

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

GENERAL ELECTION 2025

The States are asked to decide:-

Whether, after consideration of the policy letter entitled 'General Election 2025' dated 18th October 2023, they are of the opinion:-

1. To amend Article 45 of the Reform (Guernsey) Law, 1948 ("the Reform Law") to add provisions requiring all candidates and parties to agree to the publishing of their electoral expenditure returns by the States and imposing a duty on the States to publish all expenditure returns.
2. To agree that the Ordinance for the 2025 Election should redefine the regulated period for campaigning as starting 6 weeks prior to the date a candidate nomination can be delivered.
3. To amend Article 41 of the Reform Law to:
 - a) base the margin required to trigger a recount on the number of votes between an unsuccessful candidate and the lowest polling successful candidate;
 - b) set the margin required to trigger a recount at 1% of the number of votes received by the lowest ranking successful candidate or 50 votes, whichever is the lower; and
 - c) afford the Presiding Officer discretion to call for either a manual or electronic count, and to determine the extent of a recount, allowing for the possibility of only recounting manually adjudicated ballots.
4. To amend Part VI of the Reform Law to make provision for a candidate to be able to nominate a representative to be present at a recount in the place of the candidate, including conferring a power on the States Assembly & Constitution Committee to make rules making relevant provision in this regard.
5. To amend the restriction on eligibility to hold the office of People's Deputy at Article 8(e) of the Reform Law so that it only applies to:
 - a) persons convicted of electoral offences, fraud or corruption in the five years

immediately preceding the date of the election; and

- b) persons serving a sentence of imprisonment of a year or more or an indefinite period, or who have been so sentenced but are unlawfully at large.

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

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

GENERAL ELECTION 2025

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

18th October, 2023

Dear Sir

1 Executive Summary

- 1.1 The States' Assembly & Constitution Committee ('the Committee') is mandated to advise the States and to develop and implement policies in relation to elections to the office of People's Deputy.
- 1.2 In June 2021, the States considered the 'General Election 2020: Reports from the CPA BIMR Election Expert Mission and the Registrar General of Electors'¹ policy letter – in which the Committee addressed the findings and recommendations of the 2020 Election Reports – and agreed a number of workstreams for the Committee to undertake in preparation for the 2025 General Election.
- 1.3 The Committee has prioritised those areas which will require amendments to the Reform (Guernsey) Law, 1948, ('the Reform Law')² and other relevant legislation underpinning general elections to ensure any such amendments are made well in advance of the 2025 Election, and the findings and recommendations from the Committee's review of these areas are presented here.
- 1.4 The purpose of this policy letter is to seek the States' agreement to those recommendations, which cover the following: the publication of candidates' and parties' election expenditure; the regulated period for election expenditure; the margin required to trigger a recount; the requirements for carrying out a recount; candidates' nominated representatives being entitled to attend a recount; and eligibility to stand as a Deputy with regard to criminal convictions.

¹ [Billet d'État XIII \(June 2021\)](#)

² [The Reform Law](#)

- 1.5 Further considerations regarding the General Election 2025 (e.g. the date of the Election, the closing date for postal ballot applications, opening hours for polling stations, etc.) will be covered in future policy letters from both the Committee and the Committee *for* Home Affairs, which will also contain breakdowns of estimated costs and request the relevant budgets.

2 Election Expenditure

- 2.1 Per the Resolutions referred to above, the Committee was instructed to consider introducing provisions into the Reform Law requiring the publication of candidates' and parties' election expenditure; and to review the regulation of election finance, considering the findings of the Committee on Standards in Public Life³ ('the CSPL') review of electoral regulation in England.
- 2.2 The Committee has considered these workstreams together, guided by the CSPL Report, to make recommendations addressing the relevant findings of the 2020 Election Reports and to improve both actual and perceived levels of fairness in relation to spending on one-off items outside of the regulated period, and transparency with regards to publishing of election expenditure.

