



CPA BIMR ELECTION OBSERVER MISSION JERSEY GENERAL ELECTION - MAY 2018

PRELIMINARY REPORT



“The 2018 Jersey election was well executed, competitive and enabled the electorate to cast their votes in secret and express their will in a transparent, peaceful and orderly manner. We commend the election officials who were professional in carrying out their functions meticulously and impartially. In particular the efforts by the States Greffe to educate and engage the population in the electoral process. However their work was hindered by an electoral system which remains overly complicated and cumbersome. Further areas of concern relate to the number of uncontested elections, the disparity in the equality of the vote across districts and parishes and the low voter turnout which arguably undermines the principle that the elections in Jersey are fully genuine. Improvements are needed to tackle the deficiencies in the regulatory framework, particularly in relation to campaign financing, political parties and the process for candidate nomination.”

Hon. Phillip Paulwell CD MP, Jamaica
Head of Mission, CPA BIMR EOM, Jersey 2018

BACKGROUND

The Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR), Election Observation Mission (EOM) was present in Jersey from 5 May till 18 May 2018, following an invitation from the States and Government of Jersey. In advance of this date, CPA BIMR conducted two scoping visits in 2017 and observed nomination days on the 10 and 11 April. The eight-member Mission was composed of:

- Head of Mission - Hon. Phillip Paulwell CD MP (Jamaica)
- Deputy Head of Mission – Hon. Dr Zanetor Agyeman-Rawlings MP (Ghana)
- Short Term Observer – Jeremy Balfour MSP (Scotland)
- Short Term Observer – Tenia Woolridge (Bermuda)
- Senior Election Coordinator – Matthew Salik (CPA UK – United Kingdom)
- Election Coordinator – Fleur Ten Hacken (CPA UK – The Netherlands)
- Election Analyst – Harald Jepsen (Denmark)
- Election Analyst – Anne Grandvoinet Serafini (France)

This Mission is the first to occur in Jersey following an amendment to the Public Elections (Jersey) Law 2002 in January 2017 which permits the access of observers. This change in the law is part of a continuous review and implementation of electoral reforms. Most notably in 2012, an Electoral Commission was temporarily established to consider reforms on a range of issues. In 2013, the different options were put to a referendum. By a 26% turnout, the population opted for establishing six electoral districts and maintaining the Connétables as elected members of the States. **The result of the consultative referendum was put on vote in the legislature, but failed to receive sufficient support from States members.**

The EOM assessed the electoral process in accordance with international standards and best practices for elections and domestic legislation. Prior to election day, the Mission met with the Chief Minister, Bailiff, States Greffier, the Judicial Greffier, election and parish officials, candidates, political parties, civil society, the public, media representatives, the States of Jersey and Honorary Police and attended a number of campaign events. On Wednesday 16 May, EOM members were deployed throughout Jersey for observation of election day procedures. After observing the opening procedures, the Mission made repeated visits to all the Island's 18 polling stations to follow the voting process. Later in the day, the EOM observed the counting and results tabulation process in a number of different election districts.

The EOM is independent in its composition, findings and conclusions, adhering to the Declaration of Principles for International Election Observation, signed at the United Nations in 2005. It will continue to follow post-election developments and will publish a final report, containing recommendations, within two months.

LEGAL FRAMEWORK

The legal framework for the elections include formal laws such as the Public Elections (Jersey) Law 2002 and regulations such as the Department for Infrastructure Guidelines for Election Advertising on Areas under Administration of the Department.¹ Jersey is party to the International Covenant on Civil and Political Rights (ICCPR) and the European Convention on Human Rights (ECHR), which both set a number of important standards for elections. **Overall, the electoral legal framework is conducive for holding**

¹ States of Jersey Law 2005, the Connétables (Jersey) Law 2008, the Political Parties (Registration) (Jersey) Law 2008, the Public Elections Donation and Expenditures (Jersey) Law 2014, as amended and the Public Elections (Jersey) Regulations 2002.

democratic elections in line with international standards. However, constituency boundaries for the election of Connétables are not drawn in line with international standards (see boundary delimitation section). **A further number of election topics are under-regulated such as media coverage of the election campaign, campaign finance and political parties.**

