

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

GENERAL ELECTION 2020

The States are asked to decide whether, after consideration of the policy letter entitled "General Election 2020" dated 7th March 2019, they are of the opinion:-

1. That a General Election of People's Deputies be held on Wednesday, 17th June 2020.
2. That *the Reform (Guernsey) Law, 1948*, be further amended to provide that with effect from the General Election to be held in June 2020 there shall be one island-wide electoral district to elect 38 Deputies for a four-year term and that each voter would have up to 38 votes at each election.
3. To agree the following proposals with effect from the June 2020 General Election:
 - (a) For the purposes of entitlement to be inscribed on the Electoral Roll, the phrase "ordinarily resident" should be defined. A person should be treated as being ordinarily resident during any period only if they were living lawfully in Guernsey and had their home in Guernsey throughout that period.
 - (b) Individuals with no fixed or permanent address should be able to register on the Electoral Roll.
 - (c) A person should be able to apply to the Registrar-General of Electors for their name and address to be omitted from the Electoral Roll available for public inspection. Such application shall be made in such form and manner and accompanied by such information, documents and other material as the Registrar-General of Electors may require.
 - (d) The right to make rules relating to the publication, inspection and availability of the Electoral Roll should be transferred from the States' Assembly & Constitution Committee to the Committee *for* Home Affairs.
 - (e) References to 'Christian names' should be changed to 'forenames' in the legislation and in relevant documents.
 - (f) The Registrar-General of Electors should in relevant circumstances be able to request proof of the date of birth of Islanders wishing to be registered on the Electoral Roll. A failure unreasonably to provide proof of age following a request shall entitle the Registrar-General to refuse to inscribe an elector on the Roll.

- (g) The Registrar-General of Electors should have the power to remove a person's name from the Electoral Roll where satisfied, on the basis of evidence available to them, that the person is no longer resident or is deceased.
- (h) The Registrar-General of Electors should have the ability to create a Supplementary Register and Supplementary Electoral Roll.
- (i) Existing provisions should be amended to enable the Registrar-General of Electors to provide to each polling station a mechanism or facility through which the details of those Islanders casting their vote can be recorded, and which can subsequently be used to identify any instances of double voting.
- (j) The *Loi Relative au Scrutin Secret, 1899, as amended* should be repealed and replaced by appropriate, equivalent provisions in the Reform Law.
- (k) The full age to be eligible to stand for election as a People's Deputy should be reduced to 18 years old and the *Law Reform (Age of Majority and Guardianship of Minors) (Guernsey) Law, 1978* amended accordingly.
- (l) Candidates should be required to be inscribed on the Electoral Roll to be eligible to stand for election as a People's Deputy.
- (m) Nomination of a candidate for office as a People's Deputy should be made in such form and during such period and subject to such conditions as the Presiding Officer prescribes and that the nomination period should commence and end as determined by the Presiding Officer further to a recommendation from the States' Assembly & Constitution Committee.
- (n) The regulated period should commence from the start of the nomination period and end on the day of the election.
- (o) The definition of political parties should be based upon the criteria set out by the Venice Commission.
- (p) A registration process based upon paragraphs 10.6 to 10.12 should be created for political parties who wish to endorse one or more of their members for candidacy in the 2020 General Election.
- (q) Expenditure limits for candidates who are members of political parties and political parties should be set by Ordinance to allow for developments over time for this new process and the *Reform (Guernsey) Law, 1948* should be amended to include power enabling the States to make such an Ordinance.
- (r) The rules relating to donations/loans to candidates and parties should be based upon the recommendations in paragraphs 10.23 - 33.
- (s) The rules relating to postal votes should be amended to enable:

- (i) a person to also return their vote to a polling station; and
 - (ii) the Registrar-General to re-issue or cancel postal ballot packs in specific circumstances.
- (t) Every eligible voter should be entitled to vote at an advance polling station and the relevant arrangements should be introduced in line with paragraphs 11.15 - 22.
- (u) The Committee should be able to make regulations, in consultation with the Registrar-General, regarding the dates and times at which polling stations must be open for advance voting and on Election Day.
- (v) The Registrar-General of Electors, rather than the Constables of a Parish, should provide for the establishment of polling stations (further to consultation with the Constables of the Parishes concerned) and any such additional polling stations as they may deem convenient to the voter.
- (w) The structure overseeing the administration of elections should be amended to enable the appointment of a Returning Officer for the Island and the appointment of polling station Officers as set out in paragraphs 13.23 to 13.30.
- (x) Relevant arrangements should be put in place to enable an electronic vote count and a manual vote count, if required.
- (y) Following a recount (or if no eligible candidate requests a recount within the permitted period) a tied election should be broken by drawing lots using a method decided by the Returning Officer.
- (z) A by-election should be triggered when the casual vacancies in the office of Deputy reaches two vacancies.
- (aa) Arrangements should put in place to enable international observers to be invited to participate in an election observation exercise.
- (bb) The dates of the July 2020 States' Meetings should be as set out in column two of the table under Section 17 and that a 'special meeting' is scheduled on Tuesday 28th July to debate 'The States of Guernsey Accounts 2019'.
4. To direct the preparation of such legislation as may be necessary to give effect to the above decisions.

The above Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

GENERAL ELECTION 2020

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

7th March, 2019

Dear Sir

1 Executive Summary

- 1.1 The States' Assembly & Constitution Committee ('the Committee') is mandated to advise the States and to develop and implement policies in relation to elections to the office of People's Deputy.
- 1.2 The purpose of this policy letter is primarily to propose amendments to *The Reform (Guernsey) Law, 1948, as amended* ('the Reform Law') to enable all 38 deputies to be elected on an Island-wide basis and all voters to have up to 38 votes at the General Election in June 2020 to give effect to the results of the Referendum held in October 2018.
- 1.3 There are a number of further considerations relating to the General Election 2020 but as these do not require legislative amendments (e.g. manifestos, voter education and engagement, hustings, website etc.) they will be covered in a policy letter to be presented to the States later in 2019. This later policy letter will also contain a breakdown of estimated costs and request the relevant budget.

2 Introduction

a) Background to the policy letter

- 2.1 On 19th February, 2016¹, the States resolved:

¹ The Requête '[Island Wide Voting Referendum](#)' was presented to the States in Billet d'État III (Volume III) and considered at the meeting on 16th February, 2016.

That for the 2020 General Election and thereafter all deputies shall be elected on an island-wide basis and all voters shall have the same number of votes as there are deputies' seats provided that such a system shall first have been approved in an island wide referendum.

To direct the States Assembly and Constitution Committee to report to the States as expeditiously as possible detailing the proposals to give effect to Proposition 1 including the methodology of the election and the holding of a referendum.

2.2 The Committee presented the proposals for the referendum to the States in June 2017². The States agreed to proceed with the holding of a multi-option referendum on the method of electing People's Deputies to the States of Deliberation and agreed that preferential and transferable voting would be used to determine which of options A to E³ was the most favoured.

2.3 The referendum on Guernsey's voting system was held on 10th October, 2018 and the vote count held on 11th October, 2018. The results were as follows:

| | Round 1 | Round 2 | Round 3 | Round 4 |
|-------------------------|----------------|----------------|----------------|-----------------------|
| Option A | 5,304 | 5,390 + 86 | 5,755 + 365 | 6,017 + 262 |
| Option B | 3,486 | 3,761 + 275 | 3,898 +137 | |
| Option C | 3,760 | 3,914 + 154 | 4,220 + 306 | 5,448 +1,228 |
| Option D | 672 | | | |
| Option E | 940 | 1,004 + 64 | | |
| Blank Papers | 5 | 5 | 5 | 5 |
| Spoilt Papers | 212 | 212 | 212 | 212 |
| Exhausted Papers | n/a | 93 | 289 + 196 | 2,697 + 2,408 |
| | 14,379 | 14,379 | 14,379 | 14,379 |

2.4 Option A was successful with 52.48% of the votes in Round 4. Option A is summarised as follows:

² [Referendum on Guernsey's Voting System](#) P.2017/49 was presented to the States in Billet d'État XIV and considered at the meeting on 21st June, 2017.

³ Options A to E are included in Schedule 1 of the ["The Electoral System Referendum \(Guernsey\) Law, 2018"](#)

- 1 Island-wide electoral district to elect 38 Deputies
- An election would be held every 4 years for all Deputies at once
- Each voter would have 38 votes at each election
- Each Deputy would serve for 4 years.

2.5 The States agreed in November 2017⁴ that it would introduce the electoral system which was the most favoured in the referendum, provided that the number of persons voting in the referendum exceeded 40% of those persons inscribed on the Electoral Roll who were eligible to vote on the day of the referendum. At its closure on 4th October 2018, the Electoral Roll contained the names of 31,865 people. The number of votes cast in the referendum was 14,379. The turnout was therefore 45.1% and the threshold met.

b) Preparation for the 2020 Election

2.6 Working with the Committee *for* Home Affairs, the Committee recognises the following will 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.

2.7 The Committee *for* Home Affairs and the Committee acknowledge the unique challenges that the 2020 General Election will bring and agree that operationally the creation of a new Electoral Roll and the delivery of the 2020 General Election should be progressed as a single project. Essential to the successful delivery of all aspects of the 2020 General Election is the early appointment of a Lead Election Officer, as set out in the Committee *for* Home Affairs policy letter 'Preparation for a New Electoral Roll' which it is intended will be considered on 24th April, 2019, at the same meeting as this policy letter.

c) Preparation for a new Electoral Roll

2.8 The Committee *for* Home Affairs is mandated to advise the States and to develop and implement policies on matters relating to its purpose, including the Electoral Roll.

2.9 The two Committees agreed it would be logical for all the proposed changes to the Reform Law to be contained within one policy letter and this policy letter therefore contains proposals agreed with the Committee *for* Home Affairs relating to changes to the Electoral Roll.

⁴ ['Referendum on Guernsey's Voting System - Voter Turnout P.2017/88'](#) was presented to the States in Billet d'État XXI and considered at the meeting on 8th November, 2017.

d) Amendments to *The Reform (Guernsey) Law, 1948, as amended*

2.10 The Reform Law has specific provisions relating to proposals, such as those included in this policy letter, which would amend that legislation (under Article 3 – Quorum). The provisions can be summarised as follows:

- If **two-thirds** of the Members present and voting approve the propositions, the propositions will be carried and the relevant resolutions will be final.
- If **a majority but less than two-thirds** of the Members present and voting approve the propositions, there are two options:
 - a) the resolution will be deemed to be carried after seven days unless an application is made to the Presiding Officer by seven Members (see (b) below).
 - b) if an application is made by seven Members to the Presiding Officer, the Presiding Officer will bring the ‘resolution’ before the States of Deliberation as soon as possible after three months has passed from the resolution being made. When presented to the States, the resolution will need to be passed by a simple majority to be carried and finalised.

2.11 The Committee has reviewed the Reform Law and identified the areas that require amendment. It has also considered areas where the administration of the Election would be improved by the introduction of new innovations e.g. the introduction of advance polling stations (section 11), the ability to use electronic vote count technology (section 14) etc. and made recommendations accordingly.

e) Political parties and associations

2.12 A key issue raised in the consultation leading up to the preparation of this policy letter was the potential introduction of political parties and associations in Guernsey. The Committee has looked at such organisations – howsoever titled – one of whose fundamental purposes is to participate in the public affairs of the Island by supporting or otherwise endorsing a candidate at an election of the States of Deliberation.

This is covered in section 10 of this report and recommendations are made to enable the formal creation of political organisations, associations or parties, should candidates wish to coalesce under such a formal structure.

f) Candidate and Party expenditure in elections

2.13 A further key issue raised through consultation was the candidate and party expenditure limits and rules when campaigning in advance of a General

Election. The Committee has set out its initial thinking in section 9, and invites political and public feedback. Final recommendations in respect of spending limits and any government grant or benefits-in-kind will be included in the Committee's second policy letter later in 2019.

g) Content of the policy letter

2.14 The policy letter is set out in the order that events take place for a General Election. It commences with the proposed date of the General Election and the formation of the Electoral Roll and concludes with the count of the votes and the proposed dates of the July 2020 States' Meetings. An appendix report is attached which details matters considered by the Committee but where no proposals have been made.