Current Legislation

- 2.3 The amount of expenditure permissible by candidates and political parties is governed by Article 44 of the Reform Law, and in 2020, further provisions were made by the Electoral Expenditure Ordinance, 2020⁴ ('the Ordinance'), made under the Reform Law, with provisions in respect of campaign finance for political parties being introduced for the first time ahead of the 2020 Election.
- 2.4 The Ordinance set out the permitted maximum levels of expenditure for candidates and political parties, and the transfer of permitted expenditure from candidates to parties; the value of assistance given in kind ("in money's worth"); the need to maintain financial records; and the way in which spending pre-election period counted towards a candidate's or party's permitted expenditure.
- 2.5 The Ordinance also defined the regulated period during which such expenditure was controlled, beginning on the first day on which a candidate nomination could be delivered to the Presiding Officer and ending on the date of the General Election.
- 2.6 With regard to spending in the pre-election period, the Ordinance reads:

(6) *During the regulated period, a political party may not –*

³ [Regulating Election Finance - A Review by the Committee on Standards in Public Life](#)

⁴ [The Elections Ordinance, 2020](#)

(a) expend money or give value in money's worth on the promotion of the party and its policies, or

(b) use goods and services for the purpose of promoting the party and its policies that were procured before the regulated period by the expenditure of money, or the giving of value in money's worth,

in a sum greater than the total allowance transferred to it by candidates under this section.

(7) *Provided that the goods or services so procured are used only during (and not before) the regulated period, a candidate may expend money or give value in money's worth in respect of the General Election before the regulated period in a sum not exceeding his or her expenditure allowance.*

2.7 The return of expenditure by candidates is governed by Article 45 of the Reform Law, which requires every candidate at any election to submit to the Returning Officer a full return of expenditure. There is, however, no requirement for either the Returning Officer or the candidate or political party to put that expenditure in the public domain. Feedback from the public after the 2020 General Election was that this was perceived as insufficiently transparent.

Key Principles

2.8 The CSPL Report published in July 2021 identified the following key principles that should underpin the regulation of election finance:

- Fairness
- Openness
- Transparency
- Accountability
- Simplicity and Clarity
- Confidence and Trust

2.9 The current electoral framework limits the potential financial barriers for prospective candidates to run for election in the interest of openness and fairness. No nomination fee or deposit required to stand for election facilitates ease of access, and capping election expenditure during the regulated period ensures candidates campaign and receive votes more by virtue of their policies than how deep their pockets are.

2.10 Whilst the regulated period itself is clearly defined, there was contention at the last election over whether some candidates and parties may have circumvented the rules by spending money on one-off campaigning outside of this period.

- 2.11 The framework also ensures a level of accountability and transparency by requiring the submission of expenditure returns, but as stated above, the perception is that standards could be improved further in this regard.

Regulated Period

- 2.12 Currently the point at which an individual becomes an election candidate and is thus bound by the expenditure rules is only once their nomination has been accepted. Therefore, the nomination period may have begun and an individual may have indicated their intention to run, but until they have formally registered, prospective candidates could theoretically fund one-off items in this period (e.g. radio or newspaper advertisements) without any oversight, restrictions or obligation to declare them, as this would not constitute expenditure by a 'candidate'.
- 2.13 In response to this concern, it was suggested that the rules could be amended to apply to all once nominations have opened, regardless of whether one has been nominated, to prevent people from being able to circumvent the rules to continue operating outside of the regulated period by delaying their registration, which is a matter that received complaints before and after the last election.
- 2.14 It should be noted however that the time between nominations opening and closing in 2020 was only four days, so the extra unregulated campaigning time this could afford a prospective candidate is negligible, but received complaints that should be acknowledged, nonetheless.
- 2.15 Greater consideration has been given to the period immediately before nominations open. Although any expenditure prior to the regulated period on campaign material later used within the regulated period must be declared, prospective candidates are currently free to spend on one-off items or a series of items that are exhausted before nominations open without oversight or limitations.
- 2.16 It should also be noted that in response to the speculation over whether election success was 'bought', evidence showed that greater spending did not necessarily correlate to success in the election, with three out of five of the highest spenders failing to be voted into political office, although, on average, successful candidates spent more than those who were unsuccessful. The average spend by those who were elected was £2,242, whilst for those who were not it was £1,178.
- 2.17 However, the feedback suggests a lack of public trust and confidence arising from suspicions that candidates in the last election may have benefited from the fact that the rules allow spending on one-off items outside of the regulated period. Such individuals did not break any rules, but complaints were received that they were not acting within the spirit of the rules.