The legislature in Jersey, the States Assembly, has 49 elected members of which 8 are Senators, 12 are Connétables and 29 are Deputies. All are elected for a four-year term in office. Fourteen members of the States were elected unopposed. **Although such instances are permissible in democratic societies, the provision allowing candidates to stand and be elected unopposed has reduced the competitiveness of the election** (only one constituency voted in all 3 ballots; 14 constituencies voted in 2 ballots, and in 3 constituencies, voters could vote only in the senatorial election).²

In the 16 May 2018 public election, Jersey chose the remaining 8 Senators, 1 *Connétable* and 26 Deputies. The States, although in purdah, does not prorogue under the law and as such members of the outgoing legislature stay in office until the new elected members are sworn in. **This may give candidates seeking reelection, including members of government and States committees, an unfair advantage over other candidates.** In terms of the *Connétables*, who continue in their primary function as community head (father/mother of a Parish), **this provision may potentially cause a conflict of interest when seeking reelection.**³

ELECTION ADMINISTRATION

The election administration of Jersey is divided between multiple stakeholders. Once the Royal Court has ordered for an election, the election administration primarily sits with the Judicial Greffier as the Clerk of the Court. The Greffier and twelve Jurats, who are members of the legal profession that serve as non-professional judges of fact act as *Autorisé* or Returning Officers. Returning officers have a varying number of Adjoints or assistant Returning Officers at their disposal who staff polling stations on election day. The Judicial Greffier provides guidelines (manuals and memo notes) and training for the Jurats, and on election day, acts as a returning officer for the Senators' election. The Greffe also oversees the administration of advance polling.

The Greffier of the States is the Clerk of the States Assembly. The States Greffe produced a comprehensive guide to voters containing the manifestos of all candidates as well as voter information targeting different audiences, including women, youth and minorities (see section below). This information was also available online, on the vote.je website, which is maintained and updated by the States Greffe. They also responded to calls and enquiries from voters and candidates about the elections.

At parish level, the Connétable acts as election administrator (a function that is carried out by the Procureur du Bien Public or parish trustee in the case of the incumbent Connétable seeking reelection). The election administrator presides at candidate nomination meetings and assists in organising and chairing the hustings held in the parish. Assisted by the Parish Secretary, the election administrator is also in charge of the voter register.

The system in Jersey is unique as it relies to a large extent on the work of volunteers – *Autorisé* and *Adjoints* – to carry out most tasks on election day. This is also the case with the Honorary Police that assumes an active role by providing security on election day. **The commitment and willingness to support the electoral process in this manner is highly commendable.**

Despite concerns that the administration of the election is too divided, the Mission noted an **effective and proactive level of communication and coordination between the varying election actors.** Training provided was comprehensive and offered an opportunity for *Jurats* to clarify matters not covered by the guidelines, and the Law Officers' Department gave advice on matters of law. The *Jurats*, in turn, briefed and trained the *Adjoints*. **Overall the election administration performed its tasks in a professional, efficient and transparent manner. Stakeholders generally expressed a high degree of trust in the election administration.**

VOTER REGISTRATION

Voter registration in Jersey is active; a person needs to apply for inclusion on the voter register in order to exercise the right to vote. The right to vote is granted to persons who are 16 years old, have been an ordinarily resident for at least 2 years prior to election day or have been an ordinarily resident for the last 6 months plus any other period(s) which total 5 years, regardless of their nationality. Prisoners serving a term of less than four years are eligible to register and vote by post or may request a visit by the returning officer on election day. Mental disability is not reason for denying the right to vote.

Persons could register on the voter list until 9 April; latecomers could register on supplementary lists until 9 May final cut off day. Voters registered on supplementary lists were entitled to vote on election day, but could not take part in advance voting. In total, some 62,065 voters or three-quarters of the eligible population was able to vote in the elections.⁴

² See, www.vote.je

³ Certain tasks such as the safekeeping of ballots – usually stored in the safe of the Connétable in the parish – are examples of a potential conflict of interest, which, however, as a rule is mitigated by asking the Connétable to pass the keys to the safe to the election administrator in the parish. The Connétable is also responsible for the overall administration of the parish and officials working on the election.

⁴ Population data used for the calculations in this report are from the 2011 Census. According to the 2011 census, the population was 97,857 persons, of which 81,644 or 83% were 16 years or older. In more recent official estimates from 2016, the population of Jersey is approximately 104,000 persons.



