

Elections That Work For Everyone

A Consultation Document



Contents

Introduction	2
Direct Consultees	2
Principles.....	3
National and Local Elections	4
Polling Day	6
Alternatives to Voting in Person	7
Returning Officers	8
Election Candidates.....	10
Registration of Electors.....	12
Other issues	15
Appendix - Scope of Review.....	17

Introduction



The Isle of Man has a proud tradition of democracy, being the oldest continuous parliament in the world and one of the first jurisdictions to include women in the franchise in 1881 and lowering the minimum voting age to 16 in 2006.

This consultation is part of the root and branch review of the Isle of Man's election legislation. We are holding it now so that all interested parties have opportunity to genuinely contribute to shaping the direction of this important future piece of legislation.

This consultation intentionally stays away from detail regarding elections and instead poses a series of high level questions on how elections should run in the Isle of Man to elicit the views from members of the public and relevant stakeholders.

To assist with the review and provide an independent viewpoint, the former Chief Executive of the Association of Electoral Administrators, Mr John Turner, has been engaged by the Cabinet Office to advise. A series of stakeholder meetings were held in November 2017 with Mr Turner and staff from the Cabinet Office elections team to obtain views on the existing election legislation and how legislation should look in the future. The following stakeholders were invited to attend these meetings.

- Tynwald Members
- Returning Officers
- 2016 Keys election candidates
- Registered political parties
- Local Authorities and Department of Infrastructure

The Cabinet Office is grateful to all those that attended and the useful discussions have helped with forming the following policy questions. Details of the scope of the review can be found at Appendix 1.

Direct Consultees

In addition to views being welcomed from the general public the stakeholders listed above will be directly invited to contribute to the consultation.

Principles



In reviewing the legislation for elections on the Isle of Man the following aims are suggested as principles which should underpin future policy and legislation for elections .

Aims for Future Election Legislation

- Robust; protecting the integrity of free and fair elections
- Clarity; no areas of grey
- Simplicity; easy to understand
- Consistent; across all public elections
- Modern; enabling of future technology, where appropriate
- Clear on obligations of officials (i.e. Electoral Registration Officer, Returning Officer, Presiding Officer)

Questions

1. Are these the correct aims for electoral legislation and electoral registration?

Yes

No

2. Are there any other aims that should be considered?

National and Local Elections



Presently there is different legislation¹ and rules for [House of Keys](#) and [Local Authority](#) elections. [International electoral standards](#) recommend that there should be consistency as far as possible between any public electoral events in a country and avoid conflicting provisions between national and local election.²

At the stakeholder meeting with Local Authorities there was general support voiced for the principle that there should be consistency across electoral events in the Isle of Man and that there should be the same requirements, in respect of transparency, regardless of whether you are standing for the House of Keys or Local Authority.

The differences between House of Keys and Local Authority elections are many and include:

- Different requirements for candidates to be eligible to stand for election
- Different terms of office; MHKs serve for 5 years and members of Local Authorities serve for 4 years³
- Different arrangements for advance, absent and proxy voting for electors who do not wish or who are unable to vote in person
- No requirements to declare political party affiliation for Local Authority elections
- No limits on candidate election expenditure for Local Authority elections
- No requirement for local authority candidates to declare donations

In many countries combined polls for local and national elections are held on the same day. The evidence suggests that turnout for local elections significantly increase, when combined with national elections.

Questions

3. Should there be a single piece of primary legislation covering all public elections on the Isle of Man?

Yes

No

¹ Representation of the People Act 1995, Local Elections Act 1986, and associated regulations.