2.15 In drawing up the proposals contained in this policy letter, the Committee took into account the conclusions from the 2016 post-election review report undertaken by the Registrar-General of Electors⁵ (the "2016 Registrar-General of Electors' report"). It also considered the following documents:

- European Convention on Human Rights (in particular Article 3 of Protocol 1 - Right to free elections); and
- Code of Good Practice in Electoral Matters - Guidelines and Explanatory Report adopted by the Venice Commission; and
- CPA Recommended Benchmarks for Democratic Legislatures; and
- United Nations Convention against Corruption; and
- International Covenant on Civil and Political Rights; and
- Declaration of Principles for International Election Observation and Code of Conduct for International Election Observers; and
- CPA BIMR Election Observer Mission - Jersey General Election - May 2018

h) Layout of the propositions

2.16 The Committee proposes that the General Election is held on Wednesday 17th June, 2020 (Proposition 1) and the Reform Law is amended to enable an Island-wide General Election to be held (Proposition 2). It has listed a number of further changes the Committee is proposing under Proposition 3 for ease of reference and to enable Members to hold separate votes on the Committee's recommendations if they so wish.

3 Date of the General Election

3.1 Article 29(3) of the Reform Law states that the date for the holding of any General Election shall be appointed by Ordinance and Article 29(1) provides that General Elections shall be held in the month of June from 2020. The persons elected will take office on 1st July, 2020. The Committee proposes the

⁵ The Registrar-General of Electors will be referred to as the "Registrar-General" in this policy letter.

General Election takes place on **Wednesday 17th June 2020**.

- 3.2 The Committee is conscious of the increased time it may take the voter to complete their ballot paper. To seek to ease congestion on the proposed Election Day, the Committee is also recommending that advance polling stations should be established (section 11) in the week before.
- 3.3 It has also consulted with the Douzaines regarding whether they would be happy to run or assist with parish polling stations on Tuesday 16th June. The Douzaines have stated that if parish polling stations are going to operate for two days, the States of Guernsey would need to provide the resources to facilitate this.
- 3.4 The table below shows the dates of the General Election and Members taking office between 2004 – 2016, and the number of clear days between the two:

| | Date of General Election | Date of taking office | Clear days between |
|-------------|---------------------------------|------------------------------|---------------------------|
| 2020 | <i>17th June</i> | <i>1st July</i> | <i>13 days</i> |
| 2016 | 27 th April | 1 st May | 3 days |
| 2012 | 18 th April | 1 st May | 12 days |
| 2008 | 23 rd April | 1 st May | 7 days |
| 2004 | 21 st April | 1 st May | 9 days |

- 3.5 The Committee is proposing the Election take place on Wednesday 17th June, 2020 for a number of reasons.

(a) Vote counts and recounts

- 3.6 The Committee is investigating employing electronic equipment to count the votes, given the significant increase in the number of votes that are likely to be cast under the new electoral system. This is covered in section 14. However, it is imperative that appropriate time is allowed after Election Day to enable a manual count, and potential recount, to take place. It believes that setting the Election Day later in June e.g. on 24th June, 2020 (as suggested by some Members), may not allow sufficient time for a manual count (and any potential recount) to take place, if required.

(b) Initial induction for persons elected

- 3.7 As shown in section 17 of this policy letter, the Committee is suggesting that the first States' Meeting to elect the President of the Policy & Resources Committee takes place on 1st July, 2020. The Committee believes it is sensible for some initial induction sessions to take place before Members are formally sworn in and stand for Committee positions. The Committee will be working closely with Deputies and the public in the latter part of 2019 to ascertain what

should be included in such an initial induction (as well as the more comprehensive induction to be undertaken after they have taken their oath of office).

(c) Consideration of Committee positions

3.8 The Committee believes the period between the date of the General Election and the date of taking office would provide elected persons sufficient time to consider not just the Committee positions they might wish to stand for, but also consider who they may vote for in Committee elections, and to learn more about their colleagues in advance of such elections.

(d) Sufficient period for campaigning

3.9 The Committee gave careful consideration as to the length of the campaign period, and raised this with current Deputies at a workshop in December 2018. It was initially minded to suggest a longer campaign period than previous years, given the increased volume of candidates the voters have to assess and choose from. However, a number of Deputies voiced concern regarding an elongated campaign period, stating that ‘election fatigue’ could occur.

3.10 As set out in section 8, ‘Nominations’, a campaign period running from the opening of nominations on Tuesday 12th May to Election Day on Wednesday 17th June, 2020, would only be one day shorter than in previous elections (and does not span any lengthy school holidays, as was the case in previous elections):

| | Nomination Open (a) | Nomination Close (b) | Date of Election (c) | Days btw a + c |
|-------------|----------------------------|-----------------------------|-----------------------------|-----------------------|
| 2020 | <i>12th May</i> | <i>15th May</i> | <i>17th June</i> | <i>36 days</i> |
| 2016 | 21 st March | 31 st March | 27 th April | 37 days |
| 2012 | 12 th March | 16 th March | 18 th April | 37 days |
| 2008 | 17 th March | 26 th March | 23 rd April | 37 days |

3.11 After consideration, the Committee concluded there was sufficient time between the opening of the nomination period and the General Election for the candidates to promote their candidacy, and for the voter to consider all candidates.

3.12 For the reasons above, the Committee has decided that the next General Election should be held on **Wednesday 17th June, 2020** and that it is what it proposes at Proposition 1.

4 The change from seven to one electoral district

4.1 Under the current electoral system, for the purpose of elections to the office of

People's Deputy, Guernsey is divided into districts. The decision to introduce an Island-wide electoral district (i.e. a single electoral district) will mean many of the references to distinct electoral districts in the legislation will need to be amended.

- 4.2 The Committee recommends that the Reform Law be amended as appropriate to provide that with effect from the General Election to be held in June 2020 there shall be one Island-wide electoral district to elect 38 Deputies for a four-year term and that each voter would have up to 38 votes at each election (Proposition 2).

5 The Electoral Roll

- 5.1 The Committee *for* Home Affairs is mandated to advise the States and to develop and implement policies on matters relating to its purpose, including the Electoral Roll.

- 5.2 The two Committees have worked closely together to review the relevant sections of the Reform Law relating to the Electoral Roll. A number of existing provisions remain appropriate and do not require amendment aside from minor changes to reflect the change in the number of electoral districts; however some amendments and new provisions are suggested as follows.

(a) Persons entitled to vote

- 5.3 In order to be entitled to be inscribed on the Electoral Roll and thus entitled to vote, amongst other things, a person must be ordinarily resident on the date of his or her application. He or she must also have been ordinarily resident for at least 2 years immediately preceding that date, or at any time for a period before that date for a period or periods of at least 5 years. The 2016 Registrar-General of Electors' report recommended that consideration should be paid to the inclusion of a definition of 'ordinarily resident'. This suggestion was also made during the Committee's consultation leading up to this policy letter.

- 5.4 The Committee considered possible definitions, and concluded that for the purposes of entitlement to be inscribed on the Electoral Roll (Article 27(1)(c) and (d)), the definition of 'ordinarily resident' should be that a person shall be treated as being ordinarily resident during any period only if they were living lawfully in Guernsey and had their home in Guernsey throughout that period, or words to that effect. The Committee therefore recommends the Law is amended to define 'ordinarily resident' and Proposition 3(a) relates.

(b) No fixed or permanent address

- 5.5 The 2016 Registrar-General of Electors' report suggested specific provision should be included to accommodate individuals who would be eligible to vote but who do not have a fixed or permanent address when registering. This

would enable individuals to register at an address where they spend a significant proportion of their time.

- 5.6 The Committee agrees with this suggestion and recommends that the appropriate arrangements are put in place to facilitate this. Proposition 3(b) relates.

(c) Application to be included on an anonymous register

- 5.7 The current provisions surrounding the details which must be listed on the Electoral Roll (name and full address) means that it is not possible for individuals to register anonymously. Anonymous registration, which has been in place in the UK for a number of years, allows people whose safety would be at risk if their name or address were listed on the electoral register to register to vote without their details being made public.
- 5.8 The Committee *for* Home Affairs' policy letter states: *The Committee has made representations to the SACC that appropriate amendments should be made to the Reform Law which would facilitate in limited cases the ability to register anonymously on the Electoral Roll. This will be detailed in the SACC's forthcoming Policy Letter.*
- 5.9 The Committee *for* Home Affairs proposes that the Registrar-General should have discretion to allow a person to register to vote but for their details not to appear on the public version of the Electoral Roll in circumstances where the Registrar-General is satisfied that should an individual's details be in the public domain they, their family or their property would be at risk. This proposal is also supported by the Registrar-General.
- 5.10 It is anticipated that the proportion of Islanders wishing to avail themselves of this option is likely to be very small but it is important that such a provision is included to ensure individuals are not disenfranchised because of personal safety concerns.
- 5.11 Any Roll made available to candidates would omit the names of any individuals who have applied for their details not to appear on the public version of the Electoral Roll.
- 5.12 It is recommended that appropriate amendments are made to existing provisions to enable a person to apply to the Registrar-General for their name and address to be omitted from the Electoral Roll available for public inspection. Such application shall be made in such form and manner and accompanied by such information, documents and other material as the Registrar-General may require. Proposition 3(c) relates.

(d) The ability to make rules regarding the publication and availability of the Electoral Roll

5.13 Under Article 34 and 35 of the Reform Law, the Committee has the right to make rules regarding the following:

- The publication of all sections of the Electoral Roll in respect of each District for inspection, in such manner, and at such time and place and for such period as the Committee may prescribe (*Article 34.(5)*).
- All sections of the Electoral Roll being published each year in such manner, and at such time and place and for such period as the Committee may prescribe (*Article 34(6)*).
- the persons or classes of persons to whom copies of the Electoral Roll shall be made available;
- the manner in which, the means by which and the times and places at which copies of the Electoral Roll shall be made available;
- the charges and conditions subject to which copies of the Electoral Roll shall be made available (*Article 35(2)*).

5.14 Given the Electoral Roll is compiled by the Registrar-General and is a mandated responsibility of the Committee *for* Home Affairs, the data controller is the Committee *for* Home Affairs. In light of this, it has been proposed that it would be more appropriate for the Committee *for* Home Affairs to set the rules, after consultation with the States' Assembly & Constitution Committee, surrounding the use of that data. The Committee concurs with this suggestion and Proposition 3(d) relates.

(e) Compilation of the Electoral Roll

5.15 Article 25(2) of the Reform Law references the inclusion of individuals "Christian" name on the Electoral Roll. The Registrar-General recommends that it would be more appropriate to make reference solely to forenames. Proposition 3(e) relates.

5.16 In order to assist the Registrar-General's ability to improve the accuracy of the Electoral Roll by the more ready identification of duplicate registrations, it is recommended that the Registrar-General be able to request proof of the date of birth of Islanders wishing to be registered on the Electoral Roll. This information would not be shared more widely and would not be listed on any published version of the Electoral Roll. Proposition 3(f) relates. A failure unreasonably to provide proof of age following a request would entitle the Registrar-General to refuse to inscribe an elector on the Roll.

5.17 Article 34(1) of the Reform Law requires the Registrar-General to make application forms for inclusion on the Electoral Roll available: *...on or before the seventh day of September (or on or before such other day, or during such other*

period, as may be specified by Ordinance of the States made under this paragraph) in any year so specified...

- 5.18 The provision is premised on the traditional distribution of paper forms throughout households in September. The Registrar-General intends to maintain a similar approach for the 2020 General Election, however, recognising that with an increasing emphasis on electronic means of communication, the provision may prove restrictive in respect of the future evolution of enrolment processes. There has, over recent elections, been a growing trend for online registration and it is expected that this will grow further for 2020.
- 5.19 Additionally given that future elections will take place in June rather than April, it is recognised that commencing an enrolment campaign the proceeding September may not be appropriate. The Registrar-General has suggested that consideration should be given to moving the enrolment period to last from November 2019 to April 2020. Proposition 2 of the Committee *for* Home Affairs policy letter relates.
- 5.20 Article 34(8A) of the Reform Law enables the Registrar-General to remove a person's name and address from any section of the Electoral Roll on the grounds that the person is no longer resident at that address or is deceased, further to an application being made by specified persons. It is recommended that this provision is extended to enable the Registrar-General to be able to remove individuals from the Roll (without an application being made) where he or she is satisfied on the basis of evidence is available to them that the person is no longer resident at that address or is deceased. Proposition 3(g) relates.
- 5.21 The Committee recommends the relevant legislative and administrative changes are made to facilitate the above changes.