The voter registers are maintained by each of the 12 parishes and are essentially paper based. Voters could file an application electronically for the first time in this election, but they could not check their registration online. More than two-thirds of the online applicants were in fact already on the voter list. Since registers are not linked or digitalised, crosschecks for possible duplicates had to be done manually. **Thus, online registration created an additional burden for the parish administrations.** Candidates were able to obtain a copy of the relevant voter register provided they registered with the Data Protection Commissioner against a £50 fee (see campaign section). In many cases, candidates were actively encouraging non-registered voters to register and some targeted minority community members, especially in the main town. However, candidates highlighted the inconsistency of formatting and lack of clarity across the different registers as well as difficulty in access to the registers in advance of their nomination. **Unfortunately only approximately half of the population in St Helier are registered voters as compared to the Island's rural parishes, where up to 80% of the population are registered to vote. The States Greffe made considerable effort to reach out to Portuguese and Polish communities and encouraged them to register and take part in the elections, which is noteworthy.**

BOUNDARY DELIMITATION

The Island is divided into three forms of constituencies for public elections:

- Senators are elected in one island-wide constituency;
- Connétables are elected in the 12 parishes; and
- Deputies are elected in 17 electoral constituencies.

The latter are set out in Schedule 1 to the State of Jersey Law 2005. **Due to the huge difference in the size of the Island's parishes – from 1,752 in St Mary to 33,522 in St Helier – the electoral boundaries set for Connétables are challenging the principle of equal suffrage.⁵ This is at odds with the obligations of the States of Jersey under the International Covenant on Civil and Political Rights (ICCPR).⁶**

It is a good international practice that the drawing of boundaries be undertaken in a transparent and consistent procedure established by law and that boundaries are regularly reviewed to reflect demographic changes. This is currently not the case with regard to Deputies' constituencies. The States of Jersey Law 2005 provides that the States may amend Schedule 1 and thereby alter, combine, split and rename the constituencies and amend the number of deputies in relation to a constituency. **However, neither the principles governing their delimitation nor the regularity of the boundary review are spelled out in law. This limits the transparency of boundary delimitation.**

The current delimitation of Deputies' constituencies as outlined in Schedule 1 appears to be based on population data from the [2011 Census](#) (the number of Deputies allotted to each parish largely corresponds to the parish's share of the total population). **The schedule, however, does not comply with the principle of the equality of the vote due to the significant disparity in the number of registered voters in rural and urban parishes** (see voter registration section).

CANDIDATE REGISTRATION

A total of 77 candidates were officially nominated for the 35 vacant seats, offering a wide choice of political alternatives for voters. However, a substantial number of unopposed candidates (14) were declared elected and one candidate withdrew before election day. The only political party taking part in the election provided 18 candidates for Senator and Deputy.

All candidates were officially proposed during nomination meetings on the 10 April for Senators and the 11 April for Deputies and *Connétables*. Candidates had to submit a nomination form with the signatures of one proposer and nine seconders, as well as a Declaration of Convictions. The format of the nomination meeting was criticised by many interlocutors and the form led to two Court cases and a withdrawal of a candidate. **Few checks of the eligibility criteria for candidacy were conducted; the authorities rely solely on the accuracy of a self-declaration form signed by candidates. This could leave opportunities for abuse and errors.**

CAMPAIGN

There is a lack of campaign regulation, with the exception of the Department of Infrastructure guidelines regulating the visual campaign in public areas under its authority, which was at times ignored by candidates. Campaign posters were mostly visible at major crossroads and main streets throughout the Island. **Candidates and their supporters should be praised for actively canvassing their districts, primarily through leafleting.** Numerous hustings were conducted in a format that was pre-agreed, however there were different opinions among interlocutors as to their overall effectiveness. **In a positive move, all hustings were video-recorded and made available online on vote.je.** The manifestos of all candidates together with their photos were published by the States Greffe in an election booklet distributed to all households and additionally made available online as an in-kind contribution by the state to all contestants. The information was updated following the withdrawal of one candidate and the election of another. **However despite these proactive steps, many voters expressed a lack of understanding of what candidates stood for.**

⁵ Paragraph 25 of the [International Covenant on Civil and Political Rights](#) (ICCPR) ratified by the States of Jersey in 1976 provides for "the right of citizens to vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage...".

