

# JERSEY'S 2022 General Election

MARK BOLEAT

## CONTENTS

|       |  |    |
|-------|--|----|
| I.    | Introduction   | 2  |
| II.   | Summary  | 3  |
| III.  | Historical background                                | 5  |
| IV.   | The new electoral system                             | 7  |
| V.    | The election law                                     | 11 |
| VI.   | Political parties                                    | 13 |
| VII.  | The election campaign                                | 14 |
| VIII. | The election results - deputies                      | 15 |
| IX.   | The election results - constables                    | 17 |
| X.    | Turnout  | 18 |
| XI.   | The new States Assembly and the Council of Ministers | 20 |
| XII.  | Some conclusions and issues arising                  | 21 |
|       | References and further information                   | 29 |

OCTOBER 2022

CONTACT [MARK.BOLEAT@BTINTERNET.COM](mailto:MARK.BOLEAT@BTINTERNET.COM)  
ELECTRONIC VERSION [HTTPS://BOLEAT.COM/JERSEY\\_STUDIES/](https://boleat.com/jersey_studies/)

## I. INTRODUCTION

Jersey is a British Crown Dependency, with full internal self-government. The basic features of its political system are very long established. The Island's 12 parishes have existed in their present form for nearly 1,000 years and have been the basis of the political structure of the Island. The constables and, until 1948, the rectors of the parishes were members of the Island's parliament and the parishes formed the basis of constituencies for the election of most members (deputies) of the Assembly, others being elected on an Island-wide basis (senators).

Political parties have played only a small role in the political system, the vast majority of members being elected as independents, the members then electing from among their number a Chief Minister.

Political reform has been a regular discussion point, the principal issues being the complex composition of the Assembly with three categories of member, the dual role of constables as head of the administration in each parish and members of the Assembly and the disparity in voting power, rural areas being favoured at the expense of urban areas.

Jersey has also experienced the paradox of being a highly successful economy which has steered a difficult path to establish itself as a leading international finance centre yet with a poor level of civic engagement, illustrated by low turnout at elections and distrust in the political system.

The process that led to political reforms that came into effect in 2022 and the impact of those reforms merit study in their own right and as a significant change in the Island's political structure.

The General Election in Jersey on 22 June 2022 was very different in nature from previous elections. The position of senator, elected on an Island-wide basis, was abolished, the number of deputies was increased from 29 to 37, the previous 14 constituencies were reduced to nine, some covering more than one parish, and political parties played a more prominent role than had been the case in previous elections. However, the majority of successful candidates were elected as independents and, in line with previous elections, turnout was low.

This paper explains the process that led to the reforms and the nature of the reforms, analyses the election results and discusses issues arising from the election.

*Note: the author was a candidate in the election and Leader of the Jersey Alliance Party.*

\*\*\*\*\*

Mark Boleat has held leadership positions in business, charities and public bodies in Jersey and the UK and has written widely on economic and public policy issues. He has chaired three government bodies in Jersey, been chief executive of major national trade associations and was Political Leader of the City of London from 2012 to 2017. He is currently Chair of LINK, which runs the cash dispenser network in the British Isles, and of the Board of the International Business and Diplomatic Exchange. His books include *Jersey's population – a history*. He was knighted in 2017 for services to the financial services industry and local government in London.

## II. SUMMARY

The internal political structure of Jersey, in particular the parishes, has been stable for many centuries. Significant changes were made to the constitution of the States Assembly in 1948 when the 12 parish rectors ceased to be members as did the 12 jurats. 12 senators, elected on an Island-wide basis, replaced them. The Clothier Review, published in 2000, made far-reaching recommendations including that constables cease to sit in the Assembly and the role of senator being abolished, but neither recommendation was immediately implemented.

Prior to the 2022 election there were huge disparities in the ratio of population to elected representatives, largely because each parish had one or more deputies as well as a constable in the Assembly. For the 2022 election the position of senator was abolished, and nine larger constituencies replaced the previous 14, the effect of which was to reduce significantly the inequality of voting power which had favoured the country parishes.

The States of Jersey Law 2005, as amended, is the definitive document on the constitution of the States Assembly. It specifies that the Assembly comprises 37 deputies, the 12 parish constables and five ex-officio members including the Bailiff and the Lieutenant Governor who have the right to speak but not to vote. The Bailiff is President of the States Assembly, that is the Speaker. The Law provides that elections are held every four years. The conduct of elections is governed by the Elections (Jersey) Law 2002, as amended.

There is provision for political parties in Jersey but in practice elections have largely been contested by independent candidates. Reform Jersey, a Social Democratic party, is the only well-established party. Three new centre-right parties contested the 2022 election.

The election campaign was on traditional Jersey lines, largely centred on individuals rather than parties, numerous hustings were arranged at parish level and by interest groups, and posters, leaflets and door-knocking featured significantly.

The new centre-right parties, particularly the Jersey Alliance which fielded 13 candidates in the elections for deputies, did particularly badly in the election, while Reform Jersey did very well. Of the 37 elected deputies, 10 were members of Reform Jersey, three were members of two of the centre-right parties and the remaining 24 were independents.

Only four of the 12 elections for constable were contested by more than one candidate. However, there was a new provision for people to vote for "none of the above", which scored particularly well including 43% in one constituency.

Turnout in Jersey elections has traditionally been low and this was the case in 2022. Turnout was 41.6%, below the figure of 43.4% in the 2018 election and well below the target of 50% that had been set. If the pattern that applied to the 2018 election was replicated then it is probable that turnout was more than twice as high in the 55+ age group than in the 16-34 age group and significantly higher in the country parishes than in the urban areas.

Under the States of Jersey Law it is the States Assembly that elects the Chief Minister. Deputy Kristina Moore, who had previously indicated her intention to seek the position and was elected as an independent, was duly elected Chief Minister. She nominated 11 deputies to comprise the Council of Ministers all of whom had been elected as independents. They in turn appointed nine assistant ministers. Checks and balances are provided by the States Assembly itself as well as five scrutiny panels, the Public Accounts Committee and the Privileges and Procedures Committee.

The Commonwealth Parliamentary Association Observer Mission reported relatively favourably on the conduct of the election but noted a number of points that needed attention including making any substantive amendments to the law well in advance of an election, better coordination between the various bodies responsible for the election, the effect of constables on the equality of vote issue and the need to publish election results promptly.

The following issues arise from the election and in some cases have been on the agenda for some time –

- Polling stations are not optimally placed to ensure that all electors have an equal opportunity to vote.
- Full election results need to be published promptly after the election.
- Turnout is unacceptably low. In the short term the best way of improving turnout would be significantly to increase postal voting, which merely requires some procedural changes.
- Eligibility to vote requirements are complex.
- Sitting members have an unfair advantage in that they remain in office throughout the regulated period of four months up to the date of the election whereas normal practice is for a parliament to be dissolved when the campaign period begins.
- The concept of “none of the above” is not considered to have worked well and disguises the real issue of the difficulty in attracting people to stand for the constable positions.
- The decision to set up a boundary commission seems unnecessary in dealing with equality of voting power in respect of deputies as this can be achieved simply by moving slightly the boundaries of four constituencies. This is likely to be unpopular as it would entail two constituencies that were not consistent with parish boundaries.
- The abolition of the position of senator was done without public consultation and was widely criticised. There are moves to restore the position, although these may diminish with the passage of time.
- The status of constables as members of the Assembly remains anomalous because of the effect that they have on equality of voting power and the limited role that some of them play in the Assembly.
- The composition of the States Assembly with a limited number of independent members not part of Reform Jersey makes effective scrutiny difficult.
- The position of the Bailiff as President of the States Assembly is anomalous given that he is also head of the judiciary, but the concept is an established part of the Jersey structure and works well in practice.

### III. HISTORICAL BACKGROUND

Some knowledge of the history of the political structure in Jersey is essential in order to understand the current composition of the States Assembly and the nature of the debate surrounding the composition. Tradition plays an important part in Island life and there has been a reluctance to make significant changes even when these have been recommended by a body established to review the constitution or are the views of the people of Jersey as expressed in a referendum.

The internal political structure of Jersey has changed little over the centuries. The 12 parishes are a key part of the structure and have existed in their present form for nearly 1,000 years. They have constituted the constituencies for deputies, and the constable of each parish has been an elected member of the States Assembly.

The expression “States of Jersey” is commonly used in the Island. The expression dates back to 1497, and literally meant the three separate groups – the constables (the French term *connétables* is used formally) and the rectors of the 12 parishes and 12 jurats, that is professional jurists. These three groups historically comprised the parliament and the government. In 1857 14 deputies were added to the Assembly to counterbalance the mismatch of population and voting power between town and country. In practice, until 1948, jurats were the senior politicians, elected for life by Island-wide vote, and were the presidents of committees and sat in the Royal Court.

