

POLICY AND PERFORMANCE COMMITTEE

Report with Propositions to Christmas Chief Pleas, 20th January 2016

SARK ELECTIONS 10th DECEMBER 2014

REPORT OF THE INDEPENDENT OBSERVER: HOWARD KNIGHT

RESULTS OF THE PUBLIC CONSULTATION (with correction)

Howard Knight was the independent observer of the Election due to be held on the 10th December 2014. The final version of his full report was discussed together with a truncated report summarising the independent observer's recommendations at Easter Chief Pleas on the 15th April 2015.

An information report presented at Michaelmas Chief Pleas on the 30th September 2015 informed Chief Pleas that the Policy and Performance Committee intended to consult with the people of Sark and report back to Christmas Chief Pleas in January 2016 with the results of its findings.

Public Consultation forms were delivered to households throughout Sark at the end of October 2015 and additional forms were made available from the Committee Office, Gallery Stores, or could be downloaded from the Government website. The deadline for views and comments was by no later than 5pm on Monday 23rd November 2015.

At the completion of this Public Consultation exercise, 50 responses had been received of which 31 were signed and 19 were from respondents who preferred to remain anonymous. All but one of the respondents entered fully detailed answers to the questions and comments throughout the form.

The following details the recommendations contained in the consultation (in **BLUE**) followed by an analysis of the public's responses together with comments made by the respondents. There are a set of propositions at the end of this report.

1. Election Timetable

Recommendation: *Returning Officer should submit proposals for the next Election Timetable to Chief Pleas, with a view to being able to publish such timetable during 2015.*

Public Response

Agree with 2015 18 (36%) Prefer 2016 26 (52%) Non-committal 6 (12%)

Note that the responses are given by number of respondents followed by (percentage of total respondents)

Whilst 36% of respondents agreed with the recommendation, a majority of respondents (52%) expressed the view that a longer period was required but a year was not necessary. Various timetables were suggested but, averaged out, the proposition is that the Election Ordinance be put to Michaelmas Chief Pleas (end of September/ beginning of October) in election years and the timetable announced at the same time. The timetable should allow two weeks for submission of nomination papers and 19 days are considered enough for voters to decide who to vote for.

2. Electoral Registration

Recommendation (1): *The government of Sark should initiate a citizen discussion on 'the duty to register', exemplifying practices from other countries, including those that operate sanctions.*

Public Response (1)

Agree: 26 (52%)

Disagree: 18 (36%)

Non-committal: 6 (12%)

The general response was that there should be a duty to register but not compulsion. Some respondents commented that registration is not made easy and more publicity is needed - in the past people have not known until it is too late. It was suggested that the Greffier should organise a mail drop to all residents inviting them to register giving them the criteria (e.g. two years residency, etc.) and stating how to register. Thereafter there should be a follow up annually, to update/register/deregister.

Recommendation (2): *The government of Sark should propose for consultation and, in the light of any responses, determine a definition of 'ordinarily resident'.*

Public Response (2)

Agree: 39 (78%)

Disagree: 3 (6%)

Non-committal: 8 (16%)

Most respondents mentioned the urgency of defining an 'ordinary resident' and one stressed that "a person who pays tax is 'ordinarily resident' and this must run parallel with Section 9 of the 'Direct Taxes Law'". Another respondent felt that as a general rule, if you are eligible for taxation then you are eligible to vote subject to age and minimum residency. "No taxation without representation".

3. Voting

Recommendation: *The government of Sark should consider whether 'compulsory voting' should be included in any consultation on election arrangements.*

Agree: 10 (20%)

Disagree: 38 (76%)

Non-committal: 2 (4%)

Although some respondents agreed with the recommendation on the ground that compulsory voting will destroy the accusation that elections are not democratic or that it would remove the grievance that electors are not represented, a significant majority felt that the residents of Sark must be allowed to make up their minds whether they vote or not with one respondent stressing that compulsory voting is unnecessary as Sark usually has a high turnout "by community spirited people".

4. Ballot Paper

Recommendation: *The government of Sark should consider whether 'the ballot paper should provide the opportunity to have a short candidate description'.*

Agree: 17 (34%)

Disagree: 30 (60%)

Non-committal: 3 (6%)

This recommendation provoked a divergence of views with one suggesting that a description should be short, uncontroversial and formulaic, e.g. age, residency, years in Chief Pleas, and

two other respondents suggested the inclusion of candidates' photos. A majority of respondents opposed the recommendation on various grounds that; in such a small community the candidates are known to the electorate, or that the ballot paper should not be a "medium of information or misinformation". A significant number of respondents, both for or against this recommendation, felt that it was essential that all candidates should produce a manifesto.