(f) Supplementary Electoral Roll

- 5.22 Under Section 4 of the Committee *for* Home Affairs policy letter, it advises that the Committee has requested that the Registrar-General give particular consideration to the practical steps necessary should a closure date of the Electoral Roll later than the 30th April 2020 be adopted.
- 5.23 The Registrar-General has suggested that it may be that a Supplementary Register would be needed, whereby individuals who registered before a certain date would be registered on the substantive Electoral Roll, which would be provided to candidates and would be used for the issuance of postal votes, but those registering after this date would be listed on a supplementary Electoral Roll. Individuals registered on the Supplementary Electoral Roll would be able to vote in person on Election Day.
- 5.24 The Committee *for* Home Affairs recognises that the possible advantages of

such an approach for the voter need to be balanced with the increased administrative burden which would be placed on the Registrar-General.

- 5.25 The Committee recommends the relevant changes are made to enable a Supplementary Register and a Supplementary Electoral Roll to be created, should this be required, and Proposition 3(h) relates.

(g) Availability of the Electoral Roll at polling stations

- 5.26 Under Article 27(3) of the Reform Law, the Returning Officer of each District keeps at each polling station a list of voters who voted at that polling station. These lists are used as a means to identify persons who may have voted more than once.
- 5.27 The Registrar-General has advised that this provision, premised on the traditional manual processes on Election Day, could prove restrictive in the future digitalisation of the Election. Rather than specifically establishing the 'list of voters', which can already be in electronic form, it is recommended that it is replaced or supplemented by a broader provision which places a duty on the Registrar-General to provide to each polling station a mechanism or facility through which the details of those Islanders casting their vote can be recorded, and which can subsequently be used to identify any instances of double voting.
- 5.28 It is recommended the relevant changes are made to facilitate the above and Proposition 3(i) relates.

6 Elections to be determined by Secret Ballot Law

- 6.1 Article 30 of the Reform Law requires elections to be held in accordance with the law from time to time regulating the procedure for Secret Ballot - the *Loi Relative au Scrutin Secret, 1899, as amended*.
- 6.2 The Committee believes there is merit in the relevant provisions of the Law relating to Secret Ballots to be included in the Reform Law given it is a short piece of legislation which is a nineteenth century enactment drafted in French.
- 6.3 The Committee therefore recommends that the *Loi Relative au Scrutin Secret, 1899, as amended* is replaced by appropriate, equivalent provisions in the Reform Law. Proposition 3(j) relates.

7 Eligibility as People's Deputy

- 7.1 Article 8 states that any person of full age shall be eligible to hold the office of People's Deputy provided that the person:
- *is ordinarily resident in this Island on the date of their nomination as a candidate for that office, and*

- *has been ordinarily resident in this Island –*
 - (i) for a period of two years immediately before that date, or*
 - (ii) for a period or periods of at least five years in the aggregate at any time before that date,*
- *has not at any time during the five years immediately preceding the date of the election been sentenced for an offence by a court in the United Kingdom, any of the Channel Islands, or the Isle of Man, to imprisonment for a period of six months or more (whether suspended or not) without the option of a fine, unless that sentence was quashed or reduced to less than six months on appeal.*

(a) Full age

7.2 The Reform Law does not define “full age”. The [Law Reform \(Age of Majority and Guardianship of Minors\) \(Guernsey\) Law, 1978](#) changed the meaning ‘in any enactment’ of ‘full age’ from 20 to 18 but expressly excluded from the change the use of ‘full age’ in section 8 of the 1948 Reform Law under Section 1.(4):

(4) This section shall not affect the construction of the expression "full age" in section eight of the Reform (Guernsey) Law, 1948.

7.3 Full age under the Reform Law therefore continues to be 20. Most jurisdictions set the minimum age as 18. Feedback from the Youth Commission after the 2016 General Election indicated that perhaps one or more of their membership would have considered standing had the minimum age been 18.

7.4 The Committee believes full age should be 18 years old and therefore recommends the [Law Reform \(Age of Majority and Guardianship of Minors\) \(Guernsey\) Law, 1978](#) is amended accordingly, as set out in Proposition 3(k).

(b) Requirement to be on the Electoral Roll

7.5 At present, a candidate does not have to be inscribed on the Electoral Roll to be nominated, whilst both the proposer and seconder of their nomination are required to be on the Roll. It was proposed that the eligibility criteria should be amended to require candidates to be validly inscribed on the Electoral Roll.

7.6 Committee Members had mixed views on this proposal. Some felt that the voter would expect candidates to be on the Roll if they were standing for election. Other Members felt it was an unnecessary requirement. Such a requirement is not contained in the eligibility criteria for election in Jersey or the UK but is required in the Isle of Man.

7.7 By majority (Deputies Le Tocq and Ferbrache dissenting), the Committee agreed to propose that the eligibility criteria are amended to include a

requirement that a person shall be eligible to hold the office of People's Deputy (and thus stand as a candidate) only if the person is validly inscribed on the Electoral Roll at the date of nomination. Proposition 3(l) refers.

8 Nominations

8.1 Article 32(1) of the Reform Law states that every nomination of a candidate for office as a People's Deputy shall be in writing signed by two persons whose names are inscribed on the section of the Electoral Roll representing the District for which the candidate intends to stand, and shall be delivered to the Presiding Officer of the States not later than such time on such day, being a day before the 22 days next preceding the day fixed for the holding of the election, as the Presiding Officer may appoint.

(a) Setting the nomination period

8.2 Under the Law, the Presiding Officer of the States appoints the closing date for the nomination period however the Law makes no reference to when the nomination period opens or the form on which a nomination should be submitted. It would therefore theoretically be possible for a nomination to be submitted at any time in advance of a General Election as long as it was submitted signed by two people on the Electoral Roll.

8.3 The Committee has concluded that the Law should be amended to make it clear that a nomination should be made in such form and during such period and subject to such conditions as the Presiding Officer prescribes. It further concluded that the period should commence and end as determined by the Presiding Officer further to a recommendation from the States' Assembly & Constitution Committee and therefore recommends the relevant provisions be put in place. Proposition 3(m) relates.

(b) The nomination period

8.4 The final States' Meeting of this political term is scheduled to take place on the 6th May, 2020 and could potentially last until the 8th May. Liberation Day is on Saturday 9th May. It is not yet known whether an alternative or additional Public Holiday may be scheduled for a weekday, to mark the 75th anniversary of the Liberation.

8.5 It has been tradition that the nomination period commences after the final States' Meeting of the term. The Committee considered whether the May States' Meeting should be brought forward to April to enable a longer period between the nomination period and the date of the General Election. It initially considered suggesting the meeting scheduled for the 6th May be moved to April with a nomination period running from Monday 27th April to Friday 1st May.

8.6 The Committee sought Deputies' views at a workshop in December 2018

regarding this proposal. Deputies present broadly favoured the retention of the 6th May States' Meeting and also favoured a short nomination period of three days following the final States' Meeting.

- 8.7 In order to avoid any possible conflict with the weekend of Liberation Day, the Committee considered the election timeframe if nominations were instead to open on Tuesday 12th May. It noted that a campaign period running from the opening of nominations on Tuesday 12th May to Election Day on Wednesday 17th June, 2020, would only be one day shorter than in previous elections:

| | Nominations Open (a) | Nominations Close (b) | Date of Election (c) | Days btw a + c |
|-------------|-----------------------------|------------------------------|-----------------------------|-----------------------|
| 2020 | <i>12th May</i> | <i>15th May</i> | <i>17th June</i> | <i>36 days</i> |
| 2016 | 21 st March | 31 st March | 27 th April | 37 days |
| 2012 | 12 th March | 16 th March | 18 th April | 37 days |

- 8.8 When considering the options for the nomination period, the Committee is conscious that the voter will need to assess manifestos and information regarding a far greater number of candidates than in previous elections and was concerned that five weeks would not be sufficient time to enable the public to fully familiarise themselves with candidates. At the Deputies' Workshop, some Members countered this view, suggesting a period longer than five weeks could lead to election fatigue.
- 8.9 On balance, the Committee has agreed to recommend to the Presiding Officer that the nomination period last for three days: opening at noon on Tuesday 12th May, and closing at 4:00 p.m. on Friday 15th May, 2020.
- 8.10 The Committee is working with the Bailiff's Chambers to review the administrative processes surrounding the nominations, including the ability for nominations to be submitted 'by proxy' and for there to be clarity about the dates the nomination forms need to be signed by proposers/seconders.

9 Candidate Expenditure and Grants

- 9.1 While the Committee is not recommending legislative changes to the process of candidate expenditure limits being set, it felt this item would be of interest to both potential candidates and the public alike, and agreed it merited inclusion in the initial Policy Letter.

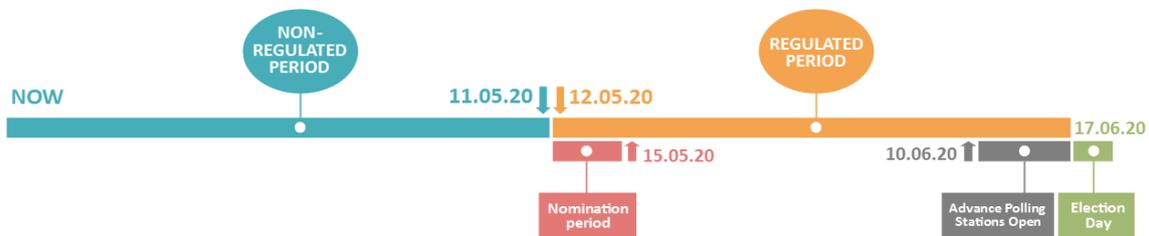
(a) The 'regulated period'

- 9.2 In the run up to the General Election, there is a set time where campaign spending limits apply and this is commonly known as the 'regulated period'. The regulated period is set out in the Elections Ordinance which details the date of the People's Deputies' Election, the date of the closure of the Electoral

Roll, the electoral expenditure and the hours of polling. For at least the last three elections, the Ordinance has specified the regulated period as follows:

‘A candidate in an election for the office of People’s Deputy may, during the period beginning on the day on which he delivers his nomination form to the Presiding Officer of the States and ending on the day of the election, expend money or give value in money’s worth in respect of that election up to a maximum of X’.

9.3 In the UK, the regulated period begins on the day after the date a candidate officially becomes a candidate and ends on polling day. The Committee has concluded that the regulation period should commence from the start of the nomination period and end on the day of the election, and that the Ordinance when prepared will include this. Proposition 3(n) relates. The diagram below sets out the regulated period:



(b) Candidate expenditure

9.4 Article 44 of the Reform Law covers expenditure by candidates and provides that no candidate in any election shall expend any sum of money or give any value in money's worth otherwise than in accordance with such provisions as shall, from time to time, be prescribed by Ordinance.

9.5 The limit set by Ordinance does not affect the right of any candidate to purchase copies of the Electoral Roll and any such purchase can be expended in addition to the maximum permissible amount. Any candidate who contravenes the provisions of Article 44 – by himself or by his servant or agent – shall be guilty of an offence.

