (See p.29)



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5th May 2021

Dear Deputy Meerveld

CPA BIMR Election Expert Mission Report – Guernsey General Election 2020

I refer to your letter of 22nd April 2021 requesting an update in respect of the development of an automated electoral roll. The Committee *for* Home Affairs (the Committee) is pleased to note that the relevant legislation necessary to support the delivery of an automated generation of a list of persons eligible to vote is now in place.

The Committee supports the progression of this Extant Resolution and recognises the efficiencies that an automated electoral roll are likely to deliver. However, it will be essential for this work to be prioritised and resourced in the Government Work Plan in July if a digital solution and the necessary amendments to the Reform Law are to be progressed and in place in advance for the 2025 General Election.

The Committee looks forward to working with the States' Assembly and Constitution Committee and the Policy & Resources Committee to progress arrangements for the 2025 General Election including establishing an automated electoral roll. As part of these further discussions the Committee considers that there would be merit in reviewing the 'blue book' in terms of which Committee might appropriately have mandated responsibility for the electoral roll moving forward.

Yours sincerely

Deputy Rob Prow
President
Committee *for* Home Affairs



Committee *for*
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Deputy C P Meerveld
President
States Assembly & Constitution
Committee
Royal Court House
St Peter Port

Our Ref:
Your Ref:
Date: 5 May 2021

Dear Deputy Meerveld

CPA BIMR Election Expert Mission Final Report - Guernsey General Election - October 2020

Thank you for your letter, dated 22 April 2021, inviting the Committee *for* Employment & Social Security ('the Committee') to submit a letter responding to recommendations 10 and 11 in the report from the CPA BIMR Election Expert Mission:

- Recommendation 10 – Extension of Articles 4 and 7 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) to Guernsey should be pursued without delay.
- Recommendation 11 – Extension of Articles 21 and 29 of the Convention on the Rights of Persons with Disabilities (CRPD) should be pursued without delay.

Firstly, it is important to stress that international human rights treaties, such as CEDAW and CRPD, are extremely wide-ranging covering all areas of life, therefore, a whole government approach is required to progressively realise the requirements of these Conventions over time. That said, the Committee recognises that it has a lead role to play in advising the States of Deliberation on matters relating to equality and inclusion and in working towards the introduction of the key legislative provisions that need to be in force before H.M. Government will consider extending its signatory of either convention to Guernsey.

CRPD

I am advised that comprehensive legislation prohibiting discrimination on multiple grounds, including disability, must be in force before H.M Government will consider extending its ratification of CRPD to Guernsey.

In July 2020, following consideration of a Policy Letter entitled '[Proposals for a New Discrimination Ordinance](#)' ('the July 2020 Policy Letter'), the States agreed unanimously to the preparation of an Ordinance to outlaw discrimination on the grounds of disability, carer status and race. The States also approved an [Amendment](#) to the Committee's proposals, laid by Deputy Parkinson and seconded by former Deputy Tooley, which added religious belief and sexual orientation into the first phase of the development of the Ordinance. The States directed the Committee to develop policy proposals for phase 2 of

the development of this Ordinance, for consideration in 2023 and implementation in 2024. Phase 2 will include proposals to introduce protection from discrimination on the grounds of age and the transfer into the new Ordinance of the grounds of protection covered under the existing Sex Discrimination (Employment) (Guernsey) Ordinance, 2005 (i.e. sex (including pregnancy and maternity), gender reassignment and marriage), with any necessary adaptations.

The Committee is currently working on the implementation of phase 1 of the new Discrimination Ordinance, for entry into force in late 2022.

CEDAW

H.M. Government has previously advised the States of Guernsey that the following requirements must be met before consideration will be given to extending the UK's ratification of CEDAW to Guernsey:

1. Introduction of statutory maternity leave with pay or equivalent benefits

Statutory maternity leave was introduced with effect from 1 April 2016 and maternity benefit was replaced with a suite of parental benefits, paid at higher rates, with effect from 1 January 2017. I believe this requirement is now met.

2. Introduction of comprehensive legislation prohibiting discrimination on the grounds of sex

Sex discrimination in employment is unlawful under the Sex Discrimination (Employment) (Guernsey) Ordinance, 2005. However, sex discrimination in the provision of goods and services, education, accommodation and membership of clubs or associations is not unlawful in Guernsey at the present time.

As noted above, the Committee has been directed to develop policy proposals for phase 2 of the new multi-ground discrimination Ordinance, for consideration in 2023 and implementation in 2024. Phase 2 will include proposals to introduce protection from discrimination on the grounds of age and modernisation of the Sex Discrimination Ordinance, which will include plugging existing gaps where sex discrimination is currently lawful.

3. Introduction of a legal right for women to equal pay for work of equal value

In relation to this matter, the July 2020 Policy Letter said:

“The Committee envisages that phase 3* will include a proposal to introduce the right to equal pay for work of equal value in respect of sex in accordance with Guernsey's obligations under the International Covenant on Economic, Social and Cultural Rights and in order to support the extension of the Convention on the Elimination of All Forms of Discrimination Against Women.”