The Second World War was to a large extent a catalyst for change. A group of Channel Islanders living in England formed the Channel Islands Study Group and in 1944 published *Nos îles, A Symposium on the Channel Islands*, widely regarded as a perceptive and influential set of papers intended to influence post-War reconstruction and development. Internally, there was also pressure for change, reflecting concerns about the way that the Occupation had been managed by the Island’s authorities.

Following widespread consultation and discussion at parish meetings there were two major reform acts in 1948. These provided for –

- The removal of the jurats from the States Assembly. In addition, they would no longer be elected by popular vote but rather by an electoral college of Assembly members and lawyers.
- The jurats were replaced in the States Assembly by 12 senators, elected on an Island-wide basis. Initially, they were elected for nine year terms, four retiring every three years. The term was later reduced to six years.
- The rectors ceased to have seats in the Assembly, except for the Rector of St Helier in the capacity of Dean of Jersey who retained his seat but with no right to vote.
- The number of deputies was increased from 17 to 28.

The members were not elected on the same day. Senator elections were held before deputy elections, allowing those defeated as senators to try again as deputies. And constables were elected on an ad hoc basis.

In 1999 the States Assembly commissioned a review body “to undertake a review of all aspects of the Machinery of Government in Jersey”. This had wide-ranging terms of reference including the composition of the States Assembly. The review body, chaired by Sir Cecil

Clothier, produced a comprehensive [report](#) in December 2000. Its key conclusions relevant to the composition of the Assembly were –

- It could see no significant difference between the role of senator and the role of deputy and accordingly recommended the abolition of senators with an additional 12 deputies.
- It could see no role in the Assembly of constable that was different from that of deputy and accordingly it recommended that constables should no longer be ex-officio members of the States Assembly but should be free to stand for election as deputies.
- It recommended an Assembly of between 42 and 44 deputies, which would produce “a much more even distribution of seats per elector” than was achieved by the system then in operation. The report included an appendix on how a 42 member Assembly could be constituted. The parishes would have between 1 and 13 members, the three largest parishes – St Helier, St Saviour and St Brelade – being divided into constituencies.

The report did not find favour in the Assembly and none of the recommendations on the constitution of the Assembly were implemented following the publication of the report, although they have been partially implemented subsequently.

In 2010, the States Assembly agreed to hold elections for all seats on a single day and to cut the number of senators from 12 to 8, increasing the number of deputies to 29. This came into effect in the election in 2011.

In April 2013 a referendum was held on the composition of the States Assembly. There were three options on the ballot paper. The result, with a turnout of just 26%, was –

|   |       |
|---|-------|
| Option (a) 42 deputies in six large constituencies.                   | 39.6% |
| Option (b) 12 constables and 30 deputies in six large constituencies. | 40.9% |
| Option (c) 12 constables, 8 senators and 29 deputies.                 | 19.5% |

The referendum provided for the votes for the lowest supported option to be reallocated to second preferences. This produced a vote for Option (b) – 55% to 45% for option (a). Notwithstanding the clear preference of the electorate to remove senators from the Assembly, the Assembly decided to retain the status quo, that is option (c), which was supported by just 19.5% of the electorate.

In the 2014 and 2018 elections, the composition of the Assembly was therefore unchanged with 49 members comprising 8 senators, 12 constables and 29 deputies. However, there was one change in 2014 when elections for all three categories of member were held on the same day.

So in summary –

|          |  |            |
|----------|--|------------|
| Pre-1948 | 12 constables, 12 rectors, 12 jurats and 17 deputies | 53 members |
| 1948     | 12 constables, 12 senators and 28 deputies           | 52 members |
| 2008     | Deputy and senator elections held on the same day    |            |
| 2011     | 12 constables, 8 senators and 29 deputies            | 49 members |
| 2013     | Referendum on the constitution of the Assembly       |            |
| 2014     | All elections held on the same day                   |            |

#### IV. THE NEW ELECTORAL SYSTEM

The debate of the composition of the Assembly continued around three main issues –

- The three categories of member – very unusual in most Parliaments. Normally there is a single category of member.
- Whether constables should sit in the Assembly.
- The huge disparity in population per deputy between the smaller parishes and St Helier in particular.

This final point is illustrated in Table 1 which shows population per deputy for the constituencies prior to the reforms for the 2022 election

**Table 1 Constituencies for Deputy prior to the 2022 election**

| Constituency              | Population<br>2021 | Deputies  | Population<br>per deputy | Variance  |
|---------------------------|--------------------|-----------|--------------------------|-----------|
| St Brelade                | 11,012             | 3         | 3,671                    | +3%       |
| St Mary                   | 1,818              | 1         | 1,818                    | -49%      |
| St Ouen                   | 4,206              | 1         | 4,206                    | +18%      |
| St Peter                  | 5,264              | 1         | 5,264                    | +48%      |
| St John                   | 3,051              | 1         | 3,051                    | -14%      |
| St Lawrence               | 5,561              | 2         | 2,781                    | -22%      |
| Trinity                   | 3,355              | 1         | 3,355                    | -6%       |
| Grouville                 | 5,401              | 1         | 5,401                    | +52%      |
| St Martin                 | 3,948              | 1         | 3,948                    | +11%      |
| St Saviour                | 13,904             | 5         | 2,781                    | -22%      |
| St Clement                | 9,925              | 2         | 4,963                    | +39%      |
| St Helier No 1 (South)    | 11,181             | 3         | 3,727                    | +5%       |
| St Helier No 2 (Central)  | 12,506             | 3         | 4,169                    | +17%      |
| St Helier Nos 3&4 (North) | 12,135             | 4         | 3,034                    | -15%      |
| <b>Total</b>              | <b>103,267</b>     | <b>29</b> | <b>3,561</b>             | <b>0%</b> |

Notes:

1. The population figures are from the reports *Population characteristics* and *Population by electoral constituency* (Statistics Jersey, 2022).
2. St Saviour was divided into three constituencies and St Brelade into two. They have been aggregated in this table.
3. St Helier was divided into three constituencies which do not exactly correspond to the constituencies in the 2022 election but are sufficiently aligned for the purposes of the comparison.
4. The variance column shows the population per deputy figure in relation to the average for the Island of 3,561.
5. In the variance column a minus figure indicates that the constituency was over-represented compared with the average and a plus figure that it was under-represented.

The table shows huge variations in the population per deputy, the range being from St Mary with one deputy for a population of 1,818 to Grouville with one deputy for a population of 5,401. With each parish also having its constable in the States Assembly the over-representation of some of the parishes, particularly St Mary and St John, was magnified.

The peg on which reform proposals were considered was the report [Jersey General Election 2018](#) of the Commonwealth Parliamentary Association (CPA), Election Observation Mission.

The CPA sends observers to elections in Commonwealth countries and subsequently publishes a report. These are useful as the only independent analyses of electoral systems. The report described the electoral system as being “overly complicated and cumbersome” and drew attention to the fact that Jersey’s system did not comply with international standards, particularly in respect of equal suffrage, that is in effect each vote counting equally. This applied both to constables with each parish having one constable and to deputies as illustrated in Table 1. Its principal recommendation was –

The States of Jersey Law 2005 should stipulate that electoral constituencies be of equal or comparable size in order to guarantee one of the fundamental principles of electoral rights, the equality of the vote. A mechanism that allows for a regular review of the boundaries to reflect demographic changes in the voter population should be considered, preferably in the form of a boundary commission with a composition and mandate that is defined in the States of Jersey Law 2005 in line with international good practice.

This recommendation was taken on board by the Privileges and Procedures Committee of the States Assembly. Its report [Electoral Reform 2020](#) was not published as a stand-alone document but rather is in the form of a proposition to the States Assembly. However, it is a substantive report with a comprehensive analysis of the issues. (As an aside, the transparency of the political system is damaged when important policy documents are not published separately but can be found only by someone who knows exactly what they are looking for and can navigate the complex States Assembly website.) The Committee consulted widely and commissioned an opinion survey as part of its work. The report begins with a reference to the Clothier recommendations: “For so many people of this Island, the Clothier recommendations on the membership of the Assembly are so fundamentally right and appropriate”. It noted the Code of Conduct for Electoral Matters published by the Venice Commission, established by the Council of Europe. Its comments on this merit quoting –

Jersey complies with the Code of Good Practice in all areas except equal suffrage, which, according to the Venice Commission, entails –

- Equality in voting rights – each voter has in principle one vote; where the electoral system provides voters with more than one vote, each voter has the same number of votes.
- Equality in voting power – requires constituency boundaries to be drawn in such a way that seats are distributed equally among the constituencies, in accordance with a specific apportionment criterion, e.g. the number of residents in the constituency, the number of resident nationals (including minors), the number of registered electors.