9.6 The Committee is content that the provisions of Article 44 should still apply, with the expenditure limit for candidates set by Ordinance. In proposing the level of candidate spending limits, the Committee will be guided by the view of the Electoral Commission⁶ which concluded that such limits should:

- allow candidates to communicate with voters, so the voter is engaged and able to participate meaningfully in the process;
- deter excessive spending, to prevent the perception of undue influence over the outcome of the election; and

⁶ [The Electoral Commission, Candidate spending limit review: Draft recommendations for consultation \(November, 2013\), p.9](#)

- not be set so low as to detrimentally constrain reasonable levels of expenditure, which could impact on trust in the system.
- 9.7 The Committee will propose the expenditure limit for candidates and parties (together with any subsidies or benefits-in-kind to be provided by the States) in its next policy letter, once further information is collected regarding costs that candidates might reasonably incur. The Committee intends to propose an expenditure limit that will enable a candidate to reach every household on the Electoral Roll with their own manifesto, should they wish to do so.
- 9.8 The Committee appreciates that candidates will need to reach a much larger number of voters than in previous elections, in the same amount of time, making advance preparation of manifestos or other election materials almost essential. Previous expenditure rules have not allowed candidates to spend money on election materials until they have submitted their nominations. In practice, experienced candidates have managed this by preparing their materials in advance and settling invoices only during the campaign period.
- 9.9 The Committee agreed that, ahead of the 2020 General Election, the rules should be clarified to provide clearer guidance on what potential candidates can spend before the nomination period opens. The 2016 Registrar-General of Electors' report also recommended that further consideration be given to the guidance available in respect of election expenditure.
- 9.10 Consistent with the approach taken in the 2018 Referendum, whereby there was clarity as to what were allowable types of referendum expenses, the Committee will publish guidance⁷ which will set out what candidate spending includes (e.g. advertising, unsolicited material sent to voters, administrative costs etc.) and what does not count (e.g. volunteer time, use of personal car or property etc.).

(c) Grants to candidates

- 9.11 The 2015 Policy Letter entitled '[General Election 2016](#)'⁸ provided information about the grants given to candidates between 2004 to 2016. It is repeated here for ease of reference:

6. Grants to candidates

- 6.1 *In the 2004 and 2008 General Elections the States defrayed 50% of the cost of postage at the minimum local postage rate for each candidate who wished to send, on one occasion only, letters, manifestos and/or*

⁷ This guidance will be similar to the 'Guidance for candidates and agents' produced by the Electoral Commission for the 2016 General Election entitled '[Part 3 of 6 - Spending and donations](#)'

⁸ [States Assembly and Constitution Committee - General Election 2016 \(Billet d'État XI 2015\)](#)

other communications through the post to each elector in the electoral district where that candidate was standing, subject to certain provisos.

- 6.2 *In respect of the 2012 General Election the States decided instead to allow candidates to claim up to £500 of receipted expenditure. In 2012 all candidates claimed the full £500, except for three who claimed less than £500 and three who chose not to claim anything. The total cost to the States was £37,100. The Committee believes that providing grants to candidates is a fairer method as it gives candidates more choice as to what type of campaigning they carry out, especially as some candidates rely increasingly on electronic means of publicising themselves.*
- 6.3 *The States have directed the Treasury and Resources Department to take account of the costs of compiling the new Electoral Roll and managing the election process when recommending the 2016 Cash Limit for the Home Department⁹. The breakdown of the estimated total costs of £162,000 included a provision of £50,000 in respect of grants to candidates. In the last three General Elections the numbers of candidates were 82, 88 and 78 respectively. The Committee suggests that the level be set at £50,000 divided by the average number of candidates and then rounded down slightly, which is £600. This is a slightly higher figure than simply increasing £500 to take into account price inflation in the interim. The Committee acknowledges that this would lead to expenditure of £2,800 above that which has already been agreed if the number of candidates at the Election equalled the highest number out of the last three elections and if every one of those candidates claimed the full value of the grant. Equally, the Committee acknowledges that if the number of candidates at the Election equalled the number at the last Election and, as at the last Election, three candidates do not claim any grant, expenditure by the States would be £5,000 below that which has already been agreed. However, it believes that no one should feel unable to stand on the grounds of the expense necessary to be a credible candidate. Nor does it wish to commit the States to a substantial increase in expenditure in this area. The Committee believes that £600 is a good compromise and is what is proposed at Recommendation 4.*
- 6.4 *In the longer term the Committee hopes its successors will propose modest but above-inflation increases in the sum which candidates can reclaim from the States in order to minimise the number of people who might feel unable to stand on the grounds of the expense necessary to be a credible candidate. The Committee accepts that any such proposals would, of course, need to have regard to the prevailing condition of public finances.*

9.12 The Committee has given careful consideration to the issue of grants to

⁹ [Billet d'État XXIV of 2014, Article 16, Home Department – Preparation of a New Electoral Roll](#)

candidates. If a candidate wished to print an individual manifesto and post this to every house on the Electoral Roll, this is likely to cost a very minimum of £5,000 per candidate. It is a facet of the new Electoral System that it will cost considerably more to print and post information out to the voter in an Island-wide system than it does under the current system.

- 9.13 In the 2016 General Election, the States provided a grant of £600, which was just over 25% of the total expenditure limit of £2,300. A grant of £1,250 or more per candidate (the equivalent to 25% of £5,000 or more) would, multiplied by 80 candidates¹⁰, cost the States at least £100,000.
- 9.14 The Committee considered that this was unlikely to be acceptable to the taxpayer, and would not be an appropriate use of government resources, particularly as the running of an Island-wide election is likely to incur substantial additional costs over and above the costs of previous elections.
- 9.15 Concerns were raised in the consultation regarding the ability of wealthier candidates to potentially disproportionately influence an election, given the resources available to them for promotion. The Committee considered what other options could be available to provide a 'level playing field' to candidates and concluded that the system which operated in Jersey for their elections was worth piloting for the first election under Island-wide voting.
- 9.16 The States of Jersey does not give candidates a grant. It provides a number of ways that all candidates can be equally promoted via information disseminated from the States of Jersey, including:
- the production of a combined candidates' manifesto booklet delivered to all households on the Electoral Roll; and
 - information uploaded onto a website (e.g. contact details, manifestos etc.); and
 - short candidate videos uploaded onto the website.
- 9.17 The Committee believes introducing a system similar to the above would benefit both the voter and candidates, and is minded to propose this in its second policy letter later this year. The principle of the States providing a benefit-in-kind was common to elections before 2008 (when the States defrayed postage costs rather than providing a grant) and so is not new to Guernsey.
- 9.18 The production of a combined manifesto booklet would mean that the voter would not be overwhelmed by a large number of separate manifestos being delivered to their home, and would enable them to refer to a single booklet when assessing potential candidates, rather than having to accumulate a large number of separate manifestos. The provision of a single booklet would also minimise the cost to the taxpayer in printing and distribution (likely similar to

¹⁰ In the 2016 General Election, 81 candidates stood; in 2012, 78; in 2008, 88; and in 2004, 82.

the amount put aside for grants for candidates in the 2016 General Election).

- 9.19 Given the value of the proposed work commissioned by the States of Guernsey on behalf of candidates, the Committee does not believe further public expenditure, in the form of a grant, should be given to candidates by the States, and it intends to make recommendations accordingly in its second policy letter.
- 9.20 **The Committee is inviting public and political feedback on these proposals before it finalises its recommendations to the States.**
- 9.21 Given the intention to also publish the manifestos online, it is suggested that the voter is invited to indicate their communication preferences (email, phone, and/or post). The Committee, together with the Committee *for* Home Affairs, will explore whether it is possible to enable individual to 'opt out' from hard copies should a voter wish to access electronic documents only. Further consideration will be given to the electronic distribution of manifestos, as set out in the Committee *for* Home Affairs policy letter.
- 9.22 The Committee has listened to Deputies' feedback on the format and length of manifestos in the booklet. A number of Members did not believe a limit of 600 words (as in Jersey) would be sufficient to promote their candidacy. Whilst the Committee was initially minded to suggest a limit of 2 x A4 sides for each candidate, it has compromised on this, having listened to Members' concerns, and will look to enable each candidate to have up to 4 x A4 sides in the booklet. This will be a maximum and not all candidates may wish to submit manifestos of that length.

10 Political Parties

- 10.1 As stated in paragraph 2.12, a key issue raised in the consultation leading up to the preparation of this policy letter was the potential introduction of political parties in Guernsey. This section will make recommendations to facilitate the formal creation of political parties, should candidates wish to coalesce under a formal party structure.
- 10.2 While the processes of a number of jurisdictions have been researched, the Committee believes that the principles endorsed by the Venice Commission on political parties offer the best approach for Guernsey to adopt¹¹. The Commission's principles are based on well-evidenced and rigorous investigations, but still offer the flexibility for the 'light touch' approach that the Committee wishes to use to regulate political parties.
- 10.3 A further key issue raised through consultation was the candidate and party expenditure limits and rules when campaigning in advance of a General Election. Article 44 of the Reform Law defines the restrictions behind the

¹¹ [https://www.venice.coe.int/WebForms/pages/?p=01 Elections and Referendums&lang=EN](https://www.venice.coe.int/WebForms/pages/?p=01_Elections_and_Referendums&lang=EN)

expenditure limit for individual candidates. Article 45A(1) effectively prevents a person other than a candidate (or their servant or agent) from expending any sum of money or giving any value in money's worth with a view to promoting or procuring the election of a candidate in any election. However, there is no legislation relating to the expenditure limit of a political party promoting the party and its policies generally during the campaign period.

- 10.4 A political party may identify as a 'group', 'association', 'organisation' or under a different term, but the Committee recommends such bodies will be classified as a political party if they meet the criteria set out by the Venice Commission, which defines a political party as:

*"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."*¹²

- 10.5 The Committee therefore recommends appropriate provisions are drafted to include a definition of political parties based upon the criteria set out by the Venice Commission. Proposition 3(o) relates.

(a) Registration

- 10.6 The Committee believes that in order to ensure fairness in the electoral process political parties should be registered and recommends that an approach similar to that of the Isle of Man (IoM) would be the most appropriate for the registration of political parties in Guernsey.

- 10.7 The IoM's Representation of the People Act 1995 was amended in 2015 to incorporate new rules for political parties. The new provisions were not introduced due to concerns regarding the conduct of any existing party; rather they were:

*"...a recommendation of best practice in order to increase the amount of publicly available information regarding parties which support or endorse candidates for election..."*¹³

The most important new provision was that political parties had to be registered before they could support or endorse a candidate(s) for election. In addition, the registration application required some basic information and supporting paperwork, incorporating the following:

- Party name & emblem

¹² Venice Commission – Guidelines on Political Party Regulation

[https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2010\)024-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2010)024-e)

¹³ <https://www.gov.im/media/1348995/guidance-on-why-and-how-to-register-a-political-party-ahead-of-the-2016-general-election-to-the-house-of-keys.pdf>

- Number of officeholders and their roles (e.g. to include Leader, Treasurer & Secretary)
 - Postal address
 - Written constitution (party structure, aims & objectives, number of members standing for election, membership rules etc.)
 - Financial accounts
- 10.8 This approach from the IoM appears to be thorough enough to be acceptably transparent but not so much that it veers away from the desired 'light touch' approach that the Committee recommends.
- 10.9 It is important to stress that the Committee is not submitting proposals for the regulation of political parties due to any concerns regarding the development of such groups. The proposals arise simply to ensure fairness by adequate, publicly available and transparent information regarding parties which support or endorse candidates for election to the States of Deliberation.
- 10.10 It would seem sensible for registration applications to be made via a pro-forma to the Greffe, given its role as the Island's public registrar. An important consideration in this process is to ensure that it is not onerous, and is accessible to all potential applicants. An application fee could be charged but only to cover the costs to administer the process, as an arbitrary fee set at a higher level may discourage some parties from registering. As head of registration, HM Greffier would need to be satisfied that an application meets the statutory requirements set out in the legislation; once he is satisfied, the party's details would be approved and held on an official register.
- 10.11 The main benefits of registering political parties are as follows:
- The ability for candidates to state their party affiliation on ballot papers.
 - The acceptance of pre-requisite conditions by parties such as transparent financial accounting.
 - Enabling the voter to be able to check the public register of registered parties and find out information about its memberships, accounts etc.
- 10.12 Any groups that have an interest in the election but who do not aim to participate in the management of public affairs, including through the endorsement of candidates, do not need to register as a political party. Examples of these 'third parties' include focus groups, charities and local organisations. Third parties are discussed in more detail from paragraph 10.34. The Committee recommends that changes are made to enable the registration of parties and that the Reform Law should be amended to enable the States by Ordinance to provide for the registration of political parties and the consequences for candidates of parties that fail to register and Proposition 3(p) relates.