- 2.18 The CSPL Report posited a move to year-round regulation to simplify some aspects of the system and ensure that all campaign expenditure is captured, but it was noted that this would also create an administrative burden for parties and campaigners, and act as a barrier to entry.
- 2.19 The Report also noted that although regulated periods may be a relic of an earlier age and no longer reflect the way that campaigning takes place, and thus the current system is far from perfect, it is not clear what alternative would deliver a fairer system with rules that are simple and relatively easy to comply with.
- 2.20 Whilst the Committee acknowledges that no-one can become a candidate until their nomination has been accepted, and echoes the issues identified in by the CSPL Report in the previous two paragraphs, it considers that the regulated period could be extended to before nominations open to capture such items which, whilst exhausted before nominations open, are still overt campaign material used potentially as close as six weeks before the day of the election.
- 2.21 It is therefore recommended to extend the regulated period to six weeks prior to nominations opening, meaning that once an individual's nomination has been accepted and they formally become a candidate, any campaign expenditure from six weeks prior to nominations opening until the day of the election will be counted towards their permitted expenditure, and must be declared in their expenditure return.

Publication of Election Expenditure

- 2.22 There were calls from the public, together with requests from journalists, for individuals' and parties' election expenses to be disclosed as there is currently no obligation to do so, and no mechanism for the Central Returning Officer to do so because of data protection considerations.
- 2.23 The CSPL Report found that the process for submitting election expense returns only to a Returning Officer is out-of-date and delivers limited transparency, and candidates' returns should instead be available to all to view online.
- 2.24 In addition to aiding greater transparency, making expenditure available in the public domain immediately widens the number of people who can scrutinise it (e.g. journalists). At the last election there were several media enquiries relating to candidate and party expenditure which could not be answered. Introducing such requirements would be a progressive step forward which responds to both public and media concerns.
- 2.25 It is therefore recommended that the Reform Law be amended to require the publication of all candidates' and parties' election expenditure during the regulated period.

Further Considerations of the CSPL Report

- 2.26 The CSPL's Report also considers how election finance regulations need to be updated for the digital age, which essentially allows for permanent campaigning through social media and for political actors to shape debates online long before election campaigns officially start.
- 2.27 Whilst digital campaigning is inevitable and can have a positive impact on participation – allowing campaigners to reach voters, voters to reach each other and generally facilitating engagement in politics, particularly among the young – the problem is that election finance law has not been updated to regulate adequately this new campaign method making it difficult to ensure spending limits are truly being complied with.
- 2.28 Parliamentarians, academics and campaigners have argued that there is now an urgent need for reform to ensure that digital campaigning is appropriately regulated. There is also public concern in the UK, as focus groups revealed a general sense that regulation has not kept up with the speed at which digital campaigning has developed.
- 2.29 The need to shine a light on how online campaigning is used to reach voters was also identified in the Report, as given the granularity with which people can be targeted, many people view it with suspicion as a 'dark art'. The CSPL believe that increased transparency would allow greater public awareness of who is being targeted, by whom and with what message and thus help to dispel this suspicion.
- 2.30 They recommended changes to the law to require candidates and parties to provide more detailed invoices from digital suppliers, and to subdivide their spending returns to record what medium was used for each activity so that more information is available about the money spent on digital campaigns.
- 2.31 Whilst concerns surrounding online campaigning were not of particular concern in the 2020 Election in Guernsey, the Committee anticipates that it could become a concern in the future, as it is forecast that future campaigns will exist more and more online.
- 2.32 Given that expenditure returns in Guernsey are already itemised, the Committee is of the view that no changes to the Reform Law are required in this regard at this time but considers it an area worth monitoring.

Recommendations

- 2.33 Adjusting the boundaries of the regulated period to ensure relevant expenditure is captured during an extended, fixed period, and introducing provisions which require expenditure to be published, would support a more level playing field for

the next election, with greater transparency and consistency, and would reinforce the fundamental principles which underpin the electoral process of a just, representative democracy.

2.34 The Committee therefore recommends the States to:

- Amend Article 45 of the Reform Law to add provisions requiring all candidates and parties to agree to the publishing of their electoral expenditure returns by the States and imposing a duty on the States to publish all expenditure returns.
- Agree that the Ordinance for the 2025 Election should redefine the regulated period as starting 6 weeks prior to the date a candidate nomination can be delivered.

3 Recount Requirements

Current Margin to Trigger a Recount

3.1 Per the Reform Law, a recount can be requested by unsuccessful candidates at a general election if the margin of difference between them and the lowest polling successful candidate is less than 2% of the total number of ballots cast.

