



# STATES OF JERSEY GENERAL ELECTION

JUNE 2022



CPA BIMR ELECTION OBSERVATION MISSION

PRELIMINARY STATEMENT

***“Following extensive electoral reform, Jersey has delivered a well-administered and more competitive election than in the past. The election was found to be delivered in a calm and professional manner, with clear efforts to provide a positive experience for the voters of Jersey.***

***However, not unexpectedly, issues arose during this electoral cycle including the understanding of the newly established Jersey Electoral Authority, the navigation of new constituency boundaries and voter registration. Our team rated the performance of staff in all polling stations observed as either very good or good.***

***A historic number of women Deputies were elected, despite the absence of special measures to support women candidates. The number of uncontested seats reduced from 14 in 2018 to 8 in 2022. However, all of the uncontested seats were for the Connétables position, with 8 out of 12 Connétables elected unopposed.***

***Overall, the legal framework provides a basis for a democratic election.”***

Martin Whitfield MSP (Scotland)  
Head of Mission CPA BIMR Election Observation Mission to Jersey 2022

## **INTRODUCTION TO THE MISSION**

At the invitation of the Privileges and Procedures Committee of the States Assembly, the Commonwealth Parliamentary Association British Islands and Mediterranean Region (CPA BIMR) conducted an Election Observation Mission (EOM) to the Jersey General Election on 22 June 2022.

This is the second time CPA BIMR was invited to observe a General Election in Jersey. The Mission was present from 13 June until 24 June 2022.

The nine-member mission was composed of:

- Martin Whitfield MSP, Head of Mission from Scotland
- Claire Christian MHK, Short-Term Observer from the Isle of Man
- Hon. Gathoni Wamuchomba MP, Short-Term Observer from Kenya
- Wesley Howell, Short-Term Observer from the Cayman Islands
- Delphine Blanchet, Electoral and Campaign Analyst from France
- Stefan Szwed, Legal and Political Analyst from Poland
- Fleur ten Hacken, Mission Lead from the Netherlands
- Josephine Jengo, Mission Coordinator from Sierra Leone
- Chris Brown, Mission Administrator from the UK

The Mission conducted an independent assessment of the Jersey 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, and voters. They also attended various 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 19 polling stations across all the 9 constituencies. The Mission also observed the vote count of eight polling stations.

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.



The CPA BIMR Team

## BACKGROUND

The Bailiwick of Jersey is a self-governing Crown Dependency. It is home to some 103,000 people, approximately a third of whom live in the Parish of St Helier, which serves as the capital.<sup>1</sup> Jersey is autonomous and self-governing, with its own independent legal, administrative and fiscal systems. The Queen is the Head of State, and the Lieutenant Governor acts as Her Majesty's representative.

Jersey's unicameral legislature is the States Assembly, which includes 49 elected members. As a result of recent reforms, following the June 2022 General Election the legislature will compose of:

- 12 Connétables (Constables);
- 37 Deputies.

All are elected for four-year terms.<sup>2</sup> There are also five non-voting members appointed by the Crown, including the Bailiff who is also the President of the States and Speaker of the Assembly. The Council of Ministers is led by the Chief Minister and includes ministers, who together make up the Government of Jersey. The civil service is headed by the Chief Executive. Some government functions are exercised by the Parishes.

<sup>1</sup> Jersey has a unitary system of governance and powers and administration of the 12 parishes, which have both civil and religious administrative functions, are governed by laws enacted by the States Assembly.

<sup>2</sup> Reforms in 2021 abolished Senators. Previously 12 Senators were elected from a single island-wide constituency to sit alongside the 8 Connétables and 29 Deputies.

## LEGAL FRAMEWORK

Jersey's ability to determine its laws, raise taxation, and hold elections is based on long-standing constitutional precedent. The legal framework for elections comprises:

- the 2002 Elections Law;
- 2005 States of Jersey Law;
- the 2008 *Connétables* Law.

Relevant provisions are also included in:

- the 2008 Political Parties (Registration) Law;
- the 2014 Public Elections (Expenditure and Donations) Law;
- the 2018 Data Protection Law;
- 2018 Data Protection Authority Law.

Secondary legislation includes the 2002 Elections Regulations, as well as the 2022 Highway Election Advertising Guidelines.