(b) Expenditure Limits

- 10.13 The Committee has carried out research on how other jurisdictions regulate the spending of political parties, and has discovered that there are a number of different approaches. Some jurisdictions with existing parties rely on previous data in order to set limits (for example, the percentage of votes that parties received in prior elections); other jurisdictions have no spending limits, and utilise the financial reporting post-election to ensure that there has been no activity by parties that could be considered unethical or illegal.
- 10.14 An interesting finding from the OECD's 'Financing Democracy' report was that only c.30% of all countries set limits on political party spending. France, Iceland, Ireland and Japan are some examples of countries that do not set limits on party spending (but do apply limits to individual candidate spending).¹⁴
- 10.15 The Venice Commission approaches this issue with a view that the Committee supports:
- "It is reasonable for a state to determine a maximum spending limit for parties in elections in order to achieve the legitimate aim of securing equality between candidates. However, the legitimate aim of such restrictions must be balanced with the equally legitimate need to protect other rights such as rights of free association and expression. This requires that spending limits to be carefully constructed so that they are not overly burdensome."*
- 10.16 The main challenges in trying to find a suitable formula to calculate what an appropriate limit is for political party spending in Guernsey are the unique circumstances that the Island finds itself in; specifically the lack of any political party history to call upon, the lack of established 'political parties' at the present time and the adoption of Island-wide voting in a single electoral district. A number of different approaches were considered by the Committee as it attempted to balance the potential requirements of individual candidates and political parties. As stated in the 'Candidate Expenditure' section of this policy letter, candidates will be set a spending limit for the election period, and this will apply equally to candidates whether they are a political party member or an independent.
- 10.17 The Committee considered it fundamental that rules should be in place for how much political parties are able to spend in elections. This would serve to ensure that parties with access to significant amounts of money would not be able to use these funds to give their candidates an unfair advantage over independent candidates.

¹⁴ OECD - Financing Democracy – Funding of Political Parties & Election Campaigns & the Risk of Policy Capture (<http://www.oecd.org/corruption/financing-democracy-9789264249455-en.htm>)

- 10.18 From this starting point, the Committee considered whether parties should be permitted to have a 'party expenditure limit' which could be utilised for promoting the party and its policies generally during the elections. However, after discussion, it was concluded that this would give candidates affiliated to parties an unfair advantage over independent candidates, as additional funds would be available to promote the party with which the candidate was linked.
- 10.19 The Committee then considered a scenario whereby party members who were being endorsed for election by a party could assign a proportion of their individual spending for promotion of the party generally. The benefits of this approach is that it provides a clear link between the candidate and their party, and it gives that candidate the flexibility to decide how they apportion their election funds (within the set limit) in order to promote themselves as both individual candidates and members of a party collective. The Committee felt that to keep the 'split' spending equitable, a cap of 50% should be set as the maximum amount of an individual candidate's spending limit that can be used for party promotion.
- 10.20 The Committee is of the opinion that this 'split' spending scenario appears to represent the fairest option in terms of equality between candidates who are not in a party versus those who are. It should be noted that the option is for a party member to allocate **up to 50%** of their candidate spending limit. It may be the case that candidates in a party agree to a lower figure e.g. 10%, or they may choose not to allocate any spending to the party at all. In theory, a candidate within a party may have slightly less of their spending limit to use for themselves overall (if they choose to allocate some to the party) but they could benefit collectively from the pooling of resources to promote party candidates and the party and its policies.
- 10.21 While the above approach will require clear delineation between what constitutes candidate spending and party spending, which the Committee will endeavour to provide recommendations for by adapting the Electoral Commission's guidance on 'splitting campaign spending'¹⁵, the Committee feels that it represents a flexible solution in keeping with the 'light touch' regulation approach and in the absence of local experience of parties upon which to develop proposals.
- 10.22 Given rules relating to party expenditure may well develop over time, it is recommended that such rules and the consequences of failing to observe those rules are set by Ordinance to enable the States of Deliberation to set the limits available, and to develop the rules in response to experience. In order to give effect to this recommendation the Committee recommends that the *Reform (Guernsey) Law, 1948, as amended* should be further amended to include a

¹⁵ The Electoral Commission - Splitting campaign spending
http://www.electoralcommission.org.uk/_data/assets/pdf_file/0008/155564/Expert_Paper_Splitting_campaign_spending.pdf

power enabling the States to make any necessary Ordinance if required at any future time. Proposition (q) relates.

(c) Donations

10.23 The UN Convention against Corruption¹⁶, in Article 7.3, states:

“Each State Party shall also consider taking appropriate legislative and administrative measures, consistent with the objectives of this Convention and in accordance with the fundamental principles of its domestic law, to enhance transparency in the funding of candidatures for elected public office and, where applicable, the funding of political parties.”

10.24 For both individual candidates and political parties, a donation can be defined as money, goods, property or services which are given:

- towards candidate/party spending
- without charge or on non-commercial terms

Some examples of donations include:

- a gift of money or other property
- payment of an invoice for candidate or party spending that would otherwise be paid by the candidate/party
- a loan that is not on commercial terms
- sponsorship of an event or publication
- free or specially discounted use of property or facilities, for example the free use of an office¹⁷

10.25 In the vast majority of jurisdictions researched, anonymous donations cannot be accepted, and must either be returned via the route they were transferred to the recipient, or if this is not possible, should be transferred to the local government for general revenue usage. This rule is in place to increase financial transparency and to avoid illegal or unethical payments being made to a candidate or party.

10.26 The Committee recommends adopting this rule, and to also ensure that potential donors are aware of this stipulation before the election process begins.

10.27 The UK has rules on permissible donors which clearly define the sources from which candidates and political parties can receive donations/loans. One of the main rules is that candidates and political parties are not permitted to receive

¹⁶ UN Convention against Corruption
https://www.unodc.org/documents/treaties/UNCAC/Publications/Convention/08-50026_E.pdf

¹⁷ Guidance for candidates and agents: Part 3 of 6 – Spending and donations
http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/179911/2015-UKPGE-Part-3-NI-candidates-and-agents-FINAL.pdf

any donations/loans from any source outside of the UK. The Committee recommends that a similar approach on this matter is adopted by Guernsey, so that donations/loans can only be received by sources from within Guernsey. A donation from outside Guernsey would be considered as being from an overseas source, and therefore could not be accepted, and would need to be returned via the process detailed in paragraph 10.25. In addition, the Committee recommends that in the case of donations being received from individuals, these donors must be eligible to be on the Electoral Roll.

10.28 Research on best practice on donations has also suggested that a minimum value should be set for the declaration of donations so that candidates and parties do not have to bear the administrative burden of registering nominal donations. The UK Electoral Commission sets this level at £50, and the Committee recommends that Guernsey adopts the same level. In addition, any donations given that are in-kind or at a reduced rate should be financially reported as being at full market rate.

10.29 A number of jurisdictions have upper limits in place for donations, in order to prevent donors from having an undue influence. As stated by the International Institute for Democracy & Electoral Assistance (IDEA):

“...over 40 per cent of the countries analysed use some form of limit on how much eligible donors are allowed to contribute. Unlike donation bans, donation limits do not directly target particular types of interests. Instead, the focus is on limiting the influence that any one donor may have on a political party or candidate, and subsequently on the political process as a whole.”¹⁸

10.30 After discussion, the Committee was not minded to introduce a form of limit on how much donors could contribute. Donations would need to be disclosed therefore there would be transparency in the process. Under the current system, there are no limits on what someone could donate to an individual and any such donations do not need to be disclosed. In an effort to maintain a ‘light touch’, and noting that a candidate will only be able up to expend up to a certain amount in promoting their candidature, the Committee agreed not to set a limit.

10.31 The Committee recommends, in the interests of transparency, that when a party or a candidate receives a donation, they must report such donations received as part of a return to the Returning Officer. Such donations would be published on a register on the States of Guernsey website.

10.32 If a candidate or a party has not received any reportable donations they must still, as part of their returns, submit a report called a ‘nil return’. The

¹⁸ International Institute for Democracy & Electoral Assistance (IDEA) – A Handbook on Political Finance <https://www.idea.int/publications/catalogue/funding-political-parties-and-election-campaigns-handbook-political-finance>

Committee recommends that similar rules are adopted for Guernsey and Proposition 3(r) relates.

10.33 Contravention of the rules relating to donations should be a criminal offence punishable by a fine.

(d) Third Parties

10.34 A third party is defined as any group that has an interest in the election but is not endorsing any members as election candidates. Examples of these 'third parties' include focus groups, charities and local organisations. As touched on in paragraph 10.12, these groups do not need to register as a political party.

10.35 It should be noted that if a group is formed as a third party, but at some point after this decides to endorse a member as an election candidate, it would become a political party according to the criteria in paragraph 10.4. The group would then be required by law to register as a political party, and would be bound by those registration and expenditure rules.

10.36 Most countries have no regulations on third-party spending. Of those that do, some impose various limits on spending or require third parties to submit financial reports¹⁹.

10.37 In theory, the majority of existing groups in Guernsey that might wish to support either individual candidates or political parties would already be registered as a Non-Profit Organisation (NPO). NPOs are defined as "*Any organisation established, solely or principally, for the non-financial benefit of its members, or for the benefit of society or any class or part of society.*"²⁰

By registering in this manner, NPO's are required by law to provide the following:

- details of the purposes, objectives and objects of the organisation
- details of the manner in which the assets, funds and income of the organisation are applied or used
- records of all financial transactions in order to evidence the application or use of the organisation's assets, funds and income
- annual financial statements filed with the Registrar

These points cover similar ground to that proposed in the registration of political parties (paragraph 10.6 onwards), and would make use of existing legislation and procedures, rather than having to start afresh.

¹⁹ International Institute for Democracy & Electoral Assistance (IDEA) – A Handbook on Political Finance <https://www.idea.int/publications/catalogue/funding-political-parties-and-election-campaigns-handbook-political-finance>

²⁰ <http://www.guernseyregistry.com/newcharitynpoinfo>

10.38 The Committee does not recommend setting any spending limits for third parties during the election period at this stage. It feels that the combination of donation regulations and the statutory financial accounting procedures (for candidates, political parties and third parties) would provide enough confidence that third parties were not having an undue or unethical influence on the election.

11 Advance voting

11.1 Advance voting is a process by which the voter can vote in an election prior to the appointed Election Day. There are three potential forms of advance voting:

- postal voting; and
- advance polling stations; and
- I-voting.

11.2 The benefits of advance voting is that it can:

- increase voter participation, with the voter being able to vote when it is convenient for them, and
- give the voter ample time to carefully consider the candidates and the ballot paper, given the larger number of votes available to the voter; and
- reduce congestion at polling stations on a single day.

11.3 The ability to introduce I-voting was explored by the Committee. 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.

11.4 Given the limited time available before the 2020 General Election, having explored potential options with the Future Digital Services programme ('FDS programme'), the Committee believes introducing I-voting for 2020 is not possible. It does however support the introduction of I-voting and will take steps to investigate how it could be introduced in future.

(a) Ordinance as to postal and other means of voting

11.5 Article 15A (1) of *The Reform (Amendment)(Guernsey) Law, 1972, Part II 'Voting by Post'* enables the States to make provisions by Ordinance as it sees fit in relation to postal voting and other means of voting, whether or not involving attendance at a polling station, at elections for the office of People's Deputy.

11.6 This means the States has the flexibility to amend the process around postal voting, and introduce other means of voting, by Ordinance and therefore if another means of voting becomes feasible in the run up to the 2020 General Election, this can be accommodated.

