



# ISLE OF MAN GENERAL ELECTION

SEPTEMBER 2021



**CPA BIMR ELECTION OBSERVATION MISSION**

PRELIMINARY STATEMENT

***“Following extensive and inclusive electoral reform, the Isle of Man has delivered a well-administered and competitive election. Innovative practices were successfully implemented. Despite efforts made, further improvements are still needed in terms of polling station accessibility and the consistency of the administration of the election.”***

Mr Stewart Dickson MLA (Northern Ireland)  
Head of Mission CPA BIMR Election Observation Mission to the Isle of Man 2021

## **INTRODUCTION TO THE MISSION**

At the invitation of the Clerk of Tynwald, the Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) conducted an Election Observation Mission (EOM) to the Isle of Man General Election on 23 September 2021.

This is the first time CPA BIMR was invited to observe a general election in the Isle of Man. The Mission was present in the Isle of Man from 14 September until 25 September 2021.

The eight-member mission was composed of:

- Head of Mission – Stewart Dickson MLA (Northern Ireland)
- Deputy Head of Mission – Deputy Rob Ward (Jersey)
- Short-Term Observer – Hon. Robert Cutajar MP (Malta)
- Election Analyst – Delphine Blanchet (France)
- Election Analyst – John Ault (UK)
- CPA BIMR Mission Coordinator – Fleur ten Hacken (the Netherlands)
- CPA BIMR Mission Administrator – Sonu Masania (UK)
- CPA BIMR Mission Administrator – Martin Vickery (UK)



The CPA BIMR Team

The Mission conducted an independent assessment of the Isle of Man General 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 election officials, candidates, the Attorney General, civil society groups, voters, and attended a number of campaign events. The Mission also received submissions from anyone who wanted to share a concern via a publicly shared email address.

On election day, the Mission visited 44 (out of 56) polling stations across all the 12 constituencies. The Mission also observed the vote count in four constituencies.

The Mission is independent in its composition, findings and conclusions, adhering to the Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers 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 of Election Day.

## BACKGROUND

The House of Keys is historically made of independent members; in the 2016 General Election, only 5 members were affiliated to a political party, and in 2021 only 3 of the 9 candidates affiliated to one of three registered political parties (the Green Party, the Manx Labour Party, and Liberal Vannin) were elected.

The Isle of Man's parliament, Tynwald, consists of two Branches. The lower Branch, the House of Keys, has 24 elected members. The upper Branch, the Legislative Council, is a revising chamber of 11 indirectly elected and ex-officio members. Both houses sit together as Tynwald, chaired by the President of the Legislative Council. Ministers, including the Chief Minister, are derived from the Members of the House of Keys, covering various aspects of policy within government.

Elections to the House of Keys are regularly held every five years, on the last Thursday of September.

Despite the election being conducted during a global health pandemic, the Mission identified little impact of the pandemic on the election campaign and on election day itself.

## LEGAL FRAMEWORK

The 2021 General Election to the House of Keys is the first general election to occur after a broad and inclusive electoral reform process, which began in 2016. This electoral reform culminated with the adoption of two Acts in 2020 and their related regulations:

- the Elections (Keys and Local Authorities) Act;
- the Registration of Electors Act.

The COVID-19 pandemic hit the island during the last phases of the legislation being reviewed by the House of Keys, which slowed the proceedings but did not affect their integrity.

As a result, the two Acts and their Regulations came into force late in the electoral cycle, only in 2021, and some of their provisions related to the elections to the House of Keys are not fully

operational yet. When bringing changes to the legal framework, it is considered a good practice to do so well ahead of an election.<sup>1</sup>

The elements of the new legal framework that were operational for this election included:

- A new, more centralised organisation of the election administration, including:
  - The Chief Secretary of the Civil Service being allocated the role of Returning Officer, giving them overall responsibility for the general coordination and oversight of the election.
  - Constituency hustings (“pre-election meetings”) organised by the Elections Team
- An extended, “on-demand” postal voting system;
- The introduction of a low-level complaints redress mechanism

**Overall, the electoral legal framework is conducive for holding democratic elections, in line with international standards.** The Isle of Man is a party to key international conventions relevant in terms of elections, such as:

- the International Covenant on Civil and Political Rights (extended simultaneously with the UK’s ratification in 1976),
- the Convention on the Elimination of All Forms of Discrimination against Women (extended simultaneously with the UK’s ratification in 1986),
- the International Convention on the Elimination of All Forms of Racial Discrimination (extended to the Isle of Man simultaneously with the UK’s ratification in 1969),
- the United Nations Convention against Corruption (extended to the Isle of Man in 2009).