⁶ [Comment 25](#) of the UN Human Rights Committee further stipulates that "...within the framework of each State's electoral system, the vote of one elector should be equal to the vote of another." [Commonwealth \(Latimer House\) principles](#), p. 16: "Commonwealth parliaments should take speedy and effective steps to implement their countries' human rights obligations by enacting appropriate human rights legislation."

On the whole, the campaign was a positive one, centered on a number of local and Island-wide issues. However, there were cases of defacing of campaign posters with swastikas and alleged use of inflammatory speech in a leaflet attacking a candidate. Some of these cases were reported to the States of Jersey Police and are currently under investigation.

The Public Elections Expenditure and Donations (Jersey) Law 2014 regulates campaign finances. It stipulates, among other, that candidates and third parties have to report on campaign donations and expenses, but it is notably silent when it comes to the rights and obligations of political parties. Parties are not required to provide any specific financial report in an election year apart from their regular annual statement of accounts. Some candidates running for Senator and some running for Deputy in urban centers considered the campaign ceilings set too low. All candidates must report direct and notional expenses as well as anonymous donations to the Judicial Greffier within 15 days after the election, but he is not required by law to undertake a detailed or systematic scrutiny of their final reports or make any conclusions of such scrutiny public. **These deficiencies in financial accountability and transparency can potentially lead to abuse and fraud.**

MEDIA

The conduct of the media during an election is not subject of regulation by the States of Jersey; media is essentially self-regulated and there is no oversight body to monitor media compliance. Thus, it is up to the individual media to provide candidates equal access and balanced coverage. As such, a number of local media outlets took varying approaches to their coverage.

Overall the Jersey media landscape is limited but pluralistic and includes several newspapers, television channels and radio stations. Only few candidates chose to use paid advertisement. The media supported the States in communicating key election messages, posting candidate videos and conducting questionnaires. The Bailiwick Express conducted an exit-poll with students from Highland College to encourage youth engagement. There was an increased use of social media, especially Facebook, Twitter, Instagram and blogs. **A number of candidates expressed concern about the imbalanced nature of the printed press, the absence of a silent period and the abusive nature of social media that can put off potential candidates.**

ADVANCE POLLING

The election administration should be commended in their approach to offer a vast array of opportunities for the electorate to cast their vote. Voters on the electoral register could opt to vote by postal ballot or take part in the pre-polling in the last two weeks prior to election day. A number of voters applied for a postal ballot. Application forms were available online. Candidates may bring applications to potential voters, but they are liable to a fine if they assist or fill in the form on behalf of the voter.

Pre-polling was open from 30 April to 14 May on weekdays in St Helier, and on Saturday 5 May in Trinity and Saturday 12 May in St Brelade. Around 3000 registered voters used the opportunity to cast their ballot in advance. Voters did not have to justify their participation in the advance voting. Candidates were not allowed to observe pre-polling, but some chose to campaign outside.

The Mission observed voting in all three pre-poll locations. **The process was well-administered and smooth, apart from occasional problems with accessing the electronic voter register which at times led to delays, as well as the limited space in the St Paul's Centre.** The envelopes with the advance votes were kept safe until election day, when they were cast by the returning officer in the respective polling stations.

ELECTION DAY

On election day, voting in Jersey commenced in a calm and orderly manner, and procedures were diligently followed in all of the Island's 18 polling stations. Election officials and members of the Honorary Police worked in a highly professional and efficient manner to ensure a smooth process throughout election day. As a token of their trust in the electoral administration, candidates as a rule did not utilise the opportunity to observe voting inside the polling stations, but preferred to be outside greeting voters who came to vote. **However, at times the large numbers of candidates and agents stationed outside was considered to be intimidating to voters.** Many voters highlighted that they preferred pre-polling as they could avoid being approached by candidates and agents.

The complex voting system, with its varying number of options on different ballots, at times, created voter confusion. Voter turnout was low, with notable lower figures in St Helier and two other urban centers. Queues were noted in a few locations, especially in St Brelade which struggled to cope in the late afternoon. All polling stations opened for voting on time.