(b) Postal voting

- 11.7 The 2018 referendum saw over 9% of the Electoral Roll (2,906) opt for a postal vote which was an increase of 970 applications from the 2016 General Election. There are no restrictions on who can opt for a postal vote.
- 11.8 Given the number of votes available to the voter in the 2020 General Election, it is highly likely there will be a substantial demand for postal votes in 2020.
- 11.9 The issuing of postal votes is presently administratively burdensome and the Committee is working with the Committee *for* Home Affairs to look at how the process can be streamlined and improved. It will also be working with the FDS programme to ascertain what digital improvements could be introduced.
- 11.10 The Committee proposes the process for the return of postal votes be amended. At present, the postal vote has to return to the Registrar-General by noon on Election Day. In the UK, if a person is too late to post their ballot paper they can take it to their local polling station or the Electoral Registration Office on polling day before the polls close. The Committee believes the voter should have the option to take their postal vote to a polling station and the relevant changes introduced. This proposal is supported by the Registrar-General and is included as Proposition 3(s)(i).
- 11.11 Postal voting is labour intensive and to facilitate a potential significant increase in the number of people who will use this option, the States of Guernsey will need to allocate appropriate resources in addition to the Election Team proposed in the Committee *for* Home Affairs policy letter to cover the postal voting application period. This view is supported by the Registrar-General. This will be covered in the Committee's next policy letter.
- 11.12 The Registrar-General has suggested that legislative changes should be considered to enable postal ballot packs to be re-issued:
- to replace an irrevocably damaged postal ballot pack
 - to replace a lost or not received postal ballot pack
 - to correct a procedural error
- 11.13 It was further suggested that capacity should be introduced to enable postal ballot packs to be cancelled once they have been dispatched, subject to the introduction of suitable safeguards to prevent duplicated voting.
- 11.14 The Committee agrees with the suggestions put forward by the Registrar-General and recommends any necessary legislative or administrative changes should be considered to enable postal ballot packs to be re-issued in specific circumstances and for postal ballot packs to be cancelled further to dispatch if required. Proposition 3(s)(ii) relates.

(c) Advance polling stations

- 11.15 An advance polling (or pre-polling) station is a designated early voting polling station where a voter can vote in the same way they would if voting on election day. In order to increase participation in the General Election, and potentially ease congestion on Election Day, the Committee is proposing the introduction of a system of advance polling stations. Such a system has been in operation in Jersey for some years.
- 11.16 It is recommended that every eligible voter is entitled to vote at an advance polling station. It is recommended that it should be the responsibility of the Registrar-General to provide facilities and publicise arrangements for voting at advance polling stations, and manage the administration of the process. The Registrar-General should have the ability to delegate the administration of the process. Proposition 3(t) relates.
- 11.17 It is suggested the Registrar-General provides facilities at an appropriate and accessible location or locations for advance voting and that such facilities should also be provided on specified weekdays and a Saturday and/or Sunday prior to the election. The Committee should be able to make regulations, in consultation with the Registrar-General, regarding the dates and times at which the facilities must be open for advance voting. Proposition 3(u) relates.
- 11.18 The Registrar-General should undertake appropriate publication of the arrangements for voting at advance polling stations, including the location and opening hours for advance polling stations and the day and time the arrangements will cease.
- 11.19 A voter wishing to vote in a public election by casting their vote before the poll at a location provided for may do so by attending the specified location(s) on the dates/times publicised. The Registrar-General will supervise the conduct of the ballot at the advance polling stations.
- 11.20 The Registrar-General will be required to ensure the ballot boxes are securely stored overnight during the advance polling station process. HM Greffier has agreed that secure facilities can be provided at the Royal Court for this purpose.
- 11.21 The Registrar-General will arrange for the transport of the votes to the Returning Officer before the poll closes.
- 11.22 The provision of advance polling stations will have a financial implication and will form part of the budget request which will be detailed in the next policy letter. This element is expected to cost in the region of £10,000.

12 Polling cards

- 12.1 In previous elections, the States of Guernsey has issued personalised 'polling

cards' to voters. During consultation with the Douzaines, it was suggested such cards are reintroduced to assist in expediting the process of people attending polling stations and being issued their ballot paper.

- 12.2 Issuing polling cards would also have the benefit of assuring the voter that they are registered on the Electoral Roll (particularly if they had signed up to the Roll earlier in the year). It can also provide information on the polling stations the voter can attend.
- 12.3 Whilst every voter attending a polling station will be strongly encouraged to attend with their polling card, it will not be mandatory to provide a polling card at the polling station.

13 Polling stations

- 13.1 At the outset, it should be noted that historically the parishes have voluntarily carried out a significant part of the running of general elections, including providing venues for voting (for which any costs incurred are reimbursed by the States) and people to administer polling stations. The June 2017 referendum policy letter acknowledged that *“the costs borne by the States would be increased should the assistance of the parishes ever be withdrawn under any of the options...”*.
- 13.2 Whilst the parishes have broadly indicated that they wish to be involved in the 2020 General Election, in the consultation leading up to this letter, concerns were raised regarding resourcing polling stations on Election Day and any ‘pre-election day’. The States of Guernsey will need to provide resources to ensure the parishes are able to administer any polling stations they are involved with and this will be covered in the second policy letter.
- 13.3 It is intended that polling stations should be opened on Tuesday 16th June and Wednesday 17th June 2020 (Election Day) and any necessary legislative and administrative provisions put in place to enable this.
- 13.4 The Registrar-General has acknowledged the potential benefits of allowing votes to be cast over two days, particularly given the voting process may take longer with the ability to cast 38 votes. However, it is important to highlight that facilitating this will have resource implications that will need to be taken into account, particularly given the issues some Douzaines have experienced in resourcing polling stations on a single day.
- 13.5 At present, any person whose name is inscribed on the section of the Electoral Roll for a district may vote at any polling station in that District (Article 27(2)). With the move to Island-wide voting, these provisions require amendment.
- 13.6 The Committee considered the options available for individuals to cast their vote on Election Day and the previous day. It considered the options for the

voter to vote:

- (i) at any polling station; or
- (ii) only at their Parish polling station; or
- (iii) at either a 'super polling station' or at their parish polling station.

13.7 After careful consideration, the Committee is recommending that Election Day is run in line with option (iii): the voter being able to vote at either a 'super polling station' or at their parish polling station. The Committee will set out the pros and cons of each option in the following section and explain why it is proposing option (iii).

(i) The voter being able to vote at any polling station

13.8 Whilst the Committee agrees that the voter being able to vote at any polling station on Election Day would be the ideal under an Island-wide system, at the present time it is unable to guarantee that the technology and infrastructure could be put in place to facilitate this.

13.9 In order to facilitate voting at any polling station, an electronic Electoral Roll, updatable in real-time across all polling stations would need to be implemented. This may be possible with the support of the Future Digital Services Programme.

13.10 There are many advantages to voting at any polling station on Election Day. It is arguably within the 'spirit' of Island-wide voting and demonstrates the 'single' electoral district in operation. It also presents the opportunity to increase voter engagement in enabling the voter to vote at whichever polling station is most convenient to them. It also reduces the risk of attending the 'wrong' polling station if the voter has recently changed address. If the system is fail-safe, this should reduce the potential for electoral fraud as it should prevent a voter from voting at two different polling stations.

13.11 However, the question remains as to whether such a system could be facilitated and what costs would be involved in enabling such a system for the first Island-wide vote. This system would need to be extensively tested and would need to be impervious to technological issues. The infrastructure at every polling station would need to be sufficient to support such a system. All individuals manning the polling station would need to be trained and be confident with the technology. The risks of IT or system failures would create significant problems – it would be impossible to effectively run a manual-based process for the entire Electoral Roll at each polling station. A further concern for the Committee is that certain polling stations could be overwhelmed with voters, causing delays, whilst others may see very few.

13.12 On balance, and in the absence of any guarantee at this juncture that such a system can be facilitated, the Committee is not minded to recommend such a system be put in place for the 2020 General Election.

(ii) The voter being able to vote only at their Parish polling station

- 13.13 At present, voters can only vote within their electoral district. This is a tried and tested process which can be facilitated using existing procedures. Whilst not within the 'spirit' of Island-wide voting, restricting voters to voting within their parish would help manage the estimated footfall at the various polling stations, rather than risk having large numbers visiting specific polling stations which may cause delays (e.g. polling stations based in St Peter Port).
- 13.14 Retaining the requirement for voters to vote in their parish for the first Island-wide vote would have a number of benefits. The system is straightforward to administer and less vulnerable to IT issues than Island-wide polling stations. Both Parish officials and the voter will be familiar with the process of voting at their parish polling station. It would also maintain the strong historic link between the Douzaines and the General Elections.
- 13.15 The disadvantages of maintaining such a system is that requiring a voter to only vote in their parish does not accord with an 'Island-wide' vote. It is also potentially inconvenient to require the voter to vote at their parish polling station, rather than an 'Island-wide' polling station. It is likely that the peaks and troughs seen at polling stations on Election Day at certain times would continue. There remains the risk of attending the wrong polling station if the voter has not updated their address details.
- 13.16 Whilst the Committee appreciates the administrative benefits that retaining a parish polling station would bring, it does not believe this is in the spirit of Island-wide voting, and believes a compromise can be achieved.

(iii) The voter being able to vote at either a 'super polling station' or at their parish polling station

- 13.17 The Committee believes offering the voter a 'hybrid system' of the option of voting at an Island-wide 'super' polling station or their parish polling station is the compromise that is appropriate for the first Island-wide vote.
- 13.18 This system would provide the voter with a choice whether to vote at their parish polling station or at a 'super polling station' conveniently located. Such a system would benefit from many of the advantages of (i) and (ii) and hopefully assist in managing footfall on Election Day.
- 13.19 The Committee acknowledges there is the potential for some confusion for the voter as to where and when they can vote but the Committee is confident this can be overcome with appropriate education and promotion.

Polling stations on Election Day

(a) Responsibility for the establishment of polling stations

- 13.20 Under the current system, polling stations are established in each District by the Constables of the Parishes concerned in accordance with any Resolution of the States.
- 13.21 Given the move to Island-wide voting, the intention to introduce advance polling stations and the need for flexibility as to where polling stations are established, it is suggested that amendments are made to require the Registrar-General to establish polling stations, further to consultation with the Constables of the Parishes concerned.
- 13.22 It is also recommended that amendments are made so that the Registrar-General, rather the Constables of a Parish, should provide for the establishment of such additional polling stations as they may deem convenient to the voter. Proposition 3(v) relates.

(b) Polling station officials

- 13.23 Under the legislation currently, a Returning Officer is appointed for each Electoral District by the Royal Court (further to an application from the Law Officers) and a Deputy Returning Officer is appointed for each District which comprises more than one Parish.
- 13.24 The Returning Officer has a number of responsibilities relating to Elections set out in the legislation including:
- retaining the appropriate section of the Electoral Roll at the relevant polling stations; and
 - maintaining a list of people who have voted at each polling station; and
 - maintaining order at the polling station; and
 - causing the votes cast to be counted, including the postal votes received; and
 - communicating the result of the vote count to the Presiding Officer of the States, and exhibiting the result at each polling station in the District; and
 - enabling a candidate or his nominated representative present at any counting of votes to have such reasonable facilities for overseeing the proceedings and all such information in respect of them; and
 - subsequently comparing lists from the polling stations in their district and reporting to the Law Officers if a voter appears to have voted more than once; and
 - receiving returns of expenditure by every candidate in their district.

- 13.25 Under the current system, the Constables and Douzaines supervise the conduct

of the ballot at the polling stations in their respective Parishes and have the specific responsibility for sealing the ballot boxes on conclusion of the voting and handing these to the Returning Officer.

13.26 Given the move to Island-wide voting, the Committee is proposing some changes to the structure overseeing the administration of elections.

13.27 The bulk of responsibilities currently designated to the Returning Officers at the polling stations would be carried out by appointed Officers (however so titled) for each polling station who would be responsible for, amongst other matters:

- retaining the Electoral Roll at their polling station; and
- maintaining a record of the individuals who have voted at the polling station; and
- maintaining order and supervising the conduct of the ballot; and
- sealing the ballot boxes on conclusion of the voting; and
- causing the sealed ballot boxes to be securely transported to the Returning Officer.

13.28 The Committee proposes that the vote count would be carried out under the supervision of a Returning Officer nominated by the Committee for approval by the Royal Court. The Returning Officer would have essentially the same duties and powers as district returning officers at previous General Elections in respect of vote counts and declarations. The Returning Officer would also be responsible for the scrutiny of returns of expenditure by every candidate at the election and comparing lists from the polling stations to check whether any voter appears to have voted more than once.