Importantly the European Convention on Human Rights has been incorporated into the 2001 Human Rights Act, which came fully into force on 1 November 2006 and protects fundamental freedoms such as freedom of expression, of association and of movement.

## **ELECTORAL SYSTEM AND BOUNDARY DELIMITATION**

Following a review by an independent commission, constituency boundaries were redrawn in 2016 to twelve two-member constituencies each electing two Members by first-past-the-post, effectively the ‘first-two-past-the-post’. Voters can cast one or two votes. The twelve constituencies are generally of similar population sizes.

It is a good international practice that the drawing of boundaries is undertaken in a transparent and consistent procedure established by law, and that boundaries are regularly reviewed to reflect demographic changes.<sup>2</sup>

This is currently not entirely the case. The governing principles of equality and of an independent review are not spelled out in law. This limits the transparency of boundary delimitation.

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<sup>1</sup> [European Commission for Democracy through Law \(Venice Commission\) Opinion No. 190/2002 CDLAD \(2002\)023rev2-cor](#) (2002) Paragraph II.2 Regulatory levels and stability of electoral law

<sup>2</sup> See: [https://eos.cartercenter.org/uploads/document\\_file/path/324/EU\\_Handbook\\_EN.pdf](https://eos.cartercenter.org/uploads/document_file/path/324/EU_Handbook_EN.pdf)

## ELECTION ADMINISTRATION

The election administration in the Isle of Man has been adapted following legislative change in 2020<sup>3</sup> followed by new regulations in 2021<sup>4</sup>. This means that the previous arrangements, where twelve Returning Officers (one for each constituency) were directly appointed by the Lieutenant Governor of the Isle of Man, have been replaced by a central Returning Officer (the Chief Secretary) being the designated head of elections with twelve Deputy Returning Officers conducting the election process. The previous appointment by the Lieutenant Governor has been replaced by appointment by the Returning Officer.

The twelve Deputy Returning Officers have significant independence in conducting their local polls but much of the day-to-day administration has been taken in-house by the Elections Team, which sits within the secretariat of the Crown and Elections office of the Cabinet Office. The Elections Team is responsible for the planning and implementation of many aspects of the election process from public meetings to the production of election materials for polling stations. It is a demanding role, with fixed deadlines and limited resources. **The Mission commends the Elections Team for their hard work in their attempt to achieve an effective election operation.**

Deputy Returning Officers are responsible for the conduct of their constituency election. They are the recipients and certifiers of candidate nominations and postal vote applications. They are responsible for the conduct of polling day operations and counting. They are also responsible for recruiting and training polling station staff. The Returning Officer (the Chief Secretary) is responsible for recruiting Deputy Returning Officers. The recruitment of Deputy Returning Officers has become increasingly challenging for elections.

Training for Deputy Returning Officers appears to be limited and the interpretation and implementation of the legal framework for the electoral process is determined by individual Deputy Returning Officers. This led to regulations being implemented differently across constituencies, although this did not seem to affect the integrity of the process as a whole.

Issues were noted in relation to the ballot paper production. In one constituency, a candidate's party had been omitted from the ballot paper, in contravention of Regulation 20(2)(c) of the Elections (Keys) Regulation 2021. In another incident, an unknown number of ballot papers were printed blank.

Historically ballot papers have been manufactured in booklets, in which the ballot paper counterfoils remain attached to the booklet together. A new design of the ballot paper was used in this election, which meant that the counterfoil needed to be detached from the bottom of the ballot paper before being issued to the voter. The loose counterfoils caused administrative difficulties.

## THE RIGHT TO VOTE AND VOTER REGISTRATION

The right to vote is inclusive in the Isle of Man and is not dependent on citizenship. To be able to cast a vote, a person needs:

- to be 16 years old on the day of the election;

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<sup>3</sup> Elections (Keys and Local Authorities) Act 2020

<sup>4</sup> Elections (Keys) Regulations 2021

- to have been a resident for the past 12 months;
- and to be included in the voter register.