The Election Law (2002) saw considerable amendments introduced in 2021, which have a significant effect on the composition of the States Assembly and stand to alter the way in which Jersey is governed. Some interlocutors claimed that these changes were introduced hastily without sufficient consultation. As noted by the European Commission for Democracy through Law (Venice Commission of the Council of Europe), substantive changes to the legal framework less than a year before voting may undermine confidence in the process, thus contravening electoral good practice.<sup>3</sup>

The 2000 Human Rights Law, based closely on the United Kingdom's Human Rights Act 1998, requires Jersey's courts to interpret legislation in ways that are compatible with rights and freedoms guaranteed by the European Convention on Human Rights (ECHR).

Several international human rights instruments have been extended to Jersey, including:

- International Covenant on Civic and Political Rights (1966);
- European Convention of Human Rights (1953);
- International Convention on the Elimination of All Forms of Racial Discrimination (1965);
- UN Convention against Corruption (2005).

Most recently, the Convention on the Elimination of All Forms of Discrimination against Women (1979) was extended to Jersey in 2021.

Although international instruments are not automatically applicable to Crown Dependencies and British Overseas Territories, international human rights law creates obligations concerning the conduct of elections in Jersey.<sup>4</sup> Among instruments that do not extend to Jersey is the 2008 United Nations Convention on the Rights of Persons with Disabilities.

Overall, the legal framework provides a basis for the conduct of democratic elections.

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<sup>3</sup> Substantive changes to the law so close to the election *challenge the principle of stability of law*. See Section II.2 of the Code of Good Practice.

<sup>4</sup> UN ICCPR Committee (2015) CCPR/C/GBR/CO/7 noted with concern that human rights instruments applicable to the UK are not directly applicable to the British Overseas Territories and Crown Dependencies.

## **ELECTORAL SYSTEM**

Although it is unicameral, the State Assembly is elected through two different systems, with Deputies and Connétables representing differently delineated constituencies.

- 37 Deputies are elected from across 9 multi-member constituencies, with most constituencies electing 4, whilst the smallest elects 3 and the largest elect 5 members.
- 12 Connétables are elected in their respective Parishes, which form 12 single-member districts. As per the 2005 States of Jersey Law, they serve as voting members of the Assembly as a virtue of their office.

In an effort to address the persistent problem of low numbers of candidates in some elections, especially the phenomenon of uncontested Connétable elections, the 2021 amendments introduced a 'none of the candidates' option to be included on the ballot paper when the number of candidates is not greater than the number of seats to be elected.

The electoral system remains hotly debated before and during the campaign. Some Mission interlocutors and public figures expressed regret at the loss of the 8 Senator seats that had an island-wide mandate under the previous system. Others raised concerns about the continued existence of two separate categories of members, despite their equal voting weight in the States Assembly.

## **BOUNDARY DELIMITATION**

Following the 2018 elections and the 2018 CPA BIMR EOM Final Report, which pointed to equality of the vote shortcomings of the previous system, the boundaries of electoral districts for Deputies were redrawn to ensure electors had more equal voting power.<sup>5</sup> Given the Parishes' role in administering some aspects of elections, their boundaries served as the basis for new delimitation. Several of the less densely populated parishes were amalgamated to create (super) constituencies, whilst the capital St Helier maintained a division into three separate constituencies as the most populous Parish by a significant margin.

Greater equality of the vote was achieved on the basis of the number of inhabitants rather than adjusted for the historically differing levels of voter registration or turnout figures.

The new boundaries only pertain to the Deputy elections, whilst Connétables continue to be elected from the 12 Parishes.

The new boundaries for Deputy elections respect international good practice as articulated by the Venice Commission. However, margins are exceeded when the ratio of electors to elected representatives includes both Deputies and Connétables.

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<sup>5</sup> Previously, the deviation from the average number of votes necessary to return a deputy exceeded 20% in most constituencies (which were equivalent to the parishes).

## **ELECTION ADMINISTRATION**

The administration of the electoral process is fragmented. Historically, three institutions were involved: the Parishes at the local level, and the Judicial Greffe and States Greffe at the central level. Following electoral reform amendments in December 2021, a new level of administration was added in the form of a Jersey Electoral Authority (JEA).<sup>6</sup> The JEA was created only less than six months before Election Day, which impeded its full functioning.

The JEA is vested by law with oversight and direct implementation responsibilities over some aspects of the electoral process:

- The candidates' nomination process, which used to be the responsibility of Parishes
- Scrutiny of campaign expenses
- Complaints from candidates.

The JEA is also responsible for publishing a Code of Conduct for candidates, which it did successfully. The Code of Conduct was part of the nomination documents candidates had to fill in and sign.