[Please note that the three-phase approach proposed by the Committee was condensed into two phases through a successful Amendment proposed by Deputy Parkinson and seconded by former Deputy Tooley, therefore, this will feature in the phase 2 Policy Letter referred to above.]*

The CPA BIMR Election Expert Mission has recommended that extension of the UK's ratification of Articles 4 and 7 of CEDAW and Articles 21 and 29 of CRPD (the text of these Articles is provided in Appendix 1) should be pursued without delay. While the Committee supports the extension of these Conventions to Guernsey at the earliest opportunity, I understand that it is not possible to select only specific Articles for extension. I am advised that Guernsey would need to seek extension of the UK's ratification of any Convention as a whole, with the possibility of declarations or reservations being applied in line with those that apply to the United Kingdom, and perhaps some that are specific to Guernsey, subject to negotiation with the UK and where the Conventions allow. Therefore, even if Guernsey meets the requirements of the priority Articles identified by the CPA BIMR Election Expert Mission, it would not be possible to seek to extend these Articles to Guernsey until we meet the pre-requisites set out above, which may or may not be relevant to those specific Articles.

Of course, the fact that the UK's ratification of these Conventions has not yet been extended to Guernsey is no barrier to the States of Guernsey working towards the implementation of the measures outlined in Articles 4 and 7 of CEDAW and Articles 21 and 29 of CRPD. Any actions taken in this regard will, in future, assist the States of Guernsey to demonstrate to H.M Government an adequate level of compliance with the requirements of the Convention when an official approach is made.

Given the critical importance of the new Discrimination Ordinance in moving towards extension of CEDAW and CRPD to Guernsey, the Committee looks forward to receiving your wholehearted support, and that of your Committee members, in the implementation of phase 1 of that Ordinance and the development and approval of policy proposals for phase 2.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P. Roffey', with a stylized flourish at the end.

Deputy Peter Roffey
President

APPENDIX 1

CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Article 4 – Special Measures

“1. Adoption by States Parties of temporary special measures aimed at accelerating de facto equality between men and women shall not be considered discrimination as defined in the present Convention, but shall in no way entail as a consequence the maintenance of unequal or separate standards; these measures shall be discontinued when the objectives of equality of opportunity and treatment have been achieved.

2. Adoption by States Parties of special measures, including those measures contained in the present Convention, aimed at protecting maternity shall not be considered discriminatory.”

Article 7 – Political and Public Life

“States Parties shall take all appropriate measures to eliminate discrimination against women in the political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;
- (b) To participate in the formulation of government policy and the implementation thereof and to hold public office and perform all public functions at all levels of government;
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.”

CONVENTION ON THE RIGHTS OF PERSONS WITH DISABILITIES

“Article 21 – Freedom of expression and opinion, and access to information

States Parties shall take all appropriate measures to ensure that persons with disabilities can exercise the right to freedom of expression and opinion, including the freedom to seek, receive and impart information and ideas on an equal basis with others and through all forms of communication of their choice, as defined in article 2 of the present Convention, including by:

- (a) Providing information intended for the general public to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner and without additional cost;
- (b) Accepting and facilitating the use of sign languages, Braille, augmentative and alternative communication, and all other accessible means, modes and formats of communication of their choice by persons with disabilities in official interactions;

- (c) Urging private entities that provide services to the general public, including through the Internet, to provide information and services in accessible and usable formats for persons with disabilities;
- (d) Encouraging the mass media, including providers of information through the Internet, to make their services accessible to persons with disabilities;
- (e) Recognizing and promoting the use of sign languages.”

“Article 29 – Participation in political and public life

States Parties shall guarantee to persons with disabilities political rights and the opportunity to enjoy them on an equal basis with others, and shall undertake to:

- (a) Ensure that persons with disabilities can effectively and fully participate in political and public life on an equal basis with others, directly or through freely chosen representatives, including the right and opportunity for persons with disabilities to vote and be elected, inter alia, by:
 - (i) Ensuring that voting procedures, facilities and materials are appropriate, accessible and easy to understand and use;
 - (ii) Protecting the right of persons with disabilities to vote by secret ballot in elections and public referendums without intimidation, and to stand for elections, to effectively hold office and perform all public functions at all levels of government, facilitating the use of assistive and new technologies where appropriate;
 - (iii) Guaranteeing the free expression of the will of persons with disabilities as electors and to this end, where necessary, at their request, allowing assistance in voting by a person of their own choice;
- (b) Promote actively an environment in which persons with disabilities can effectively and fully participate in the conduct of public affairs, without discrimination and on an equal basis with others, and encourage their participation in public affairs, including:
 - (i) Participation in non-governmental organizations and associations concerned with the public and political life of the country, and in the activities and administration of political parties;
 - (ii) Forming and joining organizations of persons with disabilities to represent persons with disabilities at international, national, regional and local levels.”