² International Institute for Democracy and Electoral Assistance; International Electoral Standards, Guidelines for reviewing the legal framework of elections p15

³ Unless elected at a by election

4. Should the House of Keys and Local Authorities have the same term of office?
- Yes: 4 years**
- Yes: 5 years**
- No**
- Please provide any comments _____**
5. If so, should their elections be held on the same day?
- Yes**
- No**
- Please provide any comments _____**
6. Should the qualifications and requirements for a candidate to stand for election to the House of Keys or a Local Authority be the same?
- Yes**
- No**
- Please provide any comments _____**
7. Should the means of absent voting be the same for House of Keys and Local Authority elections (advance, absent and proxy votes)?
- Yes**
- No**
- Please provide any comments _____**
8. Should membership of a political party be declared on the ballot paper for Local Authority elections, as it was for House of Keys elections in 2016?
- Yes**
- No**
- Please provide any comments _____**
9. Should Local Authority candidates be under the same requirements for candidate expenditure and declaration of donations as House of Keys candidates?
- Yes**
- No**
- Please provide any comments _____**
10. Should the rules for Local Authority elections be consistent with the rules for House of Keys elections?
- Yes**
- No**
- Please provide any comments _____**

Polling Day



In 2006 primary legislation was changed so that the general elections, from 2011 onwards for the House of Keys were held in September rather than November. This was a move intended to increase turnout. Following the 2016 general election feedback was received by some candidates that the poll should be moved later in the year due to the holiday period occurring in August and for some people, into September.

Historically elections in the Isle of Man, like the UK, have been held on a Thursday. The reasons for this date back centuries. Other countries hold polls at the weekend. There are both pros and cons to this; some argue that it increases turn out and it allows use of public buildings such as schools to be used more widely for polling stations. However others argue that turnout is likely to fall as people would be dissuaded from voting at the weekend plus there are religious concerns regarding holding polls on either a Saturday or Sunday.

Polling stations are open for a 12 hour period on polling day from 8 am to 8pm; whilst in the UK they open from 7am until 10 pm,

Comments were made in the Report of the Select Committee on the Organisation and Operation of the General Election about the role of 'tellers' or candidate supporters outside a polling station. Some people are in favour of a *cordon sanitaire*, a defined 'sterile' region around the polling station. Others are in favour of having candidates and their agents, tellers or supporters outside the polling station, or limiting the number of persons that may stand outside the polling station.

Voters are not required to show identification at the polling station. Some people believe that showing identification would be a means to prevent electoral fraud; others see it as unnecessary, bureaucratic and a potential deterrent from voting.

Questions

11. Should the General Election continue to be held in September?

Yes

No – Please select which month the General Election should be held

Jan Feb Mar Apr May Jun Jul Aug Oct Nov Dec

12. Should polling day continue to be held on a Thursday?

Yes

No – Please select which day of the week elections should be held

Mon Tue Wed Fri Sat Sun

13. Should polling stations be open for a different amount of time?

Yes

No

14. If so, what should the hours of polling be?

15. Should Tellers/Agents be allowed at the Polling Station?

Yes - Tellers/Agents allowed

No – Tellers/Agents not allowed

Please provide any comments _____

16. Should all electors have to provide a form of identity when voting?

Yes – ID required

No – no ID required

Please provide any comments _____

Alternatives to Voting in Person



For House of Keys elections anyone can choose to cast their vote in advance by contacting their returning officer. This option is open to every registered elector and there is no requirement to state the reason for wishing to do so. The advance vote could be cast either by visiting the returning officer's premises or by returning officer staff attending the voter's

home address. The deadline for advance voting, for voters in the Isle of Man, closed 6 days before the poll.

Appointment of a proxy to vote on your behalf, known as proxy voting, is available for electors who **are unable** to cast an advance vote or vote in person.

According to the International Institute for Democracy and Electoral Assistance⁴ proxy voting is a practice which should be discouraged – they state "*Legislation should make it clear that every voter's ballot must be **marked and cast individually and secretly.***"

In Local Authority elections if you are unable to vote in person you may cast an **absent** vote by making arrangements with the Local Authority.