All polling stations observed were accessible to voters with disabilities and were equipped with voting booths suitable for wheelchair users. Voters requiring assistance were provided it either by the returning officer or a person of choice, as per the prescribed manner. The few attempts of group voting observed were prevented by the poll staff. The voting process was transparent, although in two polling stations procedures took place in separate rooms thereby reducing transparency. Other irregularities included results of the postal and pre-poll votes being established separately before the end of voting which is a potential violation of the secrecy of the vote (observed in one instance). All polling stations closed on time and voters waiting in line at 8.10pm were able to cast their votes. **Overall, CPA BIMR EOM observers rated the voting process in very positive terms.**

COUNTING & RESULTS

The Mission observed the counting of the Deputies' ballots in four polling station and later followed the counting and tabulation of the results of the senatorial vote at the counting center in St Helier Town Hall. **Overall, the Mission rated the counting and tabulating procedures in very positive terms. The vote counts observed were efficient, transparent and well-administered and open to candidates, observers and media.** The determination of spoilt (invalid) ballots was done in a reasonable and consistent manner, respecting the will of the voter. In a few instances observed, the returning officer had some difficulties in balancing the Results and Reconciliation Form or calculating the voter turnout. The results were announced by the Royal Court on 17 May and immediately posted on the vote.je website. Candidates had 24 hours from the announcement of the results to order a recount, but none of the entitled candidates requested one⁷.

COMPLAINTS & APPEALS

The Royal Court is the main body handling electoral complaints and appeals. Any person may dispute the elections within a 12 months deadline. The Court may decide to reexamine ballot papers and is empowered to discount votes deemed valid by a Returning Officer. As a result, it may announce a vacancy or deem the entire election invalid. Decisions of the Royal Court are final.

A wide range of election offences is listed in the Public Elections (Jersey) Law 2002 and fines range from £200 to £10,000. A person found guilty in knowingly making false declarations or attempting to register or vote more than once may additionally be disqualified from participation in public elections for up to four years. Voters may appeal a decision to exclude or not include them from the electoral register within 28 days after the election. On election day, anyone may object to the vote of another person – i.e. if they suspect personation – but the voter is still allowed to vote by casting a tendered ballot. **Overall, the provisions for handling complaints and appeals provided voters and candidates with an effective remedy for redress.**

The Royal Court considered two cases, both related to problems with the candidate nomination form. The political party declaration section on the form needs to be completed before the candidate's proposer and seconder signs the form. In both instances, the nomination form of the candidate was accepted as valid at their nomination meetings. It was later discovered that the proposers and seconders had signed the form before the party declaration section was fully completed and signed by the party's officeholders. In both cases, the Royal Court ruled in favour of letting the candidate remain in the race mentioning the fact that their opponents otherwise would be declared elected unopposed. One of the candidates had by that time already withdrawn from the race. In its motivation in the second case, the Court recommended that the nomination form be amended. **From discussions with various candidates and parishes, the form is poorly designed and open to confusion.**

DIVERSITY & INCLUSION

Jersey is committed to a number of UN Conventions to tackle discrimination. However, there is no special measure to encourage political representation of women, youth, minorities or people with disabilities. **Nevertheless, a commendable effort was made by the States Greffe to diversify the range of candidates.** Information for voters was translated into French, Polish and Portuguese to reach out to more voters. Some candidates also took this approach. There were 29 women standing in the election resulting in 13 elected including nine re-elected. For the first time, two women topped the Senatorial election. Women were very active in polling stations representing 49% of the polling staff. Reform Jersey managed to nominate a wide range of candidates of different backgrounds.

Interlocutors expressed no barriers to those from the LGBT+ community standing or participating in the election. One candidate standing as a senator, Ant Lewis, suffered from aphasia and actively campaigned, including at hustings, with fellow candidates supporting his different approach to communicating to the audience. The last Senator husting was sign language interpreted. The States Greffe conducted an outreach and education campaign to foster voter education among young people and a play entitled "One Day" was created to encourage young people to register and vote. It toured in schools and colleges and **first time voters confirmed they liked it and found it a positive initiative. A specific youth senator husting was also organised.**

ACKNOWLEDGEMENTS

The Mission would like to express its gratitude to the authorities, election stakeholders and the people of Jersey. During our stay we were warmly received and everybody was extremely helpful to us. We hope and trust that this Mission's conclusions will help strengthen democracy in Jersey. We wish the people of Jersey well for the future.

For any further information please contact the Head of Mission, Hon. Phillip Paulwell MP
E-mail: jerseyelectionobservation2018@gmail.com

This report will be made available for download on the following websites:
www.uk-cpa.org & www.gov.je

⁷ Unsuccessful candidates could request a recount if the difference between their votes and that of a successful candidate was 1 per cent or less of the total number of valid votes.