The JEA could have taken on the coordination and circulation of information of the three levels of administration of elections, but it was unable to do so. The Mission's interlocutors were often not aware of the JEA's role, and some were dissatisfied with its set-up as it was not perceived to be conducive to an effective administration of elections.

In general, the administration of the elections was successfully completed due to the good will and commitment of all levels of administration. Considerable efforts were made by the States Greffe on voter information, and by the Judicial Greffe on implementing pre-polling and postal voting. However, there was uncertainty over certain procedures or deadlines, for instance with regards to the role of the Parishes in the nomination period. There were also issues with the delivery of voter education materials by Jersey Post.

## **THE RIGHT TO VOTE AND VOTER REGISTRATION**

The right to vote in Jersey is extended broadly and does not depend on citizenship. The Election Law (2002) establishes that a person is entitled to have his or her name included on the electoral register for an electoral district if on that day the person is:

- at least 16 years old
- resident in that district and has either been resident in Jersey for a period of at least 2 years
- or ordinarily resident in Jersey for a period of at least 6 months, as well as having been ordinarily resident at any time for additional periods that total at least 5 years.

Anyone convicted for an offence and sentenced to more than four years in prison is deprived of the right to vote. Blanket restrictions, rather than individualised decisions forming part of the sentence, as well as a lack of provisions that limit the right to vote only to those persons sentenced for serious crimes, contravenes international standards.

Voter registration is active in Jersey. Electoral administrators, at Parish level, are responsible for this process. Voters can register online, by post, or in person. A digitalised voter register, in the

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<sup>6</sup> The 2018 CPA-BIMR mission made a recommendation to create a permanent and independent oversight election management body.

format of an *Excel* sheet saved in a shared *Microsoft Teams* folder, has been developed for the twelve Parishes, each uploading the information of its voters.

In March, Parishes sent a notice by post to each household informing voters about their registration status and the location of their polling station. A postal vote application form was sent with each notice, which created some confusion. Some voters understood the application for postal voting as if they had to register again, which created some additional work to Parish' election administration.

Voters were given plenty of time to register to vote. The voter register was closed on 10 May (with 59,478 voters). There was also the possibility to register on a "supplementary" register up to 15 May at noon; 1,223 voters were added, bringing the total number of voters to 60,701 voters. In 2018 there were 62,123 registered voters.

In March 2021 the census numbered 86,791 of residents over 16 years. If we take this number as a base to assess the inclusivity of the voter register,<sup>7</sup> around 69,9 % of the population aged 16 and above would therefore be included into the voter register.

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

The right to stand for election as Deputy or Connétable is set out in the States of Jersey Law (2005) and in the *Connétables* Law (2008) respectively. Both provide that a candidate must be:

- 18 years old;
- UK citizens and resident in Jersey for a period of at least 2 years up to and including the day of the election;
- or resident for a period of 6 months as well as additional periods that total at least 5 years.

Among the factors that disqualify a person from being a Deputy or a Connétable are:

- having become bankrupt or having made a debt settlement with his or her creditors;
- having been convicted for any offence and sentenced to more than three months in prison bars a person from standing in elections for a period of seven years;
- in addition, those convicted of an offence under the 2006 Corruption Law while serving a public function lose their passive suffrage right indefinitely.<sup>8</sup>

These restrictions are not objective and reasonable in the sense of the International Covenant on Civil and Political Rights.<sup>9</sup>

Additional grounds to disqualify a person from standing as candidate for Deputy or Connétable is the person having been detained in an approved establishment or being subject to guardianship under the 2016 Mental Health Law, as well a person in respect of whom a delegate has been appointed under Part 4 of the 2016 Capacity and Self-Determination Law.<sup>10</sup> Blanket restrictions on standing based on mental incapacity are contrary to international obligations.

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<sup>7</sup> Notwithstanding the other eligibility criteria over residence, as the census does not capture these. It is therefore not possible to know exactly what percentage of the eligible voting population is included into the voter register.

<sup>8</sup> See the 2006 [Corruption \(Jersey\) Law](#).

<sup>9</sup> See Paragraph 15 of General Comment No. 25. And Paragraph 4 of the 1996 UNHRC General Comment No. 25.

<sup>10</sup> See the 2016 [Mental Health \(Jersey\) Law](#) and 2016 [Capacity and Self-Determination \(Jersey\) Law](#).

The Political Parties (Registration) Law (2008) sets out the registration requirements and the application procedure for political parties and outlines their obligations.