Jersey’s electoral system falls short of the Venice Commission’s standards on both counts. Voters do not have the same number of votes across the Island, and the power of their votes is unequal.

The Venice Commission recommended that “except in really exceptional circumstances”, the maximum variance from equality of voting power should seldom exceed 10% and never be more than 15%. The report noted that in Jersey the average variation was 28% and that the range was from -44% to +59% (similar to the pattern shown in Table 1 which has more accurate population figures) and that “in essence, the voters in the urban parishes are vastly under-represented compared to their rural neighbours”.

The key conclusions of the Privileges and Procedures Committee report were -

- (a) Fair representation and equality in voting weight and power across the whole population should be the basis for any reform of the composition and election of the States.
- (b) The Assembly should comprise 46 Members, elected from 9 constituencies, each choosing a number of representatives based on population.
- (c) An independent Boundaries Commission should be established to begin work after the 2022 elections to make recommendations to ensure that the 9 constituencies remain compliant with the principles cited in paragraph (a).
- (d) The office of Constable should entitle the holder to membership of the States of Jersey in a non-voting capacity but with the ability to participate in debate and non-executive committee work.
- (e) Legislation to change the composition and election of the States Assembly to 46 single-category Members, elected from 9 constituencies as outlined in paragraph (b) of this proposition, should only come into force if it wins the support of the majority of Islanders who vote in a YES/NO referendum to be held during 2020.

Points (a) and (b) need to be considered together. As the Committee pointed out it was impossible to achieve point (a) as long as constables remained in the States Assembly.

The main debate on the proposition was held on 9 and 10 March 2020. The Assembly -

- Voted in favour of point (a) by 28 votes to 18.
- Then in contradiction of what the members had just voted, rejected points (b) and (d) by 26 votes to 20, thus ensuring that the constables remained as full voting members of the Assembly. 11 of the 26 votes were by the parish constables.

The effect of rejecting paragraph (b) was in effect that paragraphs (c) and (e) were withdrawn. A new proposition [Composition and Election of the States: Proposed Changes](#) was duly brought forward which retained the constables as voting members of the Assembly.

This was debated in December 2020. A significant amendment was moved which introduced the concept of voters being able to vote for “none of the above” when an election would otherwise be uncontested. The Privileges and Procedures Committee did not support this amendment -

The notion that uncontested Connétables should also be on a ballot paper, of 1 name, and that that will somehow redress this particular anomaly is an absurd exercise in window dressing likely to fool or satisfy no one. It could also be counter-productive putting off contenders from standing; after all, to lose out to another candidate is unfortunate, however, losing out to nobody at all is a complete humiliation.

However, it was approved by 25 votes to 23. So the final decision of the States Assembly in December 2020 was -

- To establish an Assembly of 49 Members, 37 elected from 9 constituencies, each choosing a number of representatives based on population, plus the 12 parish constables.

- To establish an independent Boundaries Commission to begin work after the 2022 elections to make recommendations to ensure that the 9 constituencies remained compliant with the principles of equality in voting weight and power.
- “None of the Above” to be automatically included as a ballot option in any States Assembly election where the number of candidates in a constituency or parish did not exceed the number of seats available.

It will be noted that the principle of equality in voting weight and power applied only to the election of deputies and not to constables and therefore to the Assembly as a whole.

Table 2 shows the new constituencies for deputies, the data being taken from the table in the proposition agreed by the States Assembly.

**Table 2 Constituencies for the 2022 election**

| Constituency                     | Estimated population | Deputies  | Population per deputy | Variance  |
|----------------------------------|----------------------|-----------|-----------------------|-----------|
| St Brelade                       | 11,540               | 4         | 2,885                 | 0%        |
| St Mary, St Ouen and St Peter    | 11,890               | 4         | 2,973                 | +3%       |
| St John, St Lawrence and Trinity | 12,460               | 4         | 3,115                 | +8%       |
| Grouville & St Martin            | 9,490                | 3         | 3,163                 | +10%      |
| St Saviour                       | 14,820               | 5         | 2,964                 | +3%       |
| St Clement                       | 10,060               | 4         | 2,515                 | -13%      |
| St Helier South                  | 10,920               | 4         | 2,730                 | -5%       |
| St Helier Central                | 13,140               | 5         | 2,628                 | -9%       |
| St Helier North                  | 12,480               | 4         | 3,120                 | +8%       |
| <b>Total</b>                     | <b>106,800</b>       | <b>37</b> | <b>2,886</b>          | <b>0%</b> |

Notes:

1. This table uses the estimated population at the end of 2019 rather than the figures in Table 1, which are based on the actual population according to the 2021 census.
2. In the variance column a minus figure indicates that the constituency was over-represented compared with the average and a plus figure that it was under-represented.

It was regarded as sacrosanct that constituencies should not cross parish borders and for this reason there are still some variations in respect of population per deputy. St Clement is the outlier with over-representation of 13%. But if its number of deputies was reduced to three then it would be under-represented by 16%. In other jurisdictions the solution would have been to move some voters to St Clement from Grouville/St Martin purely for the purpose of the election of deputies, but maintaining constituencies aligned with parishes meant that this was not possible. However, the range of variance from the norm of +10% to -13% was much lower than the figures of +52% to -49% with the previous system.

## V. THE ELECTION LAW

The [States of Jersey Law 2005](#), as amended in particular as recorded in the previous section, is the definitive document on the constitution of the States Assembly. The law refers to “the States” rather than the Assembly.

- Article 2 provides that the States is constituted with 37 deputies, the 12 parish constables and also the Bailiff, the Lieutenant Governor, the Dean of Jersey, the Attorney General and the Solicitor General. The five ex-officio members have the right to speak but not to vote and by custom do not speak except in their official capacities. For practical purposes the Assembly can be regarded as the 49 elected members.
- Article 3 provides that the Bailiff is the President of the States, in effect the speaker responsible for the conduct of meetings.
- Article 4 provides that there are 37 deputies with the constituencies (as set out in Table 2) being prescribed in Schedule 1.
- Article 6 provides that elections are held every four years.
- Article 7 sets out the qualifications for election as deputy, basically a British citizen who has been ordinarily resident in Jersey for at least two years up to the date of the election or ordinarily resident for six months up to the date of the election and for additional periods at any time of at least five years.
- Article 44 provides for the remuneration of elected members with an important proviso that all members must receive the same remuneration.

The fact that there are five non-elected members of the Assembly, even without voting rights, is unusual, as is the speaker being a non-elected member as well as being the civic head of the Island and the head of the judiciary.

The [Elections \(Jersey\) Law 2002](#), as amended, governs the conduct of elections and is very detailed. The main points are -

- Article 5 provides that a person is entitled to be on the electoral register if they are at least 16 years old, resident in the constituency of the election and have been ordinarily resident in Jersey for a period of at least two years up to and including the day they register or ordinarily resident for at least six months up to and including that day as well as having been ordinarily resident at any time for additional periods of at least five years.
- Article 6 provides that electoral registers are maintained by each parish.
- Article 13A establishes the Jersey Electoral Authority (JEA). The schedule to the law provides that the JEA comprises a chair, between two and four ordinary members, a parish representative member and, ex officio, the Judicial Greffier and the Greffier of the States. The JEA is responsible for overseeing the conduct of elections and is required to provide a report on each general election.
- Article 13C provides for the JEA to prepare and publish a code of conduct for candidates at elections.
- Article 17 sets out requirements for nomination, including the content of the nomination form, a requirement that nomination forms be subscribed by a proposer and nine seconders who are entitled to vote in the election, and a political party declaration for those candidates of a political party.
- Article 24 prescribes the content of ballot papers.

- Article 24(3C)(b) provides that where the number of vacancies for the office is equal to, or exceeds, the number of candidates, electors have the option of voting for none of the candidates.
- Article 25 requires that each election should be by secret ballot.
- Article 26 requires each parish to provide one or more polling stations in such a way “that all persons have reasonable facilities for the exercise of the right to vote”.
- Article 38 makes provisions for pre-polling, that is submitting a ballot paper in advance of the election date, and for postal voting. Anyone is entitled to a postal vote by making an appropriate application.