There are very few reasons why a person may not have the legal capacity to vote. For example, under Section 126 of the Elections (Keys and Local Authorities) Act 2020 a person may not be allowed to vote where there is a conviction for corrupt or illegal practice. There is no restriction in the election law on mental capacity. Prisoners have the right to apply for a postal ballot, but the Mission was informed that no prisoner had expressed the will to vote.

Voter registration is active and compulsory. If someone fails to register, they could receive a fine but in practice fines are not imposed on those who do not register. Jury duty is drawn from the voter register. The Mission was informed that some people refrain to register out of fear of being called for jury duty.

The 2020 Electors Registration Act provides for individual and continuous voter registration. However, this change in registration had not been implemented by the time of the election due to the COVID-19 pandemic. The method of registration continues to be based on households. The process gave ample time for people to register (until 2 September) and provided the possibility to register online. In total 64,744 voters were on the register for Election Day.

## **THE RIGHT TO STAND AND CANDIDATE REGISTRATION**

The right to stand as a candidate is relatively inclusive in the Isle of Man. To be a candidate, a person needs to:

- be a registered voter,
- be aged 18 or above;
- and have a minimum of five years of residency or have British or Irish citizenship.

Some legal incapacities are listed in the Election (Keys and Local Authorities) Act 2020 which are commensurate to criminal offences adjudicated by a court.

Across the twelve two-member constituencies, a total of 65 candidates were officially nominated for the 24 vacant seats. Whilst political parties exist in the Isle of Man the vast majority of these candidates stand as independents.

As per the Government website, to become nominated as a candidate for this General Election, candidates had to:

‘submit a completed Nomination Paper and a Declaration of Relevant Interests form to the Returning Officer for the constituency between 10am on Wednesday 18 August 2021 and 1pm on Wednesday 25 August 2021 at a time and place to be agreed with the Returning Officer.’<sup>5</sup>

A prospective candidate also had to have two signatures, being the candidate’s nominator and seconder, plus no fewer than 20 more signatures to support their nomination. These signatories are allowed to nominate, second or subscribe to two nominations as each constituency returns two Members of the House of Keys.

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<sup>5</sup> See: <https://www.gov.im/categories/home-and-neighbourhood/elections-and-voting/2021-general-election/>

## **ELECTION CAMPAIGN**

The election campaign has been relatively competitive, with 65 candidates contesting 24 seats across 12 constituencies.

**Independent candidates and political parties campaigned freely and peacefully in general, with no reports of impediments to campaign activities.** Despite the pandemic, campaigning was conducted via door-to-door canvassing and posters. The Mission received worrying reports of women candidates being specifically targeted in their campaign. Their posters were defaced or destroyed, and they reported being attacked on social media.

## **DIVERSITY AND INCLUSION**

The Isle of Man is committed to a number of UN Conventions to tackle discrimination. However, the Convention on the Rights of Persons with Disabilities (ratified by the UK on 8th June 2009), has not been extended to the Isle of Man yet. The Isle of Man has adopted the Equality Act, but there is no positive provision to encourage political participation of women, youth, minorities or people with disabilities.

The Mission found that access for persons with disabilities to the political process in general was feasible but difficult. **The Mission observed that half of all polling stations observed were not independently accessible to voters with mobility issues because of a lack of step-free access and the positioning of polling booths.** Some polling stations had been provided with ramps, but they were not always readily available to voters on arrival. Blind and partially sighted voters were given the opportunity to use Tactile Voting Devices. Voters who required assistance, including the blind and partially sighted, were adequately assisted by the Presiding Officer.

There were 15 women standing in the election (23% of candidates). A record number of ten women were elected (42%). This is a sharp improvement compared to the previous election, when five women got elected.

## **POSTAL VOTING AND PROXY VOTING**

Due to COVID-19, the following adaptations in relation to voting procedures were made:

- Postal voting has been changed from requiring a specific reason to apply for a postal vote to a system of on-demand postal voting. This has been taken up by approximately 2.5% of the registered voters.
- Proxy voting has been extended to allow ill or self-isolating people to vote by proxy.
- The withdrawal of advance voting, which previously allowed Deputy Returning Officers and their staff to enter homes to facilitate voters voting at home.

