

Jersey Studies

Paper 2

JERSEY'S CONSTITUTION AND POLITICAL SYSTEM

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I. Introduction

Jersey is a British Crown Dependency, fully responsible for its own internal affairs. It is not part, or a colony, of the UK. It is also responsible for international relations, within a framework agreed with the British Government. It has its own government, led by a Chief Minister, and its own Parliament – the States Assembly.

II. Types of jurisdiction

There are five basic types of jurisdiction but no hard and fast dividing lines between them. Within sovereign states there can be significant devolution of powers from the national government to parts of the country, as is the case for Scotland within the UK, and jurisdictions that are sovereign states in law might in practice be under the effective control of another state. Sovereign states can also choose to pool their sovereignty in a number of areas as the members of the European Union have done. However, the following broad categorisation is helpful, the examples being islands with some similarities to Jersey –

- Islands that are fully independent sovereign states such as Malta and The Bahamas.
- Islands that have a strong connexion with another state but a substantial amount of self-government such as the British Crown Dependencies (Jersey, Guernsey and the Isle of Man) and Curacao (closely connected with the Netherlands).
- Islands that not only have such a connection but also return members to its legislature such as Guam (a territory of the USA), the Faroe Islands (a self-governing nation in the Kingdom of Denmark) and the Balearic Islands (an autonomous community of Spain). Alderney describes itself as “a self-governing, democratic territory and one of the principal islands of the Bailiwick of Guernsey” and it also has representatives in the Guernsey parliament.
- Islands for which another state has responsibility for government. The states for which the UK has such a responsibility are described as British Overseas Territories, of which there are 14. They include Bermuda, Gibraltar, the Cayman Islands, the British Virgin Islands, and the Falkland Islands.
- Islands that are an integral part of another state such as in the case of the UK the Isle of Wight, Anglesey and the Shetland Islands.

III. Historical background

Jersey’s constitution and political system, like those of other territories, are heavily influenced by their history so a brief understanding of the history of Jersey is helpful. Little is known about Jersey’s history for most of the first millennium. However, it is certain that Jersey was part of the enlarged Kingdom of Brittany from 867. In 933 the Channel Islands were annexed by the Duke of Normandy and for all practical purposes became part of Normandy. In 1066 William, Duke of Normandy, defeated King Harold of England at the Battle of Hastings thereby unifying Normandy and England. In 1204 the Norman barons defected and Normandy, with the exception of the Channel Islands, was separated from England. 1204 is regarded as the year when Jersey became an English Crown Dependency.

A series of Royal charters, beginning in the 14th century, gave Jersey and the other Channel Islands a special status in relation to England, principally by allowing goods to be imported

into England free of all duty and for people from Jersey to be able to enter England free of any restrictions. So, in effect, Jersey's status as a British Crown Dependency dates back to 1204 and a series of charters in the 14th century, and there has been no basic change in the constitutional relationship with the England and subsequently the UK since that time. Jersey has never been part of or a colony of England or the United Kingdom and has never had representation in the British Parliament.

IV. The nature of the British Crown Dependencies

There are three British Crown dependencies -

- Jersey
- Guernsey, which includes the separate jurisdictions of Alderney and Sark and the islands of Herm, Jethou and Lihou
- The Isle of Man

The precise relationship between the Crown Dependencies and the UK government is difficult to describe. It has evolved over a period of years in response to changing circumstances and relies to a large extent on custom and practice rather than legal documents. There is no single document which sets out the relationship in legal terms. A 2019 House of Commons briefing paper [The Crown Dependencies](#) provides the best overall description.

The key point is that the Crown Dependencies are entirely self-governing in respect of their internal affairs, so they are free to have their own laws, education, health, policing, tax and other systems. Indeed, they do so, and their systems diverge quite significantly in some respects from those of the UK. However, this freedom comes with the qualification which might in theory limit that position. The UK government has formally to approve legislation made by the Crown Dependencies. It duly considers legislation passed by the parliaments in the Crown Dependencies, principally to ensure that there is no conflict with the UK's international obligations or with any "fundamental constitutional principles". Generally, any potential issues are settled amicably through appropriate consultation. The Ministry of Justice is responsible for handling the relationship.

In 1973 a Royal Commission on the Constitution of the British Isles issued what has become known as the *Kilbrandon Report*. This concluded that the UK has the right to legislate directly for the Crown Dependencies although this is a matter on which constitutional experts disagree. In practice, the relationship works well because the Crown Dependencies regard themselves as being British and for their own internal reasons wish to operate in a way that is entirely compatible with the interests of the United Kingdom.