The [Connétables \(Jersey\) Law 2008](#) makes provision for the election of constables (connétables), largely replicating the provisions for the election of deputies.

The [Public Elections \(Expenditure and Donations\) \(Jersey\) Law 2014](#) governs election expenditure and donations to parties and candidates. The key provisions are –

- Expenditure during a “regulated period”, the period beginning four months before election day, is covered by the provisions.
- “Election expenses” are defined in Article 3(1) of the Law as expenses incurred at any time before the poll for that election –
  - (a) by the candidate, or with the candidate’s express or implied consent; and
  - (b) for the supply or use of goods, or the provision of services, which are used during the regulated period –
    - (i) to promote or procure the candidate’s election, or
    - (ii) to prejudice the electoral prospects of another candidate at the same election.
- The expenditure limits are £2,050 plus 13 pence for each elector (in round terms about £3,000 for a deputy election).

## VI. POLITICAL PARTIES

There is provision for political parties in Jersey under the [Political Parties \(Registration\) \(Jersey\) Law 2008](#). However, in practice elections have largely been contested by independent candidates.

The longest-established party is [Reform Jersey](#), founded as a movement in 2012 before registering as a party in 2014. It describes itself as a social democratic party. In the 2014 election it fielded eight candidates for deputy, three of whom were elected, all in St Helier. They had all previously been independent members of the States Assembly. In the 2018 election the party leader, Sam Mézec, was elected a senator. It fielded 16 candidates for deputy, four of whom were elected, all in St Helier.

In the run up to the 2022 election three new parties were created, all of which could reasonably be described as centre-right.

The [Progress Party](#) was established by two people, Steve Luce, a sitting member of the Assembly, and Steve Pallett (the party Leader), a former senator and constable, both of whom had served in the Council of Ministers. The [Jersey Liberal Conservatives](#) (JLC) was established as a movement in June 2021 by former Bailiff and External Relations Minister, Sir Philip Bailhache. It became a party in January 2022. The two parties found it difficult to attract candidates. On 25 April 2022 they announced a “coalition” with a joint manifesto and with Sir Philip Bailhache as nominee for Chief Minister

The [Jersey Alliance](#) was established as a Party in July 2021 by 10 sitting members of the Assembly including the Chief Minister, four other members of the Council of Ministers and four assistant Ministers. Gregory Guida, Home Affairs Minister, was the Party Chairman. The Party lost one of its members and struggled to attract the 25 candidates it had hoped for. In February 2022 it elected Sir Mark Boleat, a Jerseyman but a newcomer to Jersey politics who had been Political Leader of the City of London, as its Leader and nominee for Chief Minister.

It is relevant to note a grouping of candidates that did not constitute a party, “Better Way”, the formation of which was announced in March 2022 –

Better Way started as an initiative for current members to offer support to new independent candidates planning to stand in the June 2022 elections.

Each Candidate is Independent and will have their own manifesto but by committing to the Principles of Better Way 2022 they have shown their willingness to work together, and with others, to deliver a sustainable future that achieves greater prosperity, contentment and protects our beautiful environment.

Rather than be distracted by internal party politics, they offer a collaborative and transparent approach, bringing together people from diverse backgrounds who share a commitment to the Island and finding a Better Way.

Better Way was the creation of Kristina Moore, who had been a member of the Council of Ministers until 2018 but for the previous four years had been Chair of the Corporate Affairs Scrutiny Committee and in that role had been a persistent critic of the Council of Ministers including moving a motion of no confidence in the Chief Minister.

## VII. THE ELECTION CAMPAIGN

The election campaign was a traditional Jersey campaign centred on individuals rather than parties, although in two St Helier constituencies Reform Jersey ran a more normal party campaign. In respect of the media the parties and the Better Way grouping hardly existed. This is not surprising given the low number of candidates that the parties were able to field. In the campaigns for the 37 deputy seats, the Jersey Alliance put up 13 candidates including one in each constituency, Reform Jersey 14 candidates in seven constituencies and the JLC/Progress coalition nine candidates in six constituencies. Better Way had five candidates in four constituencies.

Unusually in elections the Electoral Authority played a significant role in respect of communications -

- It sought to attract candidates to stand for election and to advise them on aspects of campaigning.
- It arranged virtual hustings where all of the candidates in a constituency were asked questions raised by electors but in a rather stylised way, each candidate being allowed one minute to answer and with no discussion between the candidates.
- It arranged for each candidate to make a video promoting themselves and published these on its website.
- In accordance with the law it compiled a [booklet](#) for each constituency giving details of each candidate and a short manifesto, the booklet being sent to all households.

At constituency level hustings were arranged in each parish. These were rather more lively with some interaction between candidates.

In addition, many organisations arranged hustings at which candidates were invited to answer questions on a specific area.

Strict limits on campaign expenses meant that the political parties were unable to advertise extensively either in the print or social media, and clearly independent candidates had little scope for campaign expenditure.

Much of the campaigning was traditional with numerous posters, leaflets being distributed and much knocking on doors.

No opinion surveys were undertaken during the campaign, the media clearly not feeling it worthwhile to do so and parties not being able to do so because of the expenditure limits.

In elections in the UK and many other jurisdictions postal voting plays a significant role, candidates and parties putting great efforts into helping their supporters get postal votes. Until the 2022 election postal voting in Jersey was very restricted, people having to assert that they were not able to vote on polling day. The law was changed for the 2022 election such that anybody could vote by post. However, this was not well promoted and, in the event, only 7% of votes were cast by post, compared with for example 20% in a typical British general election and 70% in the most recent Guernsey election. Jersey also makes provision for pre-polling, that is for electors to be able to cast a physical vote in advance of Election Day. 4% of voters chose to vote in this way.

## VIII. THE ELECTION RESULTS - DEPUTIES

The nature of the campaign and the absence of opinion polls meant that there was no solid evidence on which to forecast the election results. However, it is fair to say that when the results were announced they came as a shock to many. The Jersey Alliance did particularly badly. Not one of its candidates for deputy was elected and in four constituencies they came bottom of the poll. In the constituency of St John, St Lawrence and Trinity the defeated candidates included the Chief Minister and the Home Affairs Minister. The JLC/Progress coalition fared a little better, two JLC and one Progress candidate being elected each of whom probably had a significant personal vote.

The election was a triumph for Reform Jersey, 10 of whose candidates were elected and it also came fairly close to winning seats for the first time outside of the urban areas.

The Better Way group of independents did particularly well, four its five candidates being elected and with a share of the vote nearing 50%. However, it is fair to say that the Better Way affiliation did not feature significantly in the election and quite possibly the candidates would have done just as well without that connection.

One of the reasons why the Jersey Alliance was perceived to have done badly was that it was seen to be the “establishment party” and there was some disillusionment with the previous Council of Ministers. It is significant in this context that two other members of the Council of Ministers were heavily defeated in St Helier South even though not being aligned with the Jersey Alliance and had been elected with a strong vote in the previous election. Only three of the members of the previous Council of Ministers were elected, two former senators standing in the constituency of St Mary, St Ouen and St Peter, and a former deputy in the Grouville/St Martin constituency.

Table 3 shows the results for each of the nine constituencies.

**Table 3 2022 Election Results, Deputies**

| Constituency                     | Turnout      | Seats     | Cand-<br>idates | Elected   |
|----------------------------------|--------------|-----------|-----------------|---|
| St Brelade                       | 38.9%        | 4         | 9               | 1 Reform, 3 independent                             |
| St Mary, St Ouen and St Peter    | 48.9%        | 4         | 7               | 4 independent                                       |
| St John, St Lawrence and Trinity | 47.2%        | 4         | 8               | 4 independent                                       |
| Grouville and St Martin          | 51.6%        | 3         | 6               | 1 Progress, 2 independent                           |
| St Saviour                       | 42.6%        | 5         | 12              | 1 Reform, 1 JLC, 3 independent                      |
| St Clement                       | 40.1%        | 4         | 7               | 1 JLC/Progress, 3 independent                       |
| St Helier South                  | 34.6%        | 4         | 11              | 3 Reform, 1 independent                             |
| St Helier Central                | 28.8%        | 5         | 9               | 5 Reform  |
| St Helier North                  | 36.1%        | 4         | 7               | 4 independent                                       |
| <b>Total</b>                     | <b>41.6%</b> | <b>37</b> | <b>74</b>       | <b>2 JLC, 1 Progress, 10 Reform, 24 independent</b> |

A number of points are worth noting –

- The turnout generally was low at 41.6%, a point considered in detail subsequently. However there was a substantial variation from a low of 28.8% in St Helier Central to around 50% in the country parishes.

