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## **STATES OF JERSEY ELECTORAL COMMISSION**

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### **Introduction**

1. The States of Jersey has established an Electoral Commission to consider the classes of States member, their constituencies and mandates, the number of States members and their terms of office. The Commission has published a very helpful discussion paper setting out the issues and is seeking views.

2. This a personal submission by someone who has experience of the Jersey political system (as author of a number of reports for the States, Chairman of the Jersey Competition Regulatory Authority and Chairman of the States of Jersey Development Company) and relevant experience in another jurisdiction as Chairman of the City of London Policy and Resources Committee.

### **Summary**

3. The current electoral system contributes to poor policy outcomes, is undemocratic, gives much weight to parochial issues, and is costly and complicated.

4. A new system should seek to meet the tests of being simpler, more democratic, recognise the status of parishes and reduce the number of members.

5. 51 members is too many; 44 seems about right.

6. Constables should remain in the States as the properly elected representatives of the parishes. Similarly, a significant group of members elected on an Island-wide basis is essential given that Jersey is a single economy with a single set of issues. In electing Senators the public is in effect selecting the people who will hold senior ministerial positions. Accordingly, the weight of senators should be increased; ten out of 44 members is appropriate.

7. For deputies, constituencies should be of similar sized electorates with similar numbers of members, but adjusted to reflect the position of constables. This could be achieved by creating six three or four member constituencies or ten two or three member constituencies.

8. The term of office for senators should be increased to six years, reflecting the effort required to run an island-wide campaign. Ideally, deputies should serve for four or five years. There is no strong reason for aligning the elections and terms of office of constables and those of other States members and no case for a general election given that members are elected individually rather than on a party platform. The move to a single election date was a mistake.

9. All of the ideal tests for a new system cannot be met, and there is always a case for building on the present structure as far as possible. This points to retaining senators, deputies and constables, but with equal status once elected, and reducing the number of years in which there are elections, preserving the three year term for deputies and introducing a six year term for senators.

## The current system

10. The current electoral system is not fit for purpose.
11. It has produced a States which is ineffective –
  - It frequently produces poor policy outcomes, sometimes after excessive and lengthy debate.
  - There is a concentration on process not substance and continual questioning of past issues rather than consideration of current and future issues. The process of appointment of a person (or the Electoral Commission) can attract huge debate. By contrast, an economic strategy for the Island attracts little debate.

11. However, the failings of Jersey's political system cannot all, or even mainly, be attributed to the electoral system. Having the right people is more important than having the right system. The existing system is capable of producing better outcomes if the elected members behaved differently. The Machinery of Government Review Sub-Committee is examining some of these issues – and to the outside observer the two separate reviews are an example of the lack of joined-up government in Jersey.

12. The electoral system is undemocratic. It is a central tenet of a democracy that voters have a reasonably equal say in choosing their elected representatives. The 1,752 residents of St Mary have a deputy and a constable in the States. By contrast it takes 5,003 residents to produce a deputy and a constable for St Peter. In a well-researched and helpful letter in the JEP on 21 August Mark Renouf argued that the differences in size of the Jersey constituencies are not out of line with those elsewhere, and he cited the UK where the smallest parliamentary constituency is 31.7% of the average and the largest is 151.7% of the average. However, this is regarded as unsatisfactory and is in the process of being remedied. The Parliamentary Voting System and Constituencies Act 2011 provides that all seats must be within 5% of the average, the only exceptions being the Scottish islands, the Isle of Wight and any constituency (currently one) larger than 12,000 sq km.

13. The system is illogical. Jersey is a small island with one economy, substantially smaller in terms of both population and geographical size than most local authorities in the UK and roughly the size of a single UK Parliamentary constituency. The small size of the constituencies for deputies means that to be elected candidates are inclined to concentrate unduly on local issues (such as preventing new development in the parish) but as States members they are invariably dealing with Island-wide issues.

14. There is a large number of States members and those with no ministerial responsibility are by any standards paid a substantial fee. (All States members receive a fee of £44,182. By contrast the recommended basic allowance for a councillor in London is less than a quarter of this at £10,597.) The more members the greater the cost and the more the scope for pointless debate and point scoring.

15. Finally, the system is unnecessarily complicated with three different types of member. However, the importance of this can be over-stated. Once elected the members all have equal status.

## **Test for a new system**

16. A new system must seek meet the following tests (but recognising some conflict between them) –

- It must reduce the inequality of votes.
- It must be simpler.
- While recognising the place of parishes in the structure of the Island, the size of constituencies must be increased so that Island wide rather than parochial issues dominate at elections.
- The number of members must be reduced.

## **The number of States members**

17. Currently there are 51 States members of whom 24 are ministers or assistant ministers and another 11 are constables who are not also assistant ministers. This leaves 16, some of whom have significant responsibilities by chairing scrutiny panels but most of whom have no responsibilities. This number is on the high side and leads to opposition for the sake of opposition and endless demands for "investigations" or "enquiries" into things that have been done and cannot be undone and demands for more money to be spent on members' pet projects. However, it could not be reduced significantly without running the risk of the scrutiny system becoming ineffective.

18. As an aside, the scrutiny system is clearly working better in the new States than in the old one but there is scope for it to be improve further, concentrating on helping to find solutions to problems rather than seeking to criticise whatever decision ministers have taken. The more States members who are involved in finding solutions the easier it is to justify a higher number of States members.