In total, 76 candidates were nominated for the 37 Deputy seats:

- 40 independents;
- 14 candidates for Reform Jersey;
- 13 for Jersey Alliance;
- 5 for Jersey Liberal Conservatives;
- 4 for the Progress Party.

Sixteen candidates were nominated for the twelve Connétable seats, only one from a political party (Jersey Alliance). No candidates were rejected, only one withdrew his candidacy.

The number of uncontested seats reduced from 14 in 2018 (28%) to 8 in 2022 (16%). However, all of the uncontested seats were for the Connétables position, with 8 out of 12 Connétables elected unopposed (67%).

The nomination process changed since previous general election, with the newly formed JEA taking on this responsibility. In practice, most of the administrative work was done by the States Greffe, in coordination with the Parish Secretaries. The Election Law (2002) prescribes at least two days for the nomination period. In practice, the process took 8 days. The Mission received reports that deadlines were not always clear nor respected.

## **ELECTION CAMPAIGN**

Candidates were actively campaigning and there was a high number of hustings. The “official” hustings were organised at Parish level by the candidates themselves. The Mission received informal complaints from candidates receiving late notice of a husting, having to attend numerous hustings and having to manage conflicting campaign commitments. These hustings were recorded on video by the States Greffe and posted on its Youtube channel as well as on the Vote.je website. In addition, some organised groups organised hustings in which they asked candidates to present their ideas on specific issues of their interest and sometimes asked candidates to take a pledge over those. Candidates were often unaware of the nature of these hustings and felt compelled to attend.

In terms of campaigning, despite the growing influence of social media, candidates still preferred the direct contact with voters by way of knocking on doors, even if the COVID-19 pandemic made this practice more difficult.

Each candidate had a manifesto published by the States Greffe, which was available online on the Vote.je website and in constituency leaflets. However, Jersey Post failed to deliver the election booklets to an unknown number of residents. Candidates were also granted the possibility to register a two-minute video about their programme, that was posted on Vote.je. In addition, the States Greffe organised on-line sessions of questions and answers when candidates could interact with voters.



## DIVERSITY AND INCLUSION

Of the 92 candidates standing for election for Deputies and Connétables, 31 were women (34%). Whereas in 2018, only 15 women were elected (30%), in 2022 a total of 21 women were elected (43%):

- 19 out of 37 Deputies (51%);
- 2 out of 12 Constables (17%).

The gains in women Deputies being elected were achieved despite the absence of special measures to address the historical disparity in representation, as envisioned in Article 4 of the Convention on the Elimination of All Forms of Discrimination against Women, which was extended to Jersey in 2021. Interlocutors shared that online harassment was often especially demeaning towards women, which may discourage some women from standing for office.

The Mission observed that the vast majority of polling stations were independently accessible to persons with disabilities. Those with visual impairment are not offered facilities such as braille templates, magnifying frames or lenses or even more luminous light, thus hindering in-person independent participation. Accessibility to the chamber of the States Assembly is limited, potentially discouraging persons with limited mobility from standing.

Candidates generally did not disclose their disabilities if any during the campaign. Hustings could be watched online with facility to make them more accessible to viewers and listeners with special needs.

A commendable effort was made by the election administration and civil society actors who worked with different stakeholders to broadly disseminate information about voting and to promote participation. Information for voters was translated into Portuguese, Polish and French to reach out to a greater number of voters.

The candidates standing in this election continued to lack ethnic diversity. One political party (Reform) nominated several candidates of different backgrounds, most of whom obtained seats including the first black woman Deputy and first Romanian Deputy. Most of the more visible candidates stemming from minority communities were women.

## SPECIAL VOTING ARRANGEMENTS

Besides in-person voting on Election Day, voters were granted a large array of possibilities to cast their vote:

- In-person pre-polling was available at a polling site in St Helier from 13 to 17 June. Only 1382 voters cast their vote in advance.
- For the first time, postal voting was extended to all voters who wished to do so. Voters could apply for a postal vote until 1 June. In total, 2,709 voters applied for a postal ballot. They could send their ballot back to the Judicial Greffe until noon on Election Day, or could cast their received ballot in-person in their polling station on Election Day.
- Voters who were ill, disabled or illiterate could request polling staff to visit them at home, either during the pre-poll period or on Election Day.

## ELECTION DAY

The Mission observed polling in all 19 polling stations (sometimes more than once).<sup>11</sup> They also observed four openings and four closings of polling stations.