13.29 The Returning Officer would be responsible for, amongst other matters:

- on receipt of the sealed ballot boxes, causing the votes cast to be counted, including the postal votes; and
- communicating the result of the vote count to the Presiding Officer of the States; and
- informing the polling station Officers of the result; and
- enabling a candidate or his nominated representative present at any counting of votes to have such reasonable facilities for overseeing the proceedings and all such information in respect of them; and
- subsequently comparing lists from the polling stations and reporting to the Law Officers if a voter appears to have voted more than once; and
- receiving returns of expenditure by every candidate.

13.30 The Committee recommends that the relevant necessary amendments are made, as set out in Proposition 3(w).

14 Vote Count

- 14.1 Historically the parishes have voluntarily carried out the vote count in each district, with the Returning Officer for the district causing the votes cast to be counted, including the postal votes received; and communicating the result of the vote count to the Presiding Officer of the States, and exhibiting the result at each polling station in the District.
- 14.2 As stated in the previous section, the Committee proposes that the vote count would be carried out under the supervision of a Returning Officer nominated by the Committee for approval by the Royal Court.
- 14.3 It is envisaged the votes will be counted in a central location (rather than at individual polling stations) either on the night of Election Day (if possible) or the following day. Arrangements will be put in place to ensure the secure transport of the ballot boxes to the central location.

(a) Counting the votes

- 14.4 In the 2010 report²¹ on Island-wide voting, the then Committee commented as follows:

Vote Count

- (a) *18,576 electors voted in the 2008 General Election. If, in an election for 45 Island-wide Deputies, the same number of voters used 70% of the maximum number of votes possible, that would amount to over 585,000 votes. In the 2008 General Election just over 91,000 votes were cast. These figures indicate that in an Island-wide election there could be a six-fold increase in the number of votes to be counted. More conservatively it can be assumed that there would at least be a quadrupling of the number of votes cast.*
- (b) *In all of the present electoral districts large teams of people work diligently in the counting of votes after the poll has closed. However, the present system is both labour-intensive and time-consuming. With a considerably larger number of candidates and votes to be counted the margin of error is likely to increase.*
- (c) *Whilst a manual count would not be impossible, it would take so long that the introduction of Island-wide voting effectively makes it essential to employ electronic equipment to count the votes. Electronic counting is used by some U. K. authorities but, because the machines are used relatively infrequently, they are hired rather than purchased. There are a number of U. K. companies that specialise in hiring out such equipment which may*

²¹ [States Assembly and Constitution Committee – Island Wide Voting – 3rd Report \(Billet D’État III 2011\)](#)

include peripheral items such as special ballot boxes which ensure that ballot papers are not folded (creased ballot papers are prone to being rejected by the machinery and as a consequence have to be processed manually).

- 14.5 21,803 voters turned out for Guernsey’s 2016 General Election, a significant increase (17%) of voters from 2008. The Committee looked at the figures from 2008 to 2016 in the context of Island-wide voting, as set out in the table below:

| Date of General Election | Number of voters | Seats | If used 70% of votes available | If used 100% of votes available |
|---------------------------------|-------------------------|--------------|---------------------------------------|--|
| 27 th April 2016 | 21,803 | (38) | 579,960 | 828,514 |
| 18 th April 2012 | 20,459 | (45) | 644,459 | 920,655 |
| 23 rd April 2008 | 18,576 | (45) | 585,144 | 835,920 |

| Referendum on Guernsey’s voting system | Number of people on the Roll | | If everyone on the Roll voted... | |
|---|-------------------------------------|------|---|--------------------------------|
| | | | 70% of votes available | 100% of votes available |
| 10 th October, 2018 | 31,865 | (38) | 844, 423 | 1,210,870 |

- 14.6 The Committee is investigating the options for electronic vote counting with the FDS Programme. It is also looking at how a manual process would be undertaken, if such was required. It is also looking at the provisions for recounts – both electronic and manual.

- 14.7 The Committee is initially looking to find an electronic vote counting solution in partnership with the FDS Programme. Should this not be achievable through the Programme, it will seek alternative options to implement such as system as it believes this to be an essential feature of the 2020 General Election.

- 14.8 Given the volume of votes to be cast, as identified in the 2010 report, a manual vote count would be labour-intensive and time-consuming. It would require a vast number of volunteers to administer and a significant space to accommodate, and if a manual vote count was required, the States of Guernsey would need to provide the resources and facilities to enable this. Proposition 3(x) relates.

(b) Procedure in the case of an equality of votes

- 14.9 In the case of a tied vote, the Reform Law currently requires a further election to be held (Article 31). The Committee considered whether to retain this provision or to propose that a tied election is broken by drawing lots using a method decided by the Returning Officer.

- 14.10 The current system of holding a further election in respect of such candidates only would be administratively burdensome and costly under Island-wide voting. There has never been a tied vote in UK General Elections but it has happened in local elections.
- 14.11 In the UK, when the number of votes is equal or very close, candidates can ask for a recount and there is no official limit to the number of times votes can be recounted. If the results remain a tie, elections are broken by drawing lots, using a method decided upon by the Returning Officer. Whichever candidate wins the lot is treated as though they had received an additional vote that enables them to be declared elected. In May 2017, there was a tie in the election of one of the seats on Northumberland County Council. After two recounts, the ward could not be split so the candidates had to draw straws to find a winner.
- 14.12 Article 41 of the Reform Law sets out the provisions relating to recounts under the existing system. At present, an unsuccessful candidate may write to the Presiding Officer of the States (not later than 24 hours after the public declaration of the poll) and demand a recount if there is a less than 2% difference between the votes cast for them and a successful candidate. Such recount is treated as final and conclusive as to the result of the poll. The Committee believes that this provision should be retained under Island-wide voting.
- 14.13 Whilst some of the Committee felt that the drawing of lots is unsatisfactory, it concluded that under an Island-wide electoral system it was a pragmatic solution. On balance, it agreed to propose that, following a recount (or if neither candidate requests a recount within the permitted period), a tied election is broken by drawing lots using a method decided by the Returning Officer. This is set out in Proposition 3(y).

15 A casual vacancy in the office of Deputy ('by-elections')

- 15.1 Article 29(2) of the Reform Law states *"a casual vacancy in the office of Deputy occurring before the first day of December next preceding the date of a General Election shall be filled by election and any person so elected shall hold office for the remainder of the four year term then current. If such vacancy occurs after the 30th day of November next preceding the date of a General Election it shall be in the discretion of the Presiding Officer of the States whether or not an election shall be held to fill the vacated office until the date of such General Election"*.
- 15.2 The Committee has considered whether this provision should be retained or revised due to the change in the electoral system. The system is changing from the voter voting for up to, and being represented by, either five or six people (depending on their district) to voting up to, and being represented by, 38 people. Therefore, the occurrence of a casual vacancy under an Island-wide

system will not cause the democratic deficit that it would do under a district system.

- 15.3 The Committee considered whether a provision should be introduced that would see a by-election being held only when the casual vacancies in the office of Deputy reaches two vacancies. It looked at whether this could negatively impact the operation of the States of Deliberation and its Committees.
- 15.4 It noted that attendance of meetings of the States of Deliberation varies – through Members being absent on States’ business, through sickness or by being off-Island. The States manages to weather such absences and still conduct its business.
- 15.5 In respect of Committee membership, in the current States, whilst a number of Members hold seats on more than one Committee, over one-quarter of Members only hold one seat on a Committee (this figure excludes Presidents and Members of P&R). Running with one casual vacancy should therefore not significantly negatively impact the operation of Committees.
- 15.6 The Committee noted that from 2008 to 2017 Sark operated a similar system under its Reform Law, such that a by-election would take place only after a certain number of vacancies occurred.
- 15.7 Whilst not the key driver in its deliberations, the Committee did note the significant funds that would need to be expended to hold a by-election on an Island-wide basis. It further noted the poor voter turnouts in by-elections in 2015 and 2016 in comparison with turnout in General Elections.
- 15.8 There were differing views amongst Committee Members as to what to recommend to the States. Some Members believed that the existing provision should be retained and simply amended to ensure it was applicable to Island-wide elections. Other Members felt it was more reasonable for a by-election to only be held when a certain vacancy level was reached.
- 15.9 There was some consideration of a suggestion that the person who came “39th” in the General Election vote count should automatically be appointed in the event of a vacancy however this was dismissed by the Committee. It concluded that Election Day provided a snapshot of the voter’s wishes at a certain point in time and, depending on when a casual vacancy would occur, it would not be appropriate to simply assume that the voter would wish the “39th” individual to be elected, or that the individual would remain able or willing to take up the post.
- 15.10 On balance, a majority of Members (with Deputies Merrett and Ferbrache dissenting) agreed to propose that provisions should be introduced to only trigger a by-election when the casual vacancies in the office of Deputy reaches two vacancies. If Members wish to retain the existing provisions, they can

reject the proposal by voting against Proposition 3(z).

16 Election Observers

- 16.1 The Committee proposes that international observers should be invited to participate in an election observation exercise in respect of the 2020 General Election and/or to have the opportunity to do so in future elections. It therefore proposes that any necessary provisions should be included in the legislation to facilitate this. The Committee recognises that independent election observers help to assure the legitimacy of the Election process, and considers this especially important as a new system of Island-wide voting is introduced for the first time. Proposition 3(aa) relates.
- 16.2 It recommends that the Committee, after consultation with the Policy & Resources Committee, shall appoint one or more observers of a public election and present a report to the States of Deliberation informing it of the appointment.
- 16.3 An observer who has been appointed should have the right under the Law to:
- a) have a copy, free of charge, of any electoral register in force for the election; and
 - b) be present when pre-poll votes are taken;
 - c) be present in any polling station where an elector may vote in the election
 -
 - (i) while preparations are being made to open the poll, and
 - (ii) during the poll.
 - d) be present during any count in the election.
- 16.4 Provision should also be included to set out conditions of an observer attending advance polling stations or polling stations. This should include that an observer shall not, when attending advance polling stations or polling stations:
- a) attempt to influence a voter by means of any sign or clothing, in conversation, or otherwise; or
 - b) do anything to compromise the secrecy and integrity of advance voting or voting at a polling station.
- 16.5 An observer exercising the right to be present:
- a) when advance votes are taken, shall comply with any directions given to the observer by the Registrar-General, or an official nominated by him, for the purpose of ensuring the complete secrecy and regularity of advance voting.
 - b) at a polling station shall comply with such directions as are given to him or her by a polling station Officer.
 - c) At a vote count shall comply with such directions as are given to him or her by a Returning Officer.

An observer who contravenes the rules regarding attending advance polling stations or polling stations shall be guilty of an offence and liable to a fine as set out in legislation.

17 Dates of July 2020 States' Meetings

17.1 In its policy letter entitled 'Dates of States' Meetings – 2019 – 2020' dated 27th June 2018, the Committee stated as follows:

The Committee will report to the States with a proposed date for the June 2020 General Election in 2019, once the outcome of the referendum on Guernsey's voting system is known. It concluded that it would be premature, in advance of the outcome of the referendum, to recommend Meeting dates from mid-May to August 2020 at this point in time...any further Meeting dates to be scheduled before September 2020 will be included in the 2019 policy letter.

17.2 The Committee considered the dates set after previous elections in considering when to schedule in the election meetings. Column 2 of the table below sets out the meeting dates that the Committee will be recommending in Proposition 3(bb). Please note the dates in green show the number of days from the previous row.

| | 2020 | 2016 | 2012 | 2008 | 2004 |
|--|--------------------------------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| Last States Meeting of previous term (a) | 06.05.20 | 08.03.16 | 06.03.12 | 12.03.08 | 10.03.04 |
| Date of Election | 17.06.20 (+42 days) | 27.04.16 (+50 days) | 18.04.12 (+43 days) | 23.04.08 (+42 days) | 21.04.04 (+42 days) |
| Election of Chief Minister / President of P&RC | 01.07.20 (+14 days) | 04.05.16 (+7 days) | 01.05.12 (+13 days) | 01.05.08 (+8 days) | 01.05.04 (+10 days) |
| Election of P&RC Members | 03.07.20 (+2 days) | 06.05.16 (+2 days) | | | |
| Election of Ministers / Presidents | 07.07.20 (+4 days) | 11.05.16 (+5 days) | 08.05.12 (+7 days) | 06.05.08 (+5 days) | 04.05.04 (+3 days) |
| Election of Departments / Committees | 10.07.20 (+3 days) | 18.05.16 (+7 days) | 11.05.12 (+3 days) | 08.05.08 (+2 days) | 06.05.04 (+2 days) |
| First States Meeting of new term (b) | 29.07.20 (+19 days) | 08.06.16 (+21 days) | 30.05.12 (+19 days) | 28.05.08 (+20 days) | 26.05.04 (+20 days) |
| Gap between 'normal' States Meetings (a-b) | 2 months + 23 days (11 weeks) | 3 months (12 weeks) | 2 months + 24 days (11 weeks) | 2 months + 16 days (10 weeks) | 2 months + 16 days (10 weeks) |

* **Policy & Resources Committee = 'P&RC'**

17.3 It further agreed a States' Meeting should be convened on Tuesday 28th July to

debate 'The States of Guernsey Accounts 2019' followed by the first normal Meeting of the States on 29th July.