In some jurisdictions you may vote in advance of a poll by **postal voting**. Some people support postal voting as a convenient way of casting a ballot ahead of an election, which may increase turnout; others do not support postal voting due to concerns about its security or potential for abuse. In the United Kingdom checks are made on the signatures of the declaration accompanying the ballot, against the elector's signature held on file.

Questions

17. Should the practice of proxy voting continue for House of Keys elections?

Yes

No

18. Should there be Postal Voting as an alternative to the current Advance and Absent Vote systems?

Yes

No

19. Should there be restrictions on who can exercise an Advance Vote?

Yes

No

Returning Officers

⁴ <https://www.idea.int/>, International Electoral Standards, Guidelines for reviewing the legal framework of elections



In the Isle of Man the tradition is that returning officers for House of Keys elections are, but need not be, advocates nominated by the Isle of Man Law Society. Returning officers are paid a flat fee of £10,000 for a contested House of Keys election, from which they are required to meet all of their electoral expenses, including paying assistant returning officers, presiding officers, polling and count staff.

For Local Authority elections Returning Officers are the Chair of the Authority, or if there is a conflict of interest, the Returning Officer is usually the Clerk. Fees can be paid to officials acting in local elections (i.e. poll clerk etc) and these are fixed by Order).

In the United Kingdom Returning Officers are Local Government officials, usually the Chief Executive.

Questions

20. Do returning officers for House of Keys elections need to be Advocates?

Yes – they need to be Advocates

No – they don't need to be Advocates

Please provide any comments _____

21. Could Government or Local Authority employees act as returning officers for House of Keys elections?

Yes – they can be Government or Local Authority employees

No – they should not be Government or Local Authority employees

Please provide any comments _____

22. Is it appropriate to have politicians acting as returning officers for Local Authority elections?

Yes – Politicians allowed to be returning officers

No – Politicians should not be acting as returning officers

Please provide any comments _____

23. Should there be a specific offence of acts of omission/breach of official duty by a returning officer and/or his/her staff?

Yes

No

Election Candidates



For the 2016 House of Keys election new measures to improve the transparency of elections were in place for the first time; these included a cap on candidate expenditure (£2,500 plus 50p per registered voter per constituency) and an obligation to declare donations received. As mentioned previously these requirements do not apply to candidates at local elections.

Currently candidates do not have to return details of their expenditure unless a complaint was made to the Electoral Registration Officer. The International Institute for Democracy and Electoral Assistance states that limitations on contributions or campaign expenditure are meaningless without transparent reporting and disclosure requirements.

The relevant period in which candidates (and prospective candidates) are required to monitor election expenses and donations received is defined as 12 months before polling day (and in a by election, beginning on the date of the vacancy and ending on polling day). There was uncertainty about when a person became a prospective candidate (i.e. on public declaration) and how this interacted with the 12 month requirement.

Around the 2016 election and subsequent Tynwald Select Committee there was much discussion about the offence of 'treating' which is defined as the provision of food or drink to a voter with corrupt intent and the Select Committee has recommended that the Cabinet Office provide guidance on the offence.

The corrupt intent element of the current offence withstanding, some people argue that candidates should be able to provide hospitality to electors without fear of committing an offence. Others argue that no hospitality at all should be provided, for fear of swaying voters

Candidates standing for election to the House of Keys are presently entitled, by law, to receive funding to cover delivery of one copy of their manifesto to each household containing one of more persons on the electoral register for their constituency. Additionally the law now requires the Chief Secretary to display manifestos online for the election campaign should the candidate wish. A total of £65,126 was spent by the Cabinet Office in funding delivery of candidates' manifestos for the 2016 general election.