Election Day was calm, and the election administration did its utmost to facilitate the voting of all eligible voters. Voters were granted multiple opportunities during the electoral process to cast a vote, which caused some strain to the staff on Election Day.<sup>12</sup> On the day, the Autorisé (Returning Officer) had to process received postal ballots (which were delivered at several points throughout the day), pre-polling ballots and home-voting ballots. In one case, the count of these numerous ballots took around five hours to be completed.

Inaccuracies of the voter register were directly observed in 34 occasions, either because voters had been de-activated from the register and did not know about it, or because of what the law describes as “administrative errors”. As prescribed by law, the Autorisés interpreted potential administrative errors on a case by case basis, with the intention of granting the right to vote rather than restricting it. In constituencies where borders had changed, or where new polling station had been created, the Mission observed voters turning up at the wrong polling station. A few voters in St Helier complained that the website Vote.je had directed them to the wrong polling station.

At all polling stations, the presence of candidates or their agents outside was notable, and in 18% of the observed polling stations they were actively campaigning outside.

In the vast majority of polling stations, the election materials were present and key procedures were always followed.<sup>13</sup> CPA BIMR observers rated the performance of the polling staff as “Very Good” in 70% and as “Good” in 30%. Voters were almost always asked to show a proof of identification, a procedure that does not appear in the election law but that seems to be an accepted practice in Jersey.

The understanding of the voting process by voters was rated as “very good” in 78% of the observed polling station and “good” in 22%. Only three occasions were observed whereby the new “none of the candidates” option on the ballot had to be explained to voters.

The commitment of the Autorisés and of the numerous volunteers who worked as polling station staff (“adjoints”) has to be commended.

The Mission noted the disparity in the number of voters per polling station, with numbers ranging from 1,370 to 8,030. If there had been a high turnout, the management of larger polling stations would have been even more difficult.

## COUNTING AND RESULTS

The Mission observed the counting of 8 polling stations. The count and its reporting was complex and often lasted long hours. 14 polling stations were set as “counting centers”. In multi-parish constituencies, or, in a multi-constituency Parish like St Helier, resulted in large numbers of ballots

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<sup>11</sup> CPA team did 27 visits/observations of the polling, 7 polling stations were visited more than once.

<sup>12</sup> Advance polling, postal vote and homebound voting were particularly complex.

<sup>13</sup> Voters were marked on the voter register, ballots were always stamped and counterfoils always marked with the number of the voter.

to be counted in those counting centers. However, further tabulation of the results of the polling stations was made easier by this set up. Although guidance had been provided by the Judicial Greffier, some aspects of the process remained complex, such as the completion of the result and reconciliation forms, the addition of the postal and pre-poll votes to the count and their reconciliation with the total number of votes cast.

The results had to be announced at the end of the count for each race by the Autorisé to the public present, including candidates and their agents under the form of:

- number of votes per candidate,
- total number of votes cast,
- number of spoilt papers,
- percentage of turnout (that was optional).

The total number of voters having cast a ballot was not required to be announced, which makes it difficult for the general public to calculate the turnout. In fact, the Mission noted that the counting on the voters' lists of the number of voters having cast a vote was not a requirement,<sup>14</sup> thus impeding a reconciliation of the number of ballots cast versus the number of voters having cast a ballot.

The results published on the Vote.je website the day after the elections focused on the number of votes received per candidates, but do not provide sufficient information as per the number of voters who have cast a ballot, the number of valid ballots and turnout per polling station. It is a good practice that this information is made available to the public at the polling station level as soon as possible.

## COMPLAINTS AND APPEALS

Election dispute resolution rests with the judiciary and the system generally provides voters and candidates with an effective judicial remedy. The Royal Court is the main body handling electoral complaints and appeals. Any person may dispute the elections within 12 months. The Court may decide to re-examine ballot papers and is empowered to reject votes deemed valid by an Autorisé. It may announce a vacancy or deem the entire election invalid. The Royal Court's decisions are final.

The system of administrative redress remains limited. Only the contestants could address their grievances to the newly formed Jersey Election Authority. The absence of a complaints procedure available to a wider range of stakeholders, including voters, and lack of an ombudsperson's office narrow the possibilities for effective redress.

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<sup>14</sup> Of the eight counts observed, it was only done once.

## ACKNOWLEDGEMENTS

The CPA BIMR Election Observation Mission wishes to express its gratitude to the authorities of the States of Jersey, election officials, candidates and to the people of the States of Jersey 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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