V. International relations

The position in respect of international relations is rather more complicated. It is accepted that the UK has responsibility for defence matters and that the Crown Dependencies do not have their own defence capabilities. As a matter of strict law the UK government does have responsibility for the international relations of the Crown Dependencies but in practice it is recognised but they have their own distinct identity. Jersey's position was formally recognised in a 2007 document agreed by the British and Jersey Governments - [Framework for](#)

[developing the international identity of Jersey](#). The purpose of the document was “to clarify the constitutional relationship between the UK and Jersey, which works well and within which methods are evolving to help achieve the mutual interests of both the UK and Jersey”. The three key provisions of the framework are –

- Jersey has an international identity which is different from that of the UK.
- The UK will not act internationally on behalf of Jersey without prior consultation.
- The UK recognises that the interests of Jersey may differ from those of the UK, and the UK will seek to represent any differing interests when acting in an international capacity.

The British Government entered into very similar arrangements with the Isle of Man and with Guernsey.

Jersey and the other Crown dependencies can sign international treaties if they have been authorised by the British Government to do so – a process known as “entrustment”. When the UK signs any treaty, convention or agreement the general practice is for this to be on behalf of the UK and “any of the Crown Dependencies or Overseas Territories” that wish the treaty to apply. The UK Government duly consults the Crown Dependencies and Overseas Territories at an early stage on their wishes.

In respect of international organisations –

- Jersey is not a member of the United Nations. Jersey does not qualify as it does not meet the UN requirement of being a fully independent sovereign state.
- Jersey is not a member of the Commonwealth, which similarly comprises only fully independent sovereign states.
- There is a Jersey branch of the [Commonwealth Parliamentary Association](#). Branches can be formed within legislatures of members of the Commonwealth and their dependencies.
- Jersey is a member of the [Assemblée Parlementaire de la Francophonie](#), an organisation for parliaments which have French as an official language.
- When Britain was a member of the European Union, Jersey was not part of the Union, but had a special position under a protocol to the Treaty of Accession between Britain and the European Union. This provided for it to be within the customs union but otherwise not subject to single market provisions. This provision lapsed when Britain left the European Union.
- Jersey is a member of the [British-Irish Council](#) comprising the UK, the devolved administrations in Scotland, Wales and Northern Ireland, the Crown Dependencies and the Republic of Ireland. This was established under the 1998 “Good Friday Agreement”, which was the culmination of the peace process in Northern Ireland. Its aim is to “promote the harmonious and mutually beneficial development of the totality of relationships among the peoples of these islands”.
- Jersey is a member of the [British-Irish Parliamentary Assembly](#) established in 1990, the membership of which mirrors that of the British-Irish Council.

VI. Citizenship

There is no separate “Jersey citizenship”. The rules governing eligibility for British citizenship apply equally to Jersey as they do to the UK and are the responsibility of the British Government. This means that with a few exceptions people who were born in Jersey or whose parents were born in Jersey or the UK are automatically British citizens. People who are not British citizens can apply for citizenship on the same basis as people in the UK.

The passport office in Jersey can issue British passports to Jersey residents entitled to hold one. People with a Jersey connection living in the UK can also obtain a British passport in the usual way but it will be a standard UK one. The British passport issued in Jersey makes no reference to the UK on its front cover, has a different page design and is issued in the name of the Lieutenant Governor. However, the rights of holders of passports issued in Jersey are identical to those of holders of passports issued in the UK in respect of settling in the UK, meeting entry requirements in foreign countries and when the need arises receiving support from British Government consular services anywhere in the world.

Although there is no formal Jersey citizenship, people with strong connections with Jersey, including those living elsewhere, frequently describe themselves as coming from Jersey or being a Jerseyman or woman. This is similar to people calling themselves Scottish or Welsh or Cornish. People know what it means, and it is meaningful, but such expressions have no meaning in law and confer no rights or obligations on people. Many Jersey people would rightly call themselves “Jersey and British”, but definitely not “Jersey and English”.

Jersey, like other territories, imposes certain requirements for entitlement to vote and to stand for election and also for eligibility to buy or rent property or to work. But these are quite separate from either the citizenship issue or indeed the concept of being a Jerseyman or woman. For example, some people born in Jersey of Jersey parents but have recently returned to the Island after living in the UK may have no right to vote or to stand for election. And some Jersey-born British citizens have no right to buy or rent property in Jersey.

There is a wider meaning of citizen – generally taken to be someone who lives in a particular place. Citizenship in this sense refers to characteristics. “Being a good citizen” typically means someone who behaves in a way that benefits others in the same place.

VII. Parliament and Government

Jersey has its own single chamber parliament, the [States Assembly](#), although often it is simply called “the States”, and a Council of Ministers all of whom are elected members of the Assembly.