Questions

24. Should candidates be allowed to provide 'ordinary' hospitality at public meetings? (i.e. food and drink)
- Yes**
- No**
25. Over what period should a candidate, prospective candidate or individual have to declare any expenditure or donations received prior to a poll?
- 12 months**
- Less than 12 months**
- More than 12 months**
26. Is the current limit on expenditure by a candidate of £2,000 plus 50 pence per registered voter appropriate?
- Yes**
- No – Limit should be higher**
- No – Limit should be lower**
27. Should all candidates (successful or otherwise) have to declare their expenditure on their campaign costs?
- Yes - All required to declare expenditure**
- No – not required to declare expenditure**
- Please provide any comments _____**
28. Should Government continue to pay for the postage of manifestos, given that there are alternative methods for candidates to promote their policies?
- Yes**
- No**
- Please provide any comments _____**
29. Should the definitions for the election offences of bribery, treating and undue influence be revised?
- Yes – they should be revised**
- No – keep as they are**
- Please provide any comments _____**
30. Should the use of social media by candidates and parties be covered within the law?
- Yes**
- No**
- Please provide any comments _____**

31. Should there be a requirement for any member of the House of Keys or a Local Authority who is standing for re-election to declare any donations made to electors in the 12 months prior to the scheduled date of the election in question?

Yes

No

Please provide any comments _____

32. Should there be guidance for candidates linked to a statutory code of conduct for all elections?

Yes

No

Please provide any comments _____

33. If so, should such a code contain clear guidance on the provision and placement of posters and other advertising?

Registration of Electors



The international standard for voter registration is that the register must be comprehensive, inclusive, accurate and up to date and the process must be fully transparent.

Presently the electoral register is compiled using information supplied by households. Each year the elections team write out to every residential property on the Island asking for details of every eligible elector entitled to be registered; this is known as the annual canvass. This process ensures that the register is accurate and up to date.

[The law](#)⁵ currently states that it is compulsory to supply information, when requested, to the Electoral Registration Officer. As every residential property is written to annually to request details of persons eligible for registration, theoretically everyone eligible should be registered. Many people advise the election team that they do not wish to be on the electoral register, even when they are informed that it is an offence not to supply the requested information.

⁵ Registration of Electors Act 2006 and associate regulations

The electoral register is currently updated four times a year with a new register being published on the following dates; 1 January, 1 April, 1 July and 1 October. In addition the legislation allows for an updated register to be issued 7 days before a general election

To be registered as an elector an individual is required to live on the Isle of Man for a period of 12 months before they are eligible to be registered.

Two versions of the electoral register are compiled. The full register is available for public inspection at certain places only whilst the edited register can be purchased and used for purposes such as marketing.

Some countries allow people to be registered anonymously on the electoral register. This is usually when there is a concern about the person's, or a member of the household's safety. There is usually an attestation process where an official, i.e. police officer or social worker declares that the individual would be at risk if their name were to be on the electoral register, which can be publically inspected.

In August 2017 the Cabinet Office consulted on 'Smarter Use of Your Data'⁶. In that consultation questions were asked about the automatic compilation of the electoral register from sources of personal data, held elsewhere in Government, statutory gateways permitting. There were 91 responses to this consultation. 66% of respondents agreed that the electoral register should be compiled and kept up to date automatically, with 66% also agreeing a change in legislation in principle for this purpose.

Public inspection of the elector register and having periods where changes, additions or deletions can be objected to deters the likelihood of fraudulent registrations.

Questions

34. Whose responsibility should it be to ensure that eligible electors are registered?

The individual

A person acting on behalf of the household

Government by using information it already holds

35. Should you be registered automatically, using data or information that the Government already holds?

Yes

No

Please provide any comments _____

36. Is a 12 month residency criteria appropriate?

Yes

No

⁶ <https://consult.gov.im/cabinet-office/smarter-use-of-your-data/results/20171122-smarter-use-of-your-data--single-resident-record-summary-of-consultation-responses-nov-2017-final.pdf>