- 17.4 Rule 1(1) of the Rules of Procedure require the Committee to submit a policy letter in September proposing the States' Meetings which should be convened in the period from the 1st of September the following year to the 31st August of the year after that. The Committee will publish such a policy letter later this year however is minded to suggest that the first States' Meeting is convened for Wednesday 2nd September, 2020 (a five-week gap), to ensure that the summer recess does not cause a second long pause in States' business so soon after the Election period.

18 Compliance with Rule 4

- 18.1 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.
- 18.2 In accordance with Rule 4(1), the Propositions have been submitted to Her Majesty's Procureur for advice on any legal or constitutional implications.
- 18.3 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 have the unanimous support of the Committee, except as noted in the body of this Policy Letter.
- 18.4 In accordance with Rule 4(5), the Propositions relate to the duties of the Committee *"to advise the States and to develop and implement policies in relation to elections to the office of People's Deputy"*.
- 18.5 Also in accordance with Rule 4(5), the Committee consulted with the:
- Committee for Home Affairs, and
 - Registrar-General of Electors; and
 - Bailiff; and
 - Douzaines; and
 - Law Officers of the Crown.

Yours faithfully

N. R. Inder
President

J S Merrett
Vice-President

P T R Ferbrache
J P Le Tocq
E A Yerby

Appendix 1: General Election: suggestions submitted and other matters

1. Introduction

- 1.1 The Committee received a number of suggestions for amendments to the legislation during the consultation undertaken in the lead up to this policy letter. This appendix report sets out why the Committee resolved not to propose amendments to the legislation relating to these suggestions.
- 1.2 There also other matters which arose during the course of the workstream which the Committee did not believe it was appropriate to progress now, but merited consideration in future.

2 Suggestions submitted

- 2.1 This section details the suggestions put to the Committee that it resolved not to progress.

(a) Eligibility as People's Deputy: Disclosure of convictions

- 2.2 During the consultation in the lead up to this policy letter, it was suggested to the Committee that candidates should be required to have a standard or enhanced DBS (Disclosure and Barring Service) criminal record check.
- 2.3 As stated under section 7.1 of the policy letter, at present, a person who has been sentenced to imprisonment by a court in the UK, Channel Islands or the Isle of Man for a period of six months or more in the five years immediately preceding the date of election is ineligible to stand as a Deputy.
- 2.4 On 17th March, 2016, further to consideration the policy letter 'Declaration of Unspent Convictions'²² the States resolved:

To approve that the Reform (Guernsey) Law, 1948, as amended, be further amended to provide that candidates for the office of People's Deputy must make a declaration of all unspent convictions which resulted in sentences of imprisonment as defined in the Rehabilitation of Offenders (Bailiwick of Guernsey) Law, 2002 in any jurisdiction anywhere in the world unless they were in respect of an act which would not constitute an offence if committed in Guernsey; that candidates must agree that appropriate verification of the information declared could be undertaken by the Returning Officer for the election; and that the declaration form would be available for inspection by the electorate at that election; and that Declarations would be destroyed as soon as the election to which they related had concluded; and that provisions would be

²² The report '[Declaration of Unspent Convictions](#)' was published in Billet d'État IX of 2016 and presented at the States' Meeting on 8th March, 2016,

included to enable the States to prescribe rules as to the publication of this information;

And

that a specific offence should be created of knowingly or recklessly making false statements, the penalty for which, in addition to any fine, imprisonment or other sentence imposed in the event of a prosecution and conviction, shall be that the States, once any legal proceedings and appeals, if appropriate, had been concluded, could by Resolution declare any person convicted of the offence ineligible to hold office as a People's Deputy or as a member of a States' Committee who is not a Member of the States until the next General Election.

- 2.5 The Committee unanimously concluded that it was satisfied with the requirement for candidates to make a declaration as agreed in 2016 and that it would not propose DBS checks for candidates. There is an extant workstream on the Committee's on-going work programme to consider what checks should be in place for States' Members once elected.

(b) Nominations: number of signatories

- 2.6 Article 32(1) of the Reform Law states that every nomination of a candidate for office as a People's Deputy shall be in writing signed by two persons whose names are inscribed on the section of the Electoral Roll representing the District for which the candidate intends to stand.

- 2.7 It was suggested the number of signatories required on the nomination form should be increased. The Committee reviewed arrangements in other jurisdictions. In the UK, the 'subscriber system' requires anyone standing for election to gather the signatures of a set number of supporters, who must be registered electors. The Electoral Commission report "Standing for election in the United Kingdom"²³ from January 2015, stated:

Without either deposit or subscriber requirements, there is a risk of large numbers of candidates (especially in high-profile elections) which could potentially lead to ballot papers that are unwieldy for voters, undermine the credibility of the election, and are difficult and costly to administer. The other side of this argument is that reducing these barriers could mean an increased range of candidates standing for election, which would mean greater choice for voters.

- 2.8 Feedback to the Electoral Commission on the subscriber system varied – some political parties stated it should be retained because it helped to validate the nomination process, however some electoral administrators suggested that the

²³ http://www.electoralcommission.org.uk/_data/assets/pdf_file/0008/180458/Standing-for-Election-in-the-UK-report-Jan-2015.pdf

process just added to the administrative process and was not particularly meaningful. However, the Commission concluded:

The argument for subscriber requirements seems to carry more weight, in that they act as a proxy for support from the electorate and are an indication that candidates are genuinely contesting the election. Having said this, in practice subscriber requirements may test administrative ability rather than support from the electorate.

2.9 It recommended:

... that subscribers should be retained to maintain trust that elections are being contested by serious candidates and avoid ballot papers that are unwieldy for voters and difficult to administer. The number of subscribers should be reviewed for each election to ensure it is proportionate to the post for which the candidate is standing.

2.10 The 2015 Report set out the number of subscribers required at elections in UK Elections (which remains accurate in 2019):

Number of subscribers required at elections in the UK Election

| Election | Subscribers |
|--|---|
| UK Parliament | 10 |
| European Parliament | 0 |
| Scottish Parliament | 2 (the candidate and the witness to the candidate's signature) |
| National Assembly for Wales | 1 (could be the candidate) |
| Northern Ireland Assembly | 10 |
| Greater London Authority | Mayor: 330 (at least 10 from each London Borough and at least 10 from City of London) Constituency and list members: 0 |
| Police and Crime Commissioners | 100 |
| Local, Mayoral and Parish elections in England and Wales | Local: 10 Mayoral: 30 |

2.11 In a General Election, the number of subscribers in the other Crown Dependencies are as follows:

| | |
|-------------|--|
| Isle of Man | The nomination paper will be subscribed by: <ul style="list-style-type: none"> • 2 electors as proposer and seconder; and • By not less than 20 other electors as assenting to the nomination. |
|-------------|--|

| | |
|--------|--|
| Jersey | The nomination paper will be subscribed by: <ul style="list-style-type: none"> • 1 elector as proposer; and • 9 other electors as seconder |
|--------|--|

2.12 The Committee debated whether the number of signatories should be increased but, by majority (Deputy Yerby dissenting), concluded that two signatories sufficed and is therefore is not making any recommendations to increase the number of signatories.

(c) Candidate deposits

2.13 In the political and public consultation to date, it has been suggested that consideration be given to candidates being required to provide a deposit when submitting their nomination form. Deposit requirements currently exist in the UK. The Electoral Commission report “Standing for election in the United Kingdom”²⁴ from January 2015 concluded:

“In the case 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”.

2.14 Deposits are not required in Jersey or the Isle of Man. After consideration, the Committee unanimously agreed that it would not recommend candidate deposits be introduced.

3 Other matters arising

(a) Independent oversight of Elections

3.1 The CPA’s report ‘Recommended Benchmarks for Democratic Legislatures’ states at point 1.1.5: *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.*

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

3.3 None of the Crown Dependencies currently have an Electoral Commission. The Committee believes the development of a permanent, independent election administration body should be investigated after the 2020 General Election

²⁴ http://www.electoralcommission.org.uk/data/assets/pdf_file/0008/180458/Standing-for-Election-in-the-UK-report-Jan-2015.pdf

with a view to such a body being established for the 2024 General Election. It believes there is potential scope to look at a pan-Island Electoral Commission and will liaise with Jersey, Alderney and Sark on this.

- 3.4 The Committee noted recommendation four from final report from the ‘CPA BIMR Election Observer Mission – Jersey General Election – May 2018’, where it recommended:

Consideration should be given to the creation of a permanent election administration body independent of the three branches of State to provide continuous oversight and review of the electoral legal framework, including oversight of candidate and voter registration, implementation of campaign, campaign finance and media provisions, and electoral dispute resolution.

(b) Future review of the Reform Law

- 3.5 In line with consideration being given to the creation of a permanent election administration body, the Committee considered whether a full review of the legislation relating to elections should be considered.

- 3.6 The 1989 report entitled ‘Constitution of the States Review Committee – Miscellaneous Items of Constitutional Reform’ included in Billet d’État XVI from 28th September, 1989 contained the following section regarding amalgamating the existing Laws:

34. *Even with the amendments proposed in this Report, the Committee acknowledges that the Reform (Guernsey) Law, 1948, as amended could usefully be further reviewed to produce a single new Law taking account of the change that have taken place since 1948. It would also be useful to include in any new Law all matters relating to the Constitution and elections, e.g. including the provisions relating to Secret Ballot which are still contained in a nineteenth century enactment drafted in French. Consolidation of the present Law would not be a simple exercise and the allocation of drafting resources to this task could probably be justified only at a time when a proposed major reform requires it to be done.*

35. *However, the Committee recognises with no less than fourteen amending Laws the Law of 1948 is not easy for members of the States or of the public to follow. The Committee accordingly recommends that it should be directed to put in hand the publication of a leaflet incorporating the current text of the Law of 1948, as amended, perhaps as an appendix to the Red Committee Book, if you, Sir, are agreeable.*

- 3.7 The States resolved that:

“The various provisions and pieces of legislation which together make up that Law and the provisions of the Law relating to Secret Ballots shall be

consolidated into one new Law as soon as it may be practical to do so, and in the meanwhile that Committee shall prepare a statement incorporating the text of the current Law of 1948, as amended, and publish the text as soon as possible”.

- 3.8 The previous States’ Assembly & Constitution Committee had requested in 2017, that as part of the P&R Plan propositions, that this resolution be rescinded. This was agreed by the States of Deliberation on 6th June 2018.
- 3.9 The legislation is included in the ‘Red Book’ as required however the Committee has concluded that, 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.

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

GENERAL ELECTION 2020

The President
Policy & Resources Committee
Sir Charles Frossard House
La Charroterie
St Peter Port

7th March, 2019

Dear Deputy St Pier,

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(2) of the Rules of Procedure of the States of Deliberation and their Committees, the States' Assembly & Constitution Committee requests that the Propositions be considered at the States' meeting to be held on 24th April, 2019.

The policy letter needs to be considered by the States of Deliberation as soon as possible to enable the preparation of the relevant legislative changes to be made to hold a General Election in 2020. It is also noted that Committee *for* Home Affairs policy letter 'Preparation for a New Electoral Roll' will also be submitted to be considered on 24th April, 2019, and it is logical for both policy letters to be considered at the same meeting.

Yours sincerely,

N. R. Inder
President

J S Merrett
Vice-President

P T R Ferbrache
J P Le Tocq
E A Yerby