Jersey’s internal constitutional arrangements are set out primarily in the [States of Jersey Law 2005](#) as amended, which covers the constitution and proceedings of the States Assembly and the ministerial system of government. This law was significantly amended by the Machinery of Government (Jersey) Law 2018, which formally created the ‘Government of Jersey’ as the legal entity for Ministers and administrative functions, completing the separation of powers and identity that began in 2005. More recently it has been amended by the [Constitution of the States and Public Elections \(Jersey\) Law 2021](#), which significantly changed the constitution of the States Assembly. At that time the Assembly comprised eight senators elected on an

Island-wide basis, the constable of each of the Island’s 12 parishes and 29 deputies representing single or multi-member constituencies based on the parishes.

The 2021 law made three significant changes –

- The position of senator was abolished.
- The number of deputies was increased from 29 to 37 so retaining the size of the Assembly.
- The number of constituencies was reduced from 14 to nine. Previously, 11 of the constituencies were parishes and St Helier was divided into three districts. This arrangement hugely benefitted the smaller country parishes. For example, St Mary, with a population of just 1,818, had a constable and a deputy whereas St Helier, with a population of 35,822, had a constable and 10 members. This was clearly inequitable. To ensure a more equitable distribution of eight of the parishes were joined with others.

Accordingly, the [States Assembly](#), now comprises 37 deputies elected across nine districts, based on the parishes, together with the 12 constables.

The constituencies at the 2022 election were –

		Electors	Estimated population 2019
St Helier South	4 deputies	5,020	12,480
St Helier Central	5 deputies	5,284	13,140
St Helier North	4 deputies	6,496	10,920
St Saviour	5 deputies	7,669	14,820
St Clement	4 deputies	6,173	10,060
St Brelade	4 deputies	8,038	11,540
St Mary, St Ouen and St Peter	4 deputies	7,573	11,890
St John, St Lawrence and Trinity	4 deputies	8,002	12,460
Grouville & St Martin	3 deputies	6,446	9,490
Total	37 deputies	60,701	106,800

At first sight the allocation of deputies seems odd, particular with St Helier Central having five deputies even though its electorate was smaller than that of Grouville and St Martin which had three deputies. This is explained by a low level of voter registration. This was estimated at 75% for the 2022 election but with a range from 60% in St Helier to 96% in St Mary. The final column is taken from the proposition that led to the new constituencies. It will be seen that there is a much better correlation between the population figures and the number of deputies.

The [Elections \(Jersey\) Law 2002](#) as amended governs the conduct of elections. General Elections are held every four years, with casual vacancies being filled by by-elections. The [Vote.je](#) website is the official guide for voting and standing for election.

The Lieutenant Governor, Bailiff, Attorney General, Solicitor General and Dean of Jersey are technically members of the States Assembly with a right to speak but not vote. In practice, the Bailiff speaks only as presiding officer and Lieutenant Governors speak only at the

beginning and end of their terms. The [States Greffe](#) provides support to the States Assembly. It is led by the Greffier of the States who acts as clerk to the Assembly.

Following the General Election the members elect a Chief Minister (currently Deputy Kristina Moore) who in turn nominates other ministers who have to be approved by the States. There is no distinction between the different categories of members in respect of being appointed a minister. The ministers comprise the [Council of Ministers](#), comparable to the British Cabinet. The number of ministers and the portfolios can vary from time to time. Currently the Council of Ministers comprises the Chief Minister and ministers for Economic Development, Sport and Culture; External Relations and Financial Services; International Development; Infrastructure; Social Security; Children and Education; Home Affairs; Treasury and Resources; Health and Social Services; Housing and Communities; and Environment. The Ministers can each appoint one or more Assembly members as Assistant Ministers. No more than 21 Members of the Assembly may be appointed as ministers or assistant ministers.

There is provision for political parties in Jersey under the [Political Parties \(Registration\) \(Jersey\) Law 2008](#). In recent elections the vast majority of members have been elected on an individual basis. However, four political parties contested the 2022 election -

[Reform Jersey](#), established in 2012, fielded 14 candidates and won ten seats
[The Progress Party](#), established in 2021, fielded four candidates and won one seat
[Jersey Alliance](#), established in 2021, fielded 14 candidates and won one seat
[Jersey Liberal Conservatives](#), established in 2022, fielded five candidates and won two seats.

In the 2022 General Election 11 of the constables were elected as independents and one as a member of the Jersey Alliance. The 37 deputies comprised 27 independents, nine Reform, two Jersey Liberal Conservatives and one Progress. So the Assembly as a whole comprised -

35 independents
10 Reform
1 Progress
2 Jersey Liberal Conservatives
1 Jersey Alliance

All of the current Council of Ministers are independents as are all but one of the assistant ministers.