37. If not, what would be an appropriate period?
38. Should electoral registration remain compulsory?
Yes – but there should be a right to “opt out” in particular circumstances
Yes – and there should be a criminal penalty for failing to register or supply information
Yes – and there should be a fixed civil penalty
No – not compulsory
Please provide any comments _____
39. How often should the electoral register be updated?
Quarterly
Monthly
Annually
Only in the year of a general election
Please provide any comments _____
40. Should there be an annual canvass?
Yes – keep it annual
No – just have it in the year of a general election
Please provide any comments _____
41. Should there be an edited register?
Yes
No
Please provide any comments _____
42. If so, should an elector be deemed to have opted out of the edited register unless they have specifically agreed to opt in?
Yes
No
Please provide any comments _____
43. Should anonymous registration be available for people whose safety might be at risk if they appear on the electoral register?
Yes
No

Please provide any comments _____

44. Should a first time applicant have to produce proof of identity and/or evidence of their eligibility for registration?

Yes – ID required

No – ID should not be required

Please provide any comments _____

45. Should objections to register additions, changes or deletions be able to be made at any time or within a set time period relative to the publication of the register?

Yes – anytime

No – Set time period

46. How long before an election should it be possible to register to be able to vote at that election?

47. Should it be possible to apply to be added to the register on the day of an election subject to the necessary safeguards and requirements being in place?

Yes

No

Please provide any comments _____

48. Should the date for the provision of the register be the same for all elections (i.e. general elections, by elections and local government elections)?

The same for all

Keep as they are

Please provide any comments _____

Other issues



During the stakeholder meetings a number of other assorted issues were raised, upon which it would be useful to get the views of the public to help shape future policy direction.

Questions

49. Should members of the public (registered electors) have the ability to recall elected Members in certain prescribed circumstances?

Yes

No

Please provide any comments _____

50. Should there be a fixed period between an employee leaving the service of the Government or a Local Authority before that person can stand as a candidate for election to the same body?

Yes – fixed period should apply

No – they can stand at any time

Please provide any comments _____

51. Should a candidate be allowed to stand in more than one constituency/Local Authority area at the same election?

Yes

No

Please provide any comments _____

52. Should a candidate have to live within the constituency they wish to represent?

Yes – they have to live there

No – they can represent any chosen constituency

Please provide any comments _____

53. Should there be universal guidance for the conduct of election counts to ensure consistency of practice?

Yes

No

Please provide any comments _____

54. Should there be an additional process to deal with election complaints which do not fall within the election petition process?

Yes

No

Please provide any comments _____

Appendix - Scope of Review

The review will consider, but is not limited to looking at the following topics

<p>1. Voting arrangements</p> <ul style="list-style-type: none">• Polling districts• Polling stations (accessible public buildings)• Security marks for ballot papers• Timing of elections• Rules for HoK or LA elections• Place and manner of voting• Notices relating to an election <p>2. Absent voting mechanisms</p> <ul style="list-style-type: none">• Advance• Proxy• Postal <p>3. Responsible officers</p> <ul style="list-style-type: none">• Need for ROs to be advocates• Who appoints• Disqualification of responsible officers• Expenses, fees and costs <p>4. Electoral offences</p> <ul style="list-style-type: none">• Corrupt practices• Illegal practices• Criminal offences• Electoral registration offences	<p>5. Electoral campaigning</p> <ul style="list-style-type: none">• Candidates expense limits• Donations• Returns and declarations• Election agents• Tellers• Campaigning offences• Restrictions on officers <p>6. Legal Proceedings</p> <ul style="list-style-type: none">• Questioning of an election• Procedures on election petitions• Consequences of doing corrupt or illegal practice• Application for relief• Incapacities <p>7. Referendums</p> <ul style="list-style-type: none">• Referendums Act 1979 <p>8. Public policy questions</p> <ul style="list-style-type: none">• Electoral administration• Local government elections• Storage of election documents• Penalty for failing to provide information• Obstructions to voting• Recall of elected members• Media activity
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The following matters are **out of the scope** of the review:-

- House of Keys constituency boundaries
- Reform of Legislative Council
- Alternative voting systems (such a single transferrable vote)
- Local Government reform (structures and functions)