- Each constituency was contested, marking a contrast with previous elections when some deputies were elected unopposed. However, one reason for this was that unlike in previous elections there were no constituencies where the number of sitting members equalled the number of vacancies, something which often acts as a deterrent to people standing. 74 people contested the 37 seats and there was strong competition in each constituency.
- Reform Jersey performed particularly well in St Helier with a clean sweep of all five seats in St Helier Central and three of the four seats in St Helier South.

Table 4 shows the performance of the three parties and the Better Way group of candidates, but with the qualification that Better Way was not a party, that affiliation did not appear on ballot papers and it did not feature prominently in the campaign.

**Table 4 2022 Election performance of the parties**

| Party/Group       | Votes         | Share of votes | Share where standing     |
|-------------------|---------------|----------------|--------------------------|
| Jersey Alliance   | 6,160         | 24.4%          | 24.4% (9 constituencies) |
| Reform Jersey     | 7,086         | 28.1%          | 39.0% (7 constituencies) |
| JLC/Progress      | 6,845         | 27.1%          | 44.3% (6 constituencies) |
| Better Way        | 5,417         | 21.4%          | 49.4% (4 constituencies) |
| Other independent | 15,575        | 61.6%          | 61.6% (9 constituencies) |
| <b>Total</b>      | <b>25,264</b> |                |                          |

Note: the figure for votes is the addition of the highest vote in each constituency for each of the parties and groups. It is not comparable with share of the vote figures for a party system.

The table shows that Reform Jersey had more votes than the two centre-right parties even though standing in only seven constituencies.

## IX. THE ELECTION RESULTS - CONSTABLES

The election of the 12 parish constables was different in nature from the election for deputies and here it is important to remember that the position of constable is very different from that of deputy. Their primary role is head of the local parish administration, and elections are largely on local parish issues and personalities.

Traditionally, many of the elections for constable have been uncontested, this partially reflecting the dual nature and heavy workload that the position entails. This had been commented on in the Clothier Report, which had recommended that they should cease to be members of the States Assembly, arguing that this might make the position more attractive. The Privileges and Procedures Committee had recommended that they should become non-voting members, but this was rejected by the States Assembly.

It has been noted that at the last minute a new provision was inserted into the law under which elections that would otherwise be uncontested would be contested with electors having the option of voting for “none of the above”. Table 5 shows the election results.

**Table 5 2022 Election Results, Constables**

| Constituency | Turnout | Winner               | %   | Loser/<br>None of the above | %   |
|--------------|---------|----------------------|-----|-----------------------------|-----|
| St Brelade   | 36.0%   | Mike Jackson*        | 73% | None of the above           | 27% |
| St Mary      | 53.1%   | David Johnson        | 56% | Mike Fennell                | 44% |
| St Ouen      | 49.7%   | Richard Honeycombe   | 68% | None of the above           | 32% |
| St Peter     | 43.0%   | Richard Vibert*      | 81% | None of the above           | 19% |
| St John      | 49.2%   | Andy Jehan*          | 96% | None of the above           | 4%  |
| St Lawrence  | 42.0%   | Deidre Mezbourian*   | 60% | Emily Joseph                | 40% |
| Trinity      | 53.0%   | Philip Le Sueur*     | 71% | None of the above           | 39% |
| Grouville    | 51.2%   | Mark Labey           | 52% | Sarah Howard                | 48% |
| St Martin    | 43.7%   | Karen Shenton-Stone* | 96% | None of the above           | 4%  |
| St Saviour   | 42.7%   | Kevin Lewis          | 57% | None of the above           | 43% |
| St Clement   | 38.2%   | Marcus Troy*         | 88% | None of the above           | 12% |
| St Helier    | 32.4%   | Simon Crowcroft*     | 59% | Mark Le Chevalier           | 41% |

Note: \* denotes a sitting constable standing for re-election.

In the event only four elections were contested by more than one candidate. These were all reasonably close, no winning candidate having more than 60% of the vote. However, “none of the above” got more than 25% of the vote in four of the elections and 43% in the election in St Saviour. There was in fact a concerted campaign for “none of the above” in both St Saviour and St Brelade.

All of the eight sitting constables who stood for re-election were re-elected and two newly elected constables had previously been deputies. One of the sitting constables, in Trinity, was a member of the Jersey Alliance although this did not feature in his campaign.

## X. TURNOUT

On voter turnout Jersey sits at the bottom of the league table. The [Jersey Better Life Index 2021](#) commented -

Voter turnout in Jersey (43.4% in the May 2018 States Assembly elections) was lower than in all OECD member and partner countries. Across the OECD the latest average voter turnout rate is 69%.

Disaggregating the countries into regions, Jersey was placed 395 out of 405 regions. Guernsey comes near the top of the league table with a turnout of 79.7% in its 2020 election.

Recognising that the position was not acceptable, the States Assembly implemented a digital and public engagement strategy. The first target was to increase voter turnout to 50% in the 2022 election. A detailed set of tactics was listed to achieve this result.

In the event turnout was 41.6%, not only nowhere near 50% but two percentage points lower than in the 2018 election. Only in one election since 2005, that in 2014, has turnout been lower. The number of people who voted was a little over 25,000, fewer than in 2008 notwithstanding an increase in the population of 8,000 since then.

More people voted in the 2020 Guernsey election than in the 2022 Jersey election even though Jersey's population is 60% higher. In the UK General Election in December 2019 the turnout was 67.3% and in the Isle of Man 2021 election it was 50.7%.

Not only is turnout low but so is voter registration. Only 75% of people eligible to vote registered to do so, so only 31% of those eligible to vote actually voted. There were significant variations between the parishes, with much better figures in the country parishes. In St Mary 96% of those entitled to vote registered and the turnout was 52% so half of those entitled to vote did so. In St Helier Central only 57% of those entitled to vote registered, there was a 29% turnout so only 17% of those entitled to vote did so. (Note: these are figures from the JEA but it is not clear how it has been possible to calculate eligible voters given the residence requirements for being entitled to vote. It is possible that the number of those entitled to vote is overstated in St Helier which is likely to have a higher proportion of residents disqualified from voting because of the residence requirements.)

As yet there is no data breaking down voting by age group and other variables. However, immediately after the 2018 election, Comres was commissioned to undertake research on voter turnout and attitudes to the political system in Jersey. According to the research 56% of those questioned claimed to have voted. This was more than 10 percentage points higher than the actual percentage, probably reflecting bias in the sample and also some people claim to have voted when they did not. There was a significant variation by age. The percentage saying that they voted was 32% in the 16-34 age group, 56% in the 35-54 age group and 73% in the 55+ age group.

In respect of place of birth the percentages were 57% for Jersey-born people, 63% for those born elsewhere in the British Isles and 17% for those born in Portugal, including Madeira. At first sight it is counter-intuitive that those born in the British Isles other than Jersey have a higher propensity to vote than those born in Jersey. This may well reflect a greater cultural approach to voting by those who have lived in the UK. In respect of those of Madeiran origin it is interesting that in the most recent Madeiran election (2019) turnout was 55%. The Jersey

figure may reflect disengagement in the Jersey electoral process by those of Madeiran origin or perhaps the demographic characteristics of Madeiran-born people in Jersey.

By parish the variation was from 46% in St Saviour to 89% in St Mary, with three other parishes - St Peter, St Mary and Trinity - being around the 70% level.

It is reasonable to assume that similar percentages would have applied to the 2022 election. Unfortunately no specific survey has been commissioned, although the Jersey Opinions and Lifestyle Survey 2022 has asked some of the same questions and will therefore yield some useful information. Table 5 confirms the relative position of the parishes, with turnout in the 2022 election being around 50% in the country parishes and 32.4% in St Helier.

When asked their reason for not voting, 23% said they could not get to the polling station, 11% said they were not interested, 11% said they did not know enough about the candidates and 10% were not satisfied with the quality of candidates. It is sometimes argued that the low voter turnout reflects satisfaction with everything in Jersey. The opinion survey did not support this. 18% agreed with the statement "I am generally happy with things as they are in Jersey and not looking for change so I don't care much for voting when elections come around". 71% disagreed. When asked what best describes your opinion on the present system of governing Jersey, 37% said it could be improved quite a lot and 31% said needs a great deal of improvement.

When asked what would make them more likely to vote in the next election there was a long wish list: candidates who better represent my values and the things that are important to me (84%), evidence that elected representatives can make a real difference in the community (84%), being able to vote online (69%), ability to rank the candidates on the ballot paper (64%), better information about the candidates and their policies (62%), a longer pre-poll period (50%), being able to vote by post (48%) and the option to select none of the above on the ballot paper (47%).