3.2 In the 2020 General Election, this translated to a margin of 493 votes (2% of the 24,647 ballots cast) which meant six unsuccessful candidates were eligible to request a recount, as illustrated in Fig. 1. Four of these candidates requested a recount, after which the results were unchanged.

Position placed in 2020 Election	No. of votes received	Margin of difference from 38 th as % of total no. of ballots	Eligibility to request a recount
38 th	6,475	-	Successful
39 th	6,353	0.50%	Within margin
40 th	6,335	0.57%	Within margin
41 st	6,281	0.79%	Within margin
42 nd	6,097	1.54%	Within margin
43 rd	6,076	1.62%	Within margin
44 th	5,991	1.97%	Within margin
45 th	5,877	2.43%	Outside margin

Fig. 1. Unsuccessful candidates' eligibility to request a recount in the 2020 Election.

- 3.3 This part of the Reform Law dates from a time when general elections were Parish-based, before the move to island-wide voting, and therefore turnout and number of votes were significantly lower. As a result, the margin required to trigger a recount is now much bigger than it used to be.
- 3.4 In 2016, the total number of ballots per district ranged from 2,068 – 3,774, which resulted in margins required to trigger a recount ranging from 41 – 75 votes. In 2012, the equivalent figures ranged from 1,967 – 3,510 ballots and 39 – 70 votes.

Recommendations of the 2020 Election Reports

- 3.5 Whilst the CPA BIMR Report did not make any specific recommendations in relation to the margin of votes required to trigger a recount, it highlighted that it was a ‘generous margin’ which election authorities may wish to re-evaluate. This echoes the considerations above with regards to the move to island-wide voting.
- 3.6 The Report suggested that ‘it might be more practical if the margin of difference between the candidate placed 38th and those below them would relate to a percentage of the difference between these contestants in the number of votes cast, rather than a percentage of the total number of ballots issued.’
- 3.7 In light of this suggestion, the subsequent Report by the Registrar General of Electors made the formal recommendation to review the margin of votes required to trigger a recount, and having considered this recommendation, the States instructed the Committee do so.

Proposed New Margin to Trigger a Recount

- 3.8 The Committee agrees that the difference between the votes cast for the candidate placing 38th and those below them would be a truer indication of how close candidates were to being successful, comparing them directly to the number of votes they needed rather than the entire field.
- 3.9 This is particularly pertinent with the new island-wide voting system, as alluded to above, as over six times the number of votes were cast than in the previous election, 637,770 compared to 93,085, averaging 26 votes per voter compared to 4. These figures mean the number of ballots received is less relevant in this context with the potential votes per ballot being so broad, 1 to 38.
- 3.10 Furthermore, the idea to lower significantly the required margin was supported by the known accuracy of the electronic count system (less than one error per 1,549,703 data marks).
- 3.11 Even if there is a significant increase in voter turnout and a higher average

number of votes cast per voter, it is safe to assume that the total number of votes cast in the 2025 Election will not reach the figure of 1,549,703 (this would require over 40,000 voters all to cast the full 38 votes) and thus we can expect less than one error from the electronic count system.

- 3.12 Therefore any discrepancies are highly likely to occur in manually adjudicated ballots only, which are unlikely to be of significant number. The number of adjudicated ballots in the 2020 Election was 510, and data sourced ahead of the 2020 Election states that the error rate for a manual count is within 1%.
- 3.13 The Committee acknowledges that with the 2020 Election being the first of its kind in Guernsey, and no other jurisdictions carrying out elections in quite the same way – various jurisdictions use a plurality block voting system, but none with comparable voting populations or which allow voters as many votes – there is limited relevant data and analysis available to draw from.
- 3.14 The agreed recommended margin is 1% (i.e. if the difference in votes received between an unsuccessful candidate and the lowest ranking successful candidate is less than or equal to 1% of the number of votes received by the lowest ranking successful candidate) or 50 votes, whichever is the lower.
- 3.15 Applying the proposed new percentage metric to the 2020 results would have equated to 64 votes, and the margin would have therefore been 50 votes, and no unsuccessful candidates would have been eligible to request a recount.
- 3.16 Having re-evaluated the current margin it is felt that the proposed alternative metric would be more logical and practical in light of island-wide voting, and by restricting the margins and keeping the number of unsuccessful candidates eligible to request a recount to a reasonable minimum, and thus showing faith in the reliability and accuracy of the counting system, it is hoped that greater confidence and trust in the balloting and counting process will be fostered, which are fundamental principles that help to support a successful democratic election.