With most members having been elected individually there is no formal party system in the States Assembly, but all members have an opportunity to participate in the making of legislation and also in scrutinising the actions of government through a number of scrutiny committees. The scrutiny committees are an important part of the checks and balances in the political system. They comprise members not in the government, and the chair of such committees is regarded as being a significant role. They have the power to initiate enquiries on particular subjects, to review legislation and to question ministers and officials as well as independent experts and those with a particular interest in a subject. Following the 2022 election members of Reform were elected to chair several of the scrutiny committees.

VIII. Legislation

Laws are made in Jersey in much the same way as in other places. The legal provisions on legislation are set out in the [Legislation \(Jersey\) Law 2021](#). Most proposals for a law are made by the Government but individual members of the States Assembly are also able to propose a new law or an amendment to an existing law. Prior to a law being drafted there may well have been an extensive period of preparation and public consultation and possibly consultation on a draft of the proposed law. This is to ensure that the full implications of what is being proposed are assessed and understood. The first formal stage is for the proposal to be lodged in the States Assembly. It is at this stage that the full text of the proposed law is made public. There are then a number of opportunities for it to be debated by the States Assembly and for amendments to be proposed and considered. The States Assembly approves the final version, which is then submitted to the Ministry of Justice in the UK for formal approval by the Privy Council, which is normally done as a matter of course as the officials in Jersey ensure that there is nothing in the law that would conflict with the UK's international obligations. The law is then formally registered by the Royal Court in Jersey. A new law does not normally come in to effect immediately, but rather on days either specified in the law or made under provisions in the law. This is to give ample opportunity for any necessary new arrangements to be put into place and for those specifically affected by the law to have due notice of it.

IX. The parishes

Jersey's 12 [parishes](#) are a key feature of the political structure of the Island. The parishes have existed in their current form for around 1000 years with only minimal boundary changes. Each of the parishes has a parish church and parish hall, and the parishes are the centre of many sporting and other social activities. The parishes also form the basis of constituencies for deputies. Until the 2022 reforms all parishes had at least one deputy; the new constituencies are still parish-based, but most parishes are combined with others in multi-member seats. St Helier, as the largest parish, is divided into three districts.

The parishes were originally created so each had part of the coastline and they had broadly similar levels of population. Now, the parishes range in size from the capital, St Helier, with around one third of the population to St Mary with under 2% of the population.

The parishes each have the same structure headed by the Constable, who also is a member of States Assembly. The Constable is supported by two "Procureurs du Bien Public" who have responsibility for ensuring that the finances of the parish are soundly managed. The parishes are divided into Vingtaines (or cueillettes in St Ouen), each with two vingteniers, two roads inspectors and three constable's officers. The Constable heads the honorary police comprising also centeniers, vingteniers and constable's officers.

A traditional event in each of the parishes is the biannual "Visite du Branchage", by which the roads inspectors inspect roads and lanes to check that overgrown hedges are not causing problems for pedestrians and road users. Each year, two parishes are visited by the Royal Court - the "Visite Royale" - to check on the roads and hedges and also to inspect the accounts.

All ratepayers and electors are entitled to attend parish assemblies which elect the various officers – although not the Constable who is elected by secret ballot in the same way as other States members, set the annual domestic rate and have other functions in relation to roads, licensing and contracts. A key feature of the parish system is that all the officers serve in an honorary capacity – although the constables are paid in their capacity as States Assembly members.

X. The Lieutenant Governor

The King’s representative in Jersey is the [Lieutenant Governor](#) (Vice Admiral Jerry Kyd with effect from October 2022), appointed by the King for a five-year term, to be his personal representative and impartial adviser. The Lieutenant-Governor’s responsibilities include: representing the King on ceremonial occasions; hosting royal, ambassadorial and VIP visits and occasions in conjunction with the Island’s authorities and the UK government; promoting and playing an active part in the social and charitable affairs of the Island; all matters relating to British citizenship; and making recommendations for the award of honours to Jersey residents.

XI. The Bailiff and the Law Officers

Jersey is technically described as a “bailiwick” after the [Bailiff](#), the person who in medieval times was the local political head of the Island. The Bailiff (currently Sir Timothy Le Cocq QC) is appointed by the Crown although on the advice of the Jersey Government and is always a “local” person. They will typically have held the other law officer positions.

The Bailiff is the civic head of the Island, as distinct from the political head, and has some formal responsibilities in respect of communications between the Jersey and UK Governments. He is Speaker of the States Assembly in the Westminster tradition. He is responsible for the orderly conduct of the States Assembly and its business. As Presiding Officer he has the right of speech – which is mainly exercised for ensuring the orderly conduct of the proceedings – but he cannot vote.

The Bailiff also has another important role in Jersey. He is President of the Royal Court and presides over most major trials. The Bailiff is supported by a Deputy Bailiff. The Attorney General and Solicitor General provide legal advice to the Government and provide an independent public prosecution service. These three officers are appointed by the Crown on the advice of the Jersey Government.