19. There is no scientific method of identifying the "correct" number of States members. No doubt the Commission is doing some research on the size of legislatures in other jurisdictions, and will probably find that the number in Jersey is not out of line with that in other jurisdictions. 51 members feels too high. 35 would be too low. A number around 44 feels about right. However, it should be noted that very rarely does a legislature vote to reduce its size, or if there is a reduction it is one group of members reducing the size of another group (eg deputies and senators in Jersey). In this context it is not clear if the Commission's conclusions will be put to a referendum, regardless of the views of the States, or rather whether the States must also support the conclusions. If the latter then one fears that any proposal to reduce the number of members, or more specifically deputies, will be difficult to implement.

## **Constituencies**

20. The parishes are an essential component of the Island's structure and have responsibility for dealing with many local issues. The constable is the elected representative of the parish and more than anyone else will be on top of local issues and be recognised as the representative of the parish. It is therefore wholly reasonable that the parishes should be represented in the States by the constables. It is not irrelevant in this respect that because the constables have responsibilities they tend to be among the more responsible States members, less inclined to point scoring and publicity seeking.

21. The next key point is whether senators should remain or rather whether the concept of an Island-wide constituency should be abandoned. Given that Jersey is a single economy with major Island-wide issues it is important for the States to have within it a group of members elected on an Island-wide basis, able to convince a significant proportion of the population that they are the right people to lead the government of the Island. Senatorial elections attract considerable interest and successful candidates need over 10,000 votes to be elected. In practice in electing senators the public is directly electing the people who are likely to occupy senior ministerial positions. It is no coincidence that the two people who topped the senatorial poll in 2011 contested the election for Chief Minister, the unsuccessful candidate now holding the important position of Assistant Chief Minister with responsibility for international affairs. And the person who topped the poll in 2008 is now the Home Affairs Minister and Deputy Chief Minister. More generally, a much higher proportion of senators than deputies are ministers or assistant ministers. There is a need to increase the weight of the senators in the States. The decision to reduce the number of senators from 12 to ten, with a further reduction planned to eight in 2014, was a retrograde move, itself emphasising the need to increase the role of senators. If the number of States members is reduced to 44 then 10 is an appropriate number of senators, the number of deputies falling to 22. If there is no reduction in the number of deputies then the number of senators should be restored to 12.

22. It follows that if constables and senators are to remain in the States and the inequality of votes is to be reduced then the concept of each parish having at least one deputy has to go. It is also important that members should be elected by a sufficiently large number of voters, which points to multi-member constituencies.

23. One approach would be to have six constituencies of roughly equal size, each with three or four members. However, it is important that constituencies recognise parish boundaries so as to preserve the place of parishes in the Island's structure. It follows that constituencies could not be of exactly equal size. The sizes of constituencies should also recognise the existence of constables, so for example a constituency covering four parishes should have reduced representation of deputies. As an illustration only (detailed analysis should be done to produce the best structure) a possible structure (2011 population figures in brackets) could be -

St Helier 1	(16,761)	4 seats + ½ constable
St Helier 2	(16,761)	4 seats + ½ constable
St Saviour	(13,580)	4 seats + constable
St Brelade and St Peter	(14,571)	3 seats + 2 constables
St Clement, St Martin and Grouville	(17,850)	4 seats + 3 constables
St John, St Lawrence, St Ouen, Trinity and St Mary	(17,334)	3 seats + 5 constables

24. An alternative and less radical option would be to have ten constituencies, each electing two or three members. A possible structure could be –

St Helier 1	(10,000)	3 seats + ¼ constable
St Helier 2	(7,781)	2 seats + ¼ constable
St Helier 3	(7,781)	2 seats + ¼ constable
St Helier 4	(7,781)	2 seats + ¼ constable
St Saviour	(13,580)	3 seats + constable
St Clement	(9,221)	2 seats + constable
St Brelade	(10,568)	2 seats + constable

St Ouen and St Peter	(9,100)	2 seats + 2 constables
Grouville, St Martin and Trinity	(11,785)	2 seats + 3 constables
St John, St Lawrence and St Mary	(10,081)	2 seats + 3 constables

25. There is an argument for there being a single Island-wide constituency, given that the issues that the States considers are Island-wide. However, the problem with this is that voters cannot reasonably be expected to select say 32 representatives out of a list of say 100. In practice, six is probably the maximum ideal number of seats in a constituency for the election to be meaningful.

### **Terms of office and elections**

26. Elections are an essential part of the political process, giving elected representatives a mandate and ensuring that they are responsive to the wishes of the electorate. However, too frequent elections are damaging, hindering proper consideration of longer term issues and causing politicians to spend a disproportionate amount of time electioneering rather than getting on with their real job of governing the Island. Three years is on the short side for a term of office for elected representatives. Four or five years is more normal, and ideally Jersey should increase the electoral term.

27. There is the related point of whether there should be a “general election” every three, four or five years, or rather whether it would be more efficient to have phased elections. The move to a “general election” has not been a success. Attention is focussed on the senatorial elections, the elections for deputies and constables tending to be given little weight. There is no logical reason for the constables’ terms of office or their election dates to be coterminous with those for deputies/senators. Constables should be elected for fixed terms of say five or six years, which would mean elections whenever their terms came to an end. There is also little theoretical justification for a general election, given that Jersey does not have party politics but rather is electing individuals.

28. Ten senators are too many to elect in one go. Also, given the difficulty of being elected as a senator (and it should be difficult), in particular managing an Island-wide campaign, a six year term of office looks right, with half being elected every three years. This could be combined with a four or five year term for deputies. One would expect most senators previously to have served as deputies and it seems unfortunate that with the present system deputies must risk everything when they stand as senators. In years when senatorial and deputy elections coincide the senator elections should be held two or three months in advance of the deputy elections to avoid this problem, a return to the old system.

29. The downside of this approach is that there would be elections in too many years. This could point to a compromise, eg of senators being elected for six year terms, half being elected every three years, and deputies being elected for three year terms. This would mean two sets of elections every three years.