Electronic Recount

- 3.17 The second recommendation by the Registrar General of Electors was for the Reform Law to provide explicitly for the possibility of an electronic recount and, accordingly, afford the Presiding Officer more discretion over the exact requirements for a recount.
- 3.18 The 2020 Election was Guernsey's first experience of using an electronic vote count system, whereby ballot papers are digitally scanned; the scanner interprets each mark and scores them using parameters of density and area; and any 'marginal marks' within a set threshold are sent for adjudication by trained adjudicators.

- 3.19 Given the accuracy of the electronic count system, it is usual in other jurisdictions using this system for recounts to examine only manually adjudicated ballots where different adjudicators could interpret ambiguous ballots differently.
- 3.20 The system can perform either a full rescan of all ballots and re-run the full election count process once more (as was done for the 2020 Election), or use the images and data created during the original scan to then adjudicate only the doubtful ballots reducing processing time, staff needed, time scales etc.
- 3.21 For other jurisdictions that have undertaken recounts using the same e-counting system, there is seemingly no specific legislative reference to the technicalities of the process used. All recounts undertaken were done so under the general terms of recount legislation, i.e. a recount can take place, but doesn't specify how that recount would take place.
- 3.22 With regard to affording the Presiding Officer more discretion over the recount requirements, the Committee recommends amending the Law to afford him the same degree of flexibility as it does the Central Returning Officer, who has the discretion to call for either a manual or electronic count.
- 3.23 Furthermore, it is recommended that the Law enable the Presiding Officer to determine the extent of a recount i.e. whether all ballots are recounted or just the manually adjudicated ones.

Recommendations

- 3.24 The Committee's recommendations aim to modernise the general election process in line with other jurisdictions, taking better advantage of the proven reliability of the electronic vote count and allowing for a less costly recount of manually adjudicated ballots only. This is an opportunity for the States to streamline and modernise their processes and could help further to instil confidence and trust in the election.
- 3.25 The Committee therefore recommends the States to amend Article 41 of the Reform Law to:
- base the margin required to trigger a recount on the number of votes between an unsuccessful candidate and the lowest polling successful candidate;
 - set the margin required to trigger a recount at 1% of the number of votes received by the lowest ranking successful candidate or 50 votes, whichever is the lower; and
 - afford the Presiding Officer discretion to call for either a manual or

electronic count, and to determine the extent of a recount, allowing for the possibility of only recounting manually adjudicated ballots.

4 Representatives to Attend a Recount

4.1 Article 38A of the Reform Law states the following with regards to the presence of candidates at an election count:

38A. (1) *Throughout the time during which the votes cast at an election are being counted, any candidate is entitled to be present at the count if he has complied, and for so long as he continues to comply, with this Article and all rules made thereunder.*

(2) A candidate may, in accordance with any rules made under this Article, nominate one other person to exercise his entitlement under paragraph (1) of this Article in place of, but not as well as, himself.

[...]

4.2 Article 41 of the Reform Law makes provision in respect of recounts. It provides in part that -

[...] The candidate demanding the recount and any other candidate at that election may be present during the recount [...]

However, it does not make any provision for a candidate to be able to nominate a representative to be present at a recount in the place of the candidate, as under Article 38A.

4.3 The Committee therefore recommends the States to amend Part IV of the Reform Law to:

- make provision for a candidate to be able to nominate a representative to be present at a recount in the place of the candidate, including conferring a power on the Committee to make rules making relevant provision in this regard.

5 Eligibility to Stand as a Deputy: Criminal Convictions

5.1 The CPA BIMR's recommendation on this matter was to "consider removing the provision in Article 8 of the Reform Law which disqualifies voters who have been sentenced to imprisonment for a period of six months or more, from eligibility to become a People's Deputy."

5.2 The CPA BIMR Report explains that: *"The International Covenant on Civil and*

Political Rights, applicable to Guernsey, provides, in Article 25, that citizens shall have the right and opportunity to take part in the conduct of public affairs. This has been interpreted to mean that the right to stand for election may be suspended or excluded only on grounds which are 'objective and reasonable'. It is arguable that the exclusion of all those sentenced to imprisonment, without regard to the nature of the offence, is unreasonable." It is for this reason that the above recommendation has been made.