## XI. THE NEW STATES ASSEMBLY AND THE COUNCIL OF MINISTERS

The States Assembly, elected on 22 June 2022, comprised -

- 12 parish constables, one of whom had been elected as a member of the Jersey Alliance but as the only elected member of that party resigned his membership, therefore all 12 constables were independent. Eight of the constables had been re-elected although two of those had been in office only for a few years having been elected in by-elections. Two of the new constables had previously served as deputies.
- 37 deputies, 10 from Reform Jersey, two from the Jersey Liberal Conservatives, one from Progress and 24 independents, four of whom were from the Better Way group. Of the 37 deputies, 22 were not sitting members although one of those had previously been a member. Only three had served in the 2018-22 Council of Ministers although five others had served in the Council of Ministers previously.

The States of Jersey Law 2005 requires the States Assembly to elect the Chief Minister and for the Chief Minister to nominate ministers to the Assembly, although the Assembly is entitled to elect other members. In the election campaign Deputy Kristina Moore had indicated her wish to be Chief Minister. She was nominated for the position as was Sam Mézec, the leader of Reform Jersey. Deputy Moore was elected by 39 votes to the 10 of the Reform Jersey party.

Deputy Moore then nominated 11 deputies to comprise her Council of Ministers, the portfolios being Economic Development, Tourism, 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. Like Deputy Moore all 11 had been elected as independents, although two of them had been members of the Better Way group. Only two of the ministers had served in the previous Council of Ministers and only one of those retained their previous position.

Ministers can nominate assistant ministers although under the Standing Orders of the States Assembly there is a limit of 21 on the number of ministers and assistant ministers. Nine members were nominated as assistant ministers - two constables and seven deputies. With the exception of one member at the Jersey Liberal Conservatives all of the Assistant Ministers had been elected as independents. In addition, some members of the Council of Ministers also serve as assistant ministers and some who are assistant ministers only, hold that position under two different ministers.

It should be noted that the States Assembly does not recognise political parties and the listing of members on the Assembly website does not include any party affiliation.

Checks and balances in the political system are provided predominantly through the Assembly itself having the final say, and five scrutiny panels together with the Scrutiny Liaison Committee comprising the chair of each scrutiny panel and also the chair of the Public Accounts Committee. There is also a Planning Committee, a Public Accounts Committee and a Privileges and Procedures Committee. It has always been the case that constables are less involved in States Assembly business than other members because of the heavy workload they have in their parishes. In the event only two constables serve on scrutiny committees, one chairs the Privileges and Procedures Committee and one chairs the Planning Committee. Thus effectively only 17 members are available to serve on the five scrutiny panels and of these 10 are members of Reform Jersey. The panels comprise three or four members. Reform Jersey is represented on all of the panels, chairing three of them.

## XII. SOME CONCLUSIONS AND ISSUES ARISING

The section reviews a number of issues arising from the 2022 general election which merit consideration and possible action well in advance of the next general election in 2026. The section first summarises the conclusions of the CPA Observer Mission and then considers the following specific points –

- Practical issues that can be implemented without any legislative changes.
- Relatively minor issues that require changes in legislation, particularly relating to the election.
- Requirements for eligibility to vote.
- The concept of “none of the above” for uncontested elections.
- The proposed independent boundary commission.
- The composition of the States Assembly including the possible reintroduction of senators and whether constables should remain as members of the Assembly.
- How the Assembly can provide effective scrutiny of the government.
- The role of the Bailiff.

### **The CPA observer mission report**

This paper has noted that the proposals that led to the reforms for the 2022 election were precipitated by the report [Jersey General Election 2018](#) by the Commonwealth Parliamentary Association (CPA), Election Observation Mission.

The mission published its report on the 2022 election [States of Jersey General Election 2022](#) on 4 October 2022. The principal conclusions of this were –

- Noting that the Venice Commission of the Council of Europe had observed that substantive changes to the legal framework less than a year before voting may undermine confidence in the process, it recommended that substantive amendments to the election law should be adopted well in advance of the next election and never less than a year before.
- The election process is fragmented with involvement by the parishes, the Judicial Greffe, the State Greffe and the newly established Jersey Electoral Authority. The mission recommended that consideration be given to reviewing the different roles, processes, coordination opportunities and resources for the implementation of the election.
- The boundaries for the election of deputies respect international good practice as articulated by the Venice Commission but the equality of vote margins recommended by the Venice Commission are in some cases exceeded when the ratio of electors to elected representatives includes both deputies and constables.
- Overall the campaign was positive and a variety of information and campaign materials was available to voters to assist them in making an informed choice.
- The States Assembly does not dissolve under the law and members of the outgoing Assembly stay in office until the newly elected members are sworn in, which may give them an unfair advantage in seeking re-election as they have access to some resources that could be misused.
- To foster a more open and inclusive process consideration should be given to conducting a careful analysis of factors that may hold back some voters from participating and prospective candidates from standing for office, in particular in respect of women, people with disabilities and people from minority communities.

- The number of voters per polling station should be reviewed to ensure that they are in close proximity to where voters live or are easily accessible by public transport.
- Full results should be announced and published promptly.

### **Practical issues**

One of the points noted in the CPA report was the accessibility of polling stations. This is a matter for the parishes and most parishes simply have a single voting station, that is the parish hall. They may not be well placed in terms of accessibility and may favour particular groups of electors. The 2018 Comres survey asked reasons for not voting. The top factor was “could not get to the polling station”, mentioned by 23% of respondents. This can be remedied by the parishes themselves but it would seem sensible to have some agreed guidelines on the number and location of polling stations otherwise there could be significant differences in practice between constituencies. It should be noted that increased use of postal voting would make this issue less important.

The election results were published in a piecemeal way and after a long delay. Part of the reason for this was the fact that parishes are responsible for the count whereas the JEA is responsible for publishing the results. However, it was unacceptable that the full results were not published until August.

The JEA had been established only a month before the beginning of the regulated period which put it in a virtually impossible position. However, it probably tried to do too much, in particular by seeking to give campaigning advice to candidates and arranging virtual hustings neither of which were a great success. It also had some responsibility for increasing turnout, which clearly failed. The CPA mission observed that multiple organisations are involved in the election. Some improvements can be made within the existing law although ideally consideration should be given to centralising responsibilities.

The issue of voter turnout was considered in Section X. The “quick win” to increase turnout is to increase the number of people who vote by post. On this issue, learning from Guernsey would be a good start. In the most recent election 67% of Guernsey voters voted by post, no doubt contributing to the high turnout figure. In Jersey the percentage was one tenth of that – 6.8%. At a minimum voters should be asked if they want to vote by post when they complete a voter registration form rather than having to request a postal vote as a separate exercise.

### **Legislation on detail**

Normally, election laws seek to ensure equality between sitting candidates and those seeking election who are not sitting candidates. This is done by the members of the parliament ceasing to be members and not being able to use parliamentary facilities or their status from the date of the beginning of the campaign. In Jersey, the opposite occurs with States Assembly members remaining in office not only until the date of the election but actually until the date that the winning candidates are sworn in. In addition, the introduction of a regulated period beginning four months before the date of the election gives a huge benefit to sitting members. Those seeking election who are not sitting members have expenditure and activity strictly controlled during this time. It is accepted and reasonable that elected members of any parliament spend much of their time seeking re-election which they can do under the guise of performing their functions as elected members, but to allow them to do so during an election period is unacceptable. To remedy this, the concept of a separate regulated period from the campaign period should be abolished and the Assembly should be dissolved before the campaign period begins.

The CPA report noted difficulties that parties in particular had in respect of election expenses with the JEA failing to clarify some issues particularly in respect of website costs. The removal of the separate regulated period would help to address this issue.

### **Eligibility to vote**

Article 5 of the Elections (Jersey) Law 2002 sets out requirements for entitlement to vote -

(1) A person is entitled on a particular day to have his or her name included on the electoral register for an electoral district if on that day -

- (a) the person is at least 16 years old;
- (b) the person is ordinarily resident in that district; and
- (c) the person has been -

(i) ordinarily resident in Jersey for a period of at least 2 years up to and including that day, or

(ii) ordinarily resident in Jersey for a period of at least 6 months up to and including that day, as well as having been ordinarily resident in Jersey at any time for an additional period of, or for additional periods that total, at least 5 years.