## **ELECTION DAY**

On election day, voting across the Isle of Man took place in a calm and orderly manner. Procedures were generally followed across the island's 56 polling stations. **Polling station staff worked in a professional and efficient manner to ensure a smooth process throughout election day.**

Dependent on the area, there were varying methods for training polling staff, including some being instructed on how to conduct polling day operations at the opening of polls. This should not be considered an appropriate method of training.

As evidence of their trust in the electoral administration, candidates did not generally take up the opportunity to observe voting inside the polling stations, whether themselves or through their appointed polling agents, but preferred to be outside greeting voters who came to vote. However, at times the large numbers of candidates and agents stationed outside might have been considered a hindrance to voters, but the groups of candidates were invariably well-mannered to those electors arriving at the polling stations.

Very little voter confusion was evident concerning the voting process.

Family voting, where voters use the same polling booth, or oversee the vote of another, should be considered a breach of the secret ballot. The Mission observed several instances of group or 'family' voting. This was generally not challenged by staff.

The voting process was transparent. All polling stations observed closed on time and no voters were observed queuing at 8pm. **Overall, the Mission rated the voting process to be generally positive but with differing methodologies for delivering the election across the island.**

## **TECHNOLOGICAL INNOVATION**

A pilot project for an online electoral register took place in the constituency of Douglas South. Polling station staff in this constituency trialed the use of an electronic voter register. This meant voters were able to vote in any of the three polling stations within their constituency. Using a computer application, polling staff across the three stations were able to mark an electronic version of the register when a voter had cast their ballot and therefore were unable to vote again at any polling station.

The pilot project appears to have been a success, based on the Mission's polling day observations. The system was easy to use for staff and numerous voters attended polling stations that were not their originally designated one. Staff coordinating the technology supporting the online process reported no errors or failures of the system during polling day. This pilot could be extended in the future, opening up the opportunity to voters to vote in any polling station in their own constituency, or even across the island.

## **COUNTING AND RESULTS**

Counting of the votes took place in one of the polling stations within the constituency. Opening of the ballot boxes began as soon as all ballot boxes are delivered to the counting centre.

Across the twelve counts, the number of ballot papers received is verified at the start of the count. However, as voters were able to vote for more than one candidate on a single ballot paper, the number of votes cast does not equal the number of ballot papers received. Therefore, there should be an additional stage in the verification process, to establish the number of votes cast. This would avoid confusion and a lack of clarity concerning the number of votes cast. However, this additional verification stage has not been consistently introduced.



Candidates, agents, and counting agents have full access to the verification and counting process and the Mission did not observe any objections made to this aspect of the election. Deputy Returning Officers explained the process to candidates at the various key stages of the process and asked if they accepted the adjudication of staff. No objections were identified by the Mission.

The declaration of the results was issued in the hours following the close of poll at 8pm through to the early hours of the next morning, dependent on the pace of counting. These results were accepted as being an accurate reflection of the counting process.

## COMPLAINTS AND APPEALS

The High Court is the main body handling petitions. A candidate or voter may dispute the election result within 28 days after the official results. There is no time limit on the process of adjudication of election petitions, and the petitioner bears the cost of it, which may act as a deterrent for lodging petitions. To partially address this, the new Elections (Keys and Local Authorities) Act 2020 introduced the practice of lower level complaints being dealt with by the Deputy Returning Officers.

A wide range of election offences is listed in the Elections (Keys and Local Authorities) Act and penalties range from low fines to custody. A person found guilty of an illegal or corrupt activity such as bribery, personation, or undue influence, may additionally be disqualified from participation in public elections during a time proportionate with the gravity of the offence. To date, no objection on the voter register nor on the nomination of candidates was registered, and no complaint was filed during the pre-election period or on election day.

## ACKNOWLEDGEMENTS

The CPA BIMR Election Observation Mission wishes to express its gratitude to the authorities of the Isle of Man, election officials, candidates and to the people of the Isle of Man for their cooperation and assistance during the course of the Mission.

## 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 [cpabimr@parliament.uk](mailto:cpabimr@parliament.uk).



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