- 5.3 Although not mentioned in the CPA BIMR Report, Article 3 of Protocol One to the European Convention on Human Rights (ECHR), relating to the right to free elections, is also relevant:

"The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature."

UK Legislation

- 5.4 In the UK it is not possible to stand as a candidate in a parliamentary general election if you are subject to a bankruptcy restrictions order or debt relief restrictions order made by a court in England, Wales or Northern Ireland, or if your estate has been sequestered by a court in Scotland and you have not been discharged.
- 5.5 Other persons disqualified are those convicted of an offence who have been sentenced to be imprisoned or detained for more than a year and are detained anywhere in the UK, Republic of Ireland, the Channel Islands or the Isle of Man, or are "unlawfully at large", and anyone who has been convicted of a corrupt or illegal electoral practice or of an offence relating to donations.
- 5.6 The disqualification for an illegal practice begins from the date a person has been reported guilty by an election court or convicted and lasts for three years. The disqualification period for corrupt practice is in place for five years.
- 5.7 Corrupt practices as defined by the Representation of the People Act 1983⁵ include:
- personation, defined as pretending to be another person (whether living, dead or fictitious) in order to vote in their name
 - applying for a postal vote in the name of another person, or diverting the delivery of a postal vote form

⁵ [Representation of the People Act 1983 \(legislation.gov.uk\)](http://legislation.gov.uk)

- giving false information in the papers nominating a candidate
- incurring unlawful expenses in connection with an election campaign, or making a false declaration regarding election expenses
- bribing voters to vote or not to vote (with money, or other valuable items)
- treating, defined as giving or offering food, drink or entertainment to a voter in order to influence their vote
- exerting undue influence on a voter through threats (including threats of "spiritual injury" as well as physical injury, damage or harm), whether to influence their vote or as a result of their voting

5.8 Illegal practices are understood as failure to comply with the laws underpinning general elections, most notably with regards to donations, election expenditure and expenditure returns.

Jersey Legislation

5.9 The States of Jersey Law 2005⁶ includes provisions regarding persons who may not stand for election as a Deputy. These include conditions relating to bankruptcy or corruption and also any criminal convictions in respect of any offence, as a result of which the would-be candidate was imprisoned for a period of not less than three months, without the option of a fine. Disqualification relating to a criminal conviction lasts for seven years from the date of conviction.

5.10 Jersey's legislation is therefore more restrictive than Guernsey's and the CPA BIMR made the same observations about this aspect of Jersey's election laws. The Report recommended removing the blanket ban to stand for seven years for anyone sentenced for more than three months, to allow for broader electoral participation on equal basis, and to bring candidature rights in line with international standards and good practices for democratic elections.

Other Considerations

5.11 In comparison to the UK, the bar in Guernsey is set high in terms of criminal convictions, with Article 8 of the Reform Law excluding anyone who, during the five years preceding the election, was sentenced to imprisonment for a period of six months or more by a court in the UK, the Channel Islands or the Isle of Man, whether or not the sentence was suspended.

5.12 Experience during previous elections shows that the electorate has an interest in criminal convictions, with some considering that candidates convicted of any

⁶ [States of Jersey Law 2005](#)

offences at any time should not be allowed to stand. Some would like to see Deputies undergoing checks via the Disclosure and Barring Service (DBS), something that the Labour Party in the UK lobbied for in respect of UK Members of Parliament, but which has not been implemented.

- 5.13 Whilst this is perhaps understandable in a small community, where elected members are very visible and also very close to the electorate, this needs to be balanced against the CPA BIMR's advice that this legal provision is arguably unreasonable.
- 5.14 There is no data to indicate the extent to which this might be preventing would-be candidates from standing in elections, presumably because anyone with such a conviction simply does not submit a nomination form. Therefore it is not possible to determine the effect, if any, this provision is having on the ability of the community to put themselves forward as elected representatives.
- 5.15 During the last election, there were no complaints or enquiries received from any persons who wished to be nominated but found this was not possible owing to criminal convictions. There was, however, public comment via social media and correspondence received by the Registrar General of Electors from people who felt candidates with convictions that did not preclude them from standing should not have been able to stand.