Jersey has a serious problem with lack of voter engagement. Its election turnout is among the lowest in the world and there is also a fairly poor level of voter registration. It would therefore seem sensible to have simple and inclusive rules on who is entitled to vote. Instead, Jersey does the opposite with its residence requirements, which imply that it is undesirable to allow newcomers to the Island to have the vote. The requirements are in contrast for example to the position in the UK where all that is needed is to be ordinarily resident on a particular day. The complex provisions mean that the voter registration form is rather daunting, which probably has an effect in deterring some people from completing it. There are good grounds for simplifying the requirement in (c) to something "has lived in Jersey for at least 6 months up to and including that day". This would both serve to increase voter registration and to remove the impression that recent arrivals to the Island are second class citizens.

### **Uncontested elections and "none of the above"**

The concept of being able to vote for "none of the above" was introduced because uncontested elections were thought to be undemocratic. This is not necessarily the case. In all democracies many elections are not contested in practice. Where there are political parties then it is normal practice for them to field "paper candidates" in constituencies where they know they cannot win so as to give the impression of contesting the election and to force opposing parties to devote some resources to contests which they will know they will win rather than marginal seats. The paper candidates do no campaigning and on the odd occasions when they win they are appalled.

The theory behind the "none of the above" initiative is that provided there are more candidates than seats then the election is deemed to be "contested" even if one of the candidates does everything possible not to be elected. This is clearly untenable.

Where there are no parties then uncontested elections are most likely to occur either when the incumbents are standing again and considered to have done a good job, or where there is no incumbent and one candidate is seen to be so well favoured to win the election that those who might otherwise have contested choose not to stand or when the role is unattractive. "Paper candidates" do not work in this environment.

In the Jersey context where constables are considered to have done a good job they are often not contested and in previous elections where all the sitting deputies stood again and were considered to have done well, they were often not contested. By contrast, senatorial elections were always contested and it was very rare for a new candidate for deputy to be elected unopposed.

“None of the above” introduced an element of farce into the elections. The concept allowed people to mount a campaign for “none of the above” which is practice was simply attacking people who had put their names forward – official encouragement to negative campaigning. As the Privileges and Procedures Committee rightly pointed out –

The notion that uncontested Connétables should also be on a ballot paper, of 1 name, and that that will somehow redress this particular anomaly is an absurd exercise in window dressing likely to fool or satisfy no one. It could also be counter-productive putting off contenders from standing; after all, to lose out to another candidate is unfortunate, however, losing out to nobody at all is a complete humiliation.

The advice to anyone facing an uncontested election in future is to arrange for a paper candidate to stand against them, that is somebody wholly unsuitable for office who would do no campaigning.

If the concept of “none of the above” has any merit then it should apply to all elections, not just uncontested ones. At present the concept rather implies that one outstandingly good candidate is bad for democracy whereas two appallingly bad candidates is good for democracy.

The real issue with uncontested elections for constable is the nature of the position. The Clothier Report merits quoting here –

We were impressed by the evidence of many of the Connétables to the effect that they placed their work in the Parishes at the head of their priorities and we were left with the impression that some of them felt somewhat uncomfortable with their position in the States. Indeed, an analysis showed that in general the Connétables asked fewer questions, introduced fewer propositions and spoke on fewer occasions than the Deputies for their respective Parishes.

In view of the new structure which we propose for the States the Connétables would, if they were to remain, have a heavier workload in the States than they do at present and might well have difficulty in discharging both offices satisfactorily. Many witnesses told us how busy the Connétables are in their Parishes and how excellent and useful was their work there. We believe that this role could be developed and its dignity enhanced. If it were, and if the position no longer carried with it the requirement to be part of the States Assembly, we believe that more candidates for the post of Connétable could well come forward.

The proposal of the Privileges and Procedures Committee that constables should remain members of the Assembly but with no right to vote reflects the spirit of the Clothier Report while not going as far as recommending that constables should no longer be members.

## Boundary Commission

In December 2020 the States Assembly voted -

To establish an independent Boundaries Commission to begin work after the 2022 elections to make recommendations to ensure that the 9 constituencies remained compliant with the principles of equality in voting weight and power.

Given that constables retain membership of the Assembly this now looks absurd as the principle of equality of voting weight and power apply to the whole of a parliament not to the parliament excluding the members where there is gross inequality in voting weight and power.

And given the limited remit a commission seems an unnecessary extravagance as what needs to be done can be simply worked out. The Venice Commission recommended that “except in really exceptional circumstances” the maximum variance from equality of voting power should seldom exceed 10% and never be more than 15%. Table 2 shows that there is one constituency where the variation is above 10%. St Clement is over-represented by 13%. The neighbouring constituency of Grouville/St Martin is under-represented by nearly 10%. And in St Helier, St Helier North is under-represented by 8% and the neighbouring St Helier Central is over-represented by 9%. To save the cost of setting up a boundary commission just two things need to be done -

- An area with a population of 1,200 should be moved from Grouville/St Martin to St Clement.
- An area with a population of 1,000 should be moved from St Helier North to St Helier Central.

The effect of these changes is shown in Table 6 below, which reproduces Table 2 with the changes in bold and using actual population figures according to the 2021 census.

**Table 6 Possible constituencies after boundary review**

| Constituency                     | Estimated population | Deputies  | Population per deputy | Variance  |
|----------------------------------|----------------------|-----------|-----------------------|-----------|
| St Brelade                       | 11,012               | 4         | 2,753                 | -1%       |
| St Mary, St Ouen and St Peter    | 11,288               | 4         | 2,822                 | +1%       |
| St John, St Lawrence and Trinity | 11,967               | 4         | 2,992                 | +7%       |
| <b>Grouville &amp; St Martin</b> | <b>8,149</b>         | 3         | <b>2,716</b>          | -3%       |
| St Saviour                       | 13,904               | 5         | 2,781                 | 0%        |
| <b>St Clement</b>                | <b>11,125</b>        | 4         | <b>2,781</b>          | 0%        |
| St Helier South                  | 11,181               | 4         | 2,795                 | 0%        |
| <b>St Helier Central</b>         | <b>13,506</b>        | 5         | <b>2,701</b>          | -3%       |
| <b>St Helier North</b>           | <b>11,135</b>        | 4         | <b>2,784</b>          | 0%        |
| <b>Total</b>                     | <b>103,267</b>       | <b>37</b> | <b>2,791</b>          | <b>0%</b> |

Note: In the variance column a minus figure indicates that the constituency was over-represented compared with the average and a plus figure that it was under-represented.

The table shows the population per deputy figures in a very small range with eight of the nine constituencies being within 3% of the average and just one constituency - St John, St Lawrence and Trinity - as an outlier with under-representation of 7%.

However such a move will probably be strongly opposed as constituencies would cross parish boundaries and for that this reason it is quite possible that the States Assembly would reject such proposals, instead relying on the “exceptional circumstances” provision in the Venice Commission recommendations. In this respect it should be noted that the independent boundary commission would merely be required “to make recommendations”, with the final decision being taken by the States Assembly.

### Composition of the Assembly

The first report of the Privileges and Procedures Committee to the States Assembly recommended that because there were significant changes being proposed in the composition of the Assembly that there should be a referendum. This provision fell when the whole report was in effect rejected. The amended provision excluded this recommendation. As a result the ending of the role of senators with an Island-wide mandate prove controversial with much opposition not only from senators themselves but also within the Island. There is already a proposition before the States Assembly to reinstate senators at the next election.

This can be done without upsetting the principle of equal voting power but would involve a second very significant change in the constitution of the States Assembly in two elections, something which is not normally desirable. It may well be the case that with the passage of time there will be an acceptance that the role of senators has ended and that it would not be appropriate to re-introduce a third category of member to the States Assembly.

By rejecting the proposition that constables should no longer be able to vote, the Assembly effectively contradicted its previous decision that there should be equality of voting power. The position remains that the smaller parishes, in particular St Mary and Trinity, are significantly over-represented in the Assembly. It is surprising that the CPA mission did not regard this more seriously, which will not help should there be any attempt to reform the position.

Table 7 shows population per representative (deputies and constables) with the present constituencies.

**Table 7 Constituencies for the 2022 election**

| Constituency                     | Estimated population | Deputies and constables | Population per representative | Variance  |
|----------------------------------|----------------------|-------------------------|-------------------------------|-----------|
| St Brelade                       | 11,012               | 5                       | 2,202                         | 5%        |
| St Mary, St Ouen and St Peter    | 11,288               | 7                       | 1,613                         | -23%      |
| St John, St Lawrence and Trinity | 11,967               | 7                       | 1,710                         | -19%      |
| Grouville and St Martin          | 9,349                | 5                       | 1,870                         | -11%      |
| St Saviour                       | 13,904               | 6                       | 2,317                         | +10%      |
| St Clement                       | 9,925                | 5                       | 1,985                         | -6%       |
| St Helier South                  | 11,181               | 4.33                    | 2,582                         | +23%      |
| St Helier Central                | 12,506               | 5.33                    | 2,346                         | +11%      |
| St Helier North                  | 12,135               | 4.33                    | 3,803                         | +33%      |
| <b>Total</b>                     | <b>106,800</b>       | <b>49</b>               | <b>2,107</b>                  | <b>0%</b> |

Notes:

1. The population figures are the actual figures from the 2021 census.

2. In the variance column a minus figure indicates that the constituency was over-represented compared with the average and a plus figure that it was under-represented.

Table 2 in respect of deputies showed a variation from the average only from +10% (under-represented) to -13% over-represented. In Table 7 the variation is much greater – from +33% in St Helier North to -23% in St Mary, St Ouen and St Peter. It will be noted that all the St Helier constituencies are under-represented, two substantially so, while the three most rural constituencies are significantly over-represented. In the circumstances the statement from the CPA Observer Mission –

The boundaries for the election of deputies respect international good practice as articulated by the Venice Commission but the equality of vote margins recommended by the Venice Commission are in some cases exceeded when the ratio of electors to elected representatives includes both deputies and constables.

seems inappropriate given that the Venice Commission recommendations are –

“except in really exceptional circumstances”, the maximum variance from equality of voting power should seldom exceed 10% and never be more than 15%.

The “15% never” is exceeded in four of the nine constituencies and moreover in such a way as to bias the system towards the rural constituencies.

There are several possible options for reform –

- Simply removing constables from membership of the Assembly with an increase in the number of deputies, which would mean an Assembly in line with most parliaments having a single category of member and electors having equal voting power.
- Retaining constables as members but without having a vote, as suggested by the Privileges and Procedures Committee.
- Retaining constables as members but with only three having voting rights, the constable of St Helier and two other constables elected by their peers, one representing the east of the Island and one the west. This would ensure equality of voting power.

It is also possible that should the reintroduction of senators find favour then this would be at the expense of constables.

### **Effective scrutiny**

Small jurisdictions will always have difficulty in securing a sufficient number of suitably qualified people to be members of the parliament and to constitute the government and on top of that to have effective scrutiny whether by a formal opposition or by some other method. Jersey has chosen a system of scrutiny panels together with the States Assembly having the ultimate power on any matter. The point has already been made that with the results of the 2022 election the ten members of Reform Jersey now have a significant role in the scrutiny function and that there is a small number of independent members not in the government. As a result the scrutiny panels are small and lack the resources to be effective in their role. 18 members constitute the five scrutiny panels, six Reform Jersey members, two constables and seven independent members. Two Reform Jersey members are on two panels as is one independent member.

It is difficult to see what can be done to overcome this problem. One possibility would be to add non-Assembly members to the scrutiny panels although how they would be selected would clearly be a difficult issue.

### **Bailiff**

The position of the Bailiff as president of the States Assembly and therefore the speaker of the parliament has been a controversial issue for a long time. The issue was considered in detail by the clothier review.

There are three reasons of principle for saying that the Bailiff should not have a role, both in the States and as Chief Judge in the Royal Court:-

- The first is that no one should hold or exercise political power or influence unless elected by the people so to do. It is impossible for the Bailiff to be entirely non-political so long as he remains also Speaker of the States. A Speaker is the servant of an assembly, not its master and can be removed from office if unsatisfactory. The Bailiff, appointed by the Queen's Letters Patent to a high and ancient office, should not hold a post subservient to the States.
- The second reason is that the principle of separation of powers rightly holds that no one who is involved in making the laws should also be involved judicially in a dispute based upon them.
- The third reason is that the Bailiff in his role as Speaker of the States, makes decisions about who may or may not be allowed to speak, or put questions in the States, or about the propriety of a member's conduct. Such decisions may well be challenged in the Royal Court on grounds of illegality but, of course, the Bailiff cannot sit to hear and determine those challenges to his own actions.

Neither the underlying principles nor the volume of evidence can in our opinion be ignored any longer. For these reasons, we recommend that the Bailiff should cease to act as the president of the States or to take any political part in the Island's government and that the States should elect their own Speaker.

This recommendation was not accepted and the Bailiff remains the President of the States Assembly. The arguments in favour of maintaining the status quo are –

- The role of the Bailiff goes back many hundreds of years and is an important part of the structure and tradition of the Island. With a clean sheet of paper one would not have the head of the judiciary as speaker at the parliament, but Jersey is not starting with a clean sheet of paper. The system works well in practice.
- The Bailiff is a highly qualified lawyer and successive Bailiffs have undertaken their role as speaker of the parliament in an exemplary manner, not seeking to abuse the power that they have in pursuit of their own objectives.
- The States Assembly already struggles to fill all of the important roles. An elected speaker should be one of the more prominent members, but arguably their talents would be better used in government or in scrutiny.

One option that has been floated in the past would be for the Bailiff to retain the formal role as President of the Assembly but for the Assembly to elect a panel of up four speakers who could also have other roles in the Assembly or Government.

## Sources of further information

Understanding Jersey's political system generally and election results specifically is difficult for two principal reasons –

- Jersey has a parliament in the form of the States Assembly and a government. But both the legislation and custom and practice refer to the “States of Jersey”. This is an historic expression, the States originally comprising the constables and the rectors of the 12 parishes and 12 jurats. Until legislative changes in 2005 the “States of Jersey” was the corporate body that covered both the parliament and the government. The expression “States of Jersey” is used at various times to describe the government, the parliament and the Island. For the purposes of understanding the internal political system it is easier to refer simply to the government and to the Assembly.
- Key documents explaining political decisions are not easily accessible. Typically, they are buried in a proposition to the Assembly and are described by a number rather than by name. There is little attempt to publish key reports separately in a way that enables them to be easily identified and accessed. See for example the reference below to the important report *Electoral reform 2020* which can be found only by people who know exactly what they are looking for. Similarly, the full report of the market research in 2018 on attitudes to voting is not even on the States Assembly website but is only on the website of the company that did the research. Nor has there been any meaningful attempt to explain to the public the reasons for the decisions taken in respect of the 2022 election.

### Laws

Up-to-date versions of laws are published on the Jersey Legal Information Board [website](#). The four key laws are –

- The [States of Jersey Law 2005](#) is the key law on Jersey's political system, covering both the Assembly and the government.
- The [Elections \(Jersey\) Law 2002](#) sets out provision for the conduct of elections.
- The [Political Parties \(Registration\) \(Jersey\) Law 2008](#) covers requirements for political parties.
- The [Public Elections \(Expenditure and Donations\) Law 2014](#) deals with controls on election expenditure.

### Composition of the States Assembly

[Report of the review panel on the machinery of government in Jersey](#) (the Clothier report) (2000). The review panel was established by the States Assembly to review all aspects of the machinery of government in Jersey. The authoritative report is the only substantive external review of the machinery of government. Most of its recommendations were not implemented.

[Electoral reform 2020](#) (P.126/2019) - Report lodged on 23rd December 2019 by the Privileges and Procedures Committee. This is the substantive report on the changes to the composition of the States Assembly in 2022. It contains much useful analysis. However, the proposition was defeated; a new proposition [Composition and Election of the States: Proposed Changes](#) (P.139/2020) without the detailed report and with a significant amendment, was approved.

[Democratic Accountability and Governance Sub-Committee Report](#), 18 February 2022, R.23/2022. Notwithstanding the absence of a title and inaccessibility this report provides a

good description of Jersey's political system and particularly of how the government is held accountable.

## **Elections**

[Jersey General Election 2018](#), CPA BIMR election observation mission final report.

[States of Jersey General Election June 2022](#), CPA BIMR election observation mission final report.

The Commonwealth Parliamentary Association (CPA) London, in its role as secretariat for CPA's British Islands and Mediterranean Region (CPA BIMR), carries out and supports election observation work across the Commonwealth. CPA BIMR is specialised in election observation work in UK Overseas Territories and Crown Dependencies. It sends observers to elections and subsequently publishes reports. Note the different titles of the two reports, exemplifying the confusing terminology referred to at the beginning of this section.

Comres [Voter Engagement Research for the States of Jersey](#), November 2018.

Comres [States of Jersey Voter Engagement Survey 2018](#)

In 2018 the market research company Comres was commissioned to undertake research on voting behaviour and attitudes to Jersey's political system. The first report is merely as summary and is deeply buried in the States Assembly website. The second, and far more detailed, report is not accessible on the States Assembly website but is published on the Comres company website.