Recommendations

- 5.16 Looking at the UK and other jurisdictions, it is not unreasonable to have certain restrictions on the eligibility to stand of persons with criminal records. The issue with those contained in the Reform Law is that they may be disproportionate to their aim. However, the Committee considers that abolishing those provisions in their entirety would be unacceptable.
- 5.17 To address the points made in the CPA BIMR Report, the Committee has instead identified amendments that can be made to the Law to make them less draconian.
- 5.18 Article 8(e) of the Reform Law applies even if the prison sentence is suspended, and removing its application to suspended sentences would reduce its impact, which seems proportionate given that a court has already decided that the offence did not warrant an immediate custodial sentence.
- 5.19 The Committee also considered which categories of offences are particularly relevant to the ability to stand for public office, in order for Article 8(e) to be amended to apply only to those offences, to make the provisions more objective and reasonable. Looking at the UK provisions, it is suggested that such offences would be those relating to fraud, corruption or specific electoral offences.

- 5.20 It was further considered as an alternative or, in conjunction with such measures, to amend the Reform Law to lengthen the duration of the sentence before disqualification will apply; keeping it at six months for those pertinent offences outlined above, and perhaps longer for other sentences.
- 5.21 The Committee agreed the Reform Law should apply to persons serving a prison sentence of a year or more or who are serving such a sentence but are unlawfully at large, regardless of the offence, as is the case in the UK, and for this to be in conjunction with the measures outlined in paragraph 5.19, where the current five-year disqualification period would still apply.
- 5.22 Based on the assumption that courts will hand down longer sentences to those convicted of more serious offences, this will recognise the factors identified in the CPA BIMR report whilst still ensuring that those who have committed serious relevant offences remain prevented from taking office. This is important in respect of protecting the community and also from the perspective of safeguarding the island's national and international reputation.
- 5.23 Furthermore, by only disqualifying those still serving a prison sentence of a year or more, except in the case of fraud, corruption or specific electoral offences, this recognises that those who have served their sentence have paid their debt to society, addressing the expert advice to make the rules as liberal as possible, and not disbar people unreasonably.
- 5.24 With the recommended provisions in conjunction with one another, this prohibits only those guilty of objectively relevant offences in the five years prior to the election, as well as those still paying their debt to society for offences serious enough to warrant a sentence of a year or more, to stand as a Deputy.
- 5.25 The Committee therefore recommends the States to amend the restriction on eligibility to hold the office of People's Deputy at Article 8(e) of the Reform Law so that it only applies to:
- persons convicted of electoral offences, fraud or corruption in the five years immediately preceding the date of the election; and
 - persons serving a sentence of imprisonment of a year or more or an indefinite period, or who have been so sentenced but are unlawfully at large.

6 Compliance with Rule 4

- 6.1 Rule 4 of the Rules of Procedure of the States of Deliberation and their Committees sets out the information which must be included in, or appended to, motions laid before the States.

6.2 In accordance with Rule 4(1):

- a) In preparing the propositions, consultation has been undertaken with the Committee *for* Home Affairs, the Registrar General of Electors, Law Officers of the Crown, and the Bailiff.
- b) The propositions have been submitted to His Majesty's Procureur for advice on any legal or constitutional implications.
- c) There are no financial implications to the States of carrying the proposals into effect.

6.3 In accordance with Rule 4(2):

- a) The propositions relate to the Committee's duties and powers to advise the States and to develop and implement policies in relation to elections to the office of People's Deputy.
- b) The propositions have the unanimous support of the Committee.

Yours faithfully

C.P. Meerveld
President

L.C. Queripel
Vice President

S.P. Fairclough
J.A.B. Gollop
L.J. McKenna

THE STATES OF DELIBERATION
of the
ISLAND OF GUERNSEY

STATES' ASSEMBLY & CONSTITUTION COMMITTEE

GENERAL ELECTION 2025

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

2nd November, 2023

Dear Sir,

Preferred date for consideration by the States of Deliberation

In accordance with Rule 4(3) of the Rules of Procedure of the States of Deliberation and their Committees, the States' Assembly & Constitution Committee requests that the General Election 2025 Propositions be considered at the States' meeting to be held on 13th December 2023.

Yours faithfully,

C.P. Meerveld
President

L.C. Queripel
Vice President

S.P. Fairclough
J.A.B. Gollop
L.J. McKenna