5. Postal, proxy, assisted and mobile voting

Recommendation: *The government of Sark should consider whether 'the introduction of a provision for proxy voting'.*

Agree: 24 (48%)

Disagree: 17 (34%)

Non-committal: 9 (18%)

Although 48% of respondents supported proxy voting against 34% who were opposed, 28% of respondents supported postal voting and two supported online voting. Some respondents who supported proxy voting suggested that only one proxy vote per elector be allowed. A number of respondents felt that the provision of facilitating voting for the infirm, bedridden, etc., is desirable. One respondent suggested that those who may have difficulty on the day whether through disability or unavoidable absence could have the provision to register their [sealed] vote beforehand to the Returning Officer or Deputy Returning Officer.

Paragraph 44 of the Independent Observer's report states that, "*Secure postal voting is administratively complex and would require an extended election timetable. For those reasons, I do not recommend that Sark should consider providing for postal voting*".

Three propositions are tabled at the end of this report allowing for introducing for future elections, a controlled system of proxy voting, rejection of postal voting, and the provision arranged by the returning officers for electors unable to attend the polling station on Election Day to register their [sealed] vote beforehand.

6. Candidates and nominations

Recommendation (1): *The government of Sark consider whether it should initiate a programme designed to increase knowledge about the government and governance of Sark, including for potential candidates.*

Agree: 27 (54%)

Disagree: 17 (34%)

Non-committal: 6 (12%)

There was a divergence of views between those who believe that efforts to increase knowledge about the government and governance of Sark, including for potential candidates, is much needed and would be helpful, some respondents who opposed the recommendation on grounds that such a programme would be a waste of time as it is easy to find out about the government in a small community and one who declared that the purpose is already served. A number of suggestions were made, i.e. once Chief Pleas decides how the new committee structure works best, a pamphlet could be published explaining about Sark government. This could be of interest to the public and also to visitors. Also, the existing mail drop to invite nominees for election could carry more information.

Recommendation (2): *The government of Sark should consider whether there should be a daily publication of valid candidate nominations or whether valid candidate nominations should remain confidential until the close of nominations at which a single list of candidates should be published. A decision should be taken in time to implement at the next election.*

Agree: 28 (56%)

Disagree: 15 (30%)

Non-committal: 7 (14%)

A majority of respondents supported the status quo with a daily list of candidates. One argued, "Why keep the list confidential when the candidates are standing for public office?" Others suggested that a daily list might encourage others who were hovering. It was also suggested that a daily list allowed voters the opportunity to immediately approach declared candidates. One respondent preferred confidentiality until a final complete list of candidates is published for the opposite reason that a daily list "...can be a discouragement to people who are considering standing". Another respondent suggested that the number of valid nominations should be published but not done by name. The proposition is that the status quo be maintained publishing a daily list of candidates.

7. Candidates' communications

Recommendation: *The government of Sark should continue to encourage and to provide the opportunity for candidates to publish their 'manifesto'. It might also wish to consider encouraging a civil society organisation or group to arrange hustings or debates at the next election.*

Agree: 33 (66%)

Disagree: 7 (14%)

Non-committal: 10 (20%)

Most respondents favoured encouraging candidates to provide a manifesto and for the Sark government to make provision for this. One respondent did not know this was already encouraged. Another respondent suggested a provided format, limited size and extent, so that less wealthy candidates are not disadvantaged. Some respondents were opposed to government involvement on the grounds that public money should not be spent on this activity, or simply that it should be left to each candidate whether or not they produced a manifesto.

Despite mentioning poor attendance at hustings, most respondents favoured having them although one suggested that they should be at the candidates' expense. Two respondents felt that the Electoral Reform Society should be considered as "they would bring credence, confidence and expert knowledge to the process". One respondent suggested rather than hustings, a debate on specific topics could be held in each of the three weeks leading up to the elections – "candidates' worth and depth becomes apparent".

8. By-elections

Recommendation: *The government of Sark re-affirms that any by-elections to be held on the same day as a general election should form part of a single election, with a ballot determining which successful candidates serve which terms of office.*

Agree: 37 (74%)

Disagree: 5 (10%)

Non-committal: 8 (16%)

A significant majority supported the recommendation. Some respondents felt that the electorate should be given the choice of who fills the by-election places as well as the general election places whilst others suggested that successful candidates that do not want a four year term could opt to fill the by-election seat.

Three respondents favoured by-elections being held separately. Three respondents suggested that By-elections should be called as soon as there are vacancies, two preferred to have a By-election for each single vacancy for the outstanding period to fulfil and one respondent opted for two vacancies. If this should happen to fall on the same day as a half house election, then "the candidates must stipulate which term they are standing for. If they wish to be considered for both then the voter should be able to indicate with their vote how long a candidate serves".

There are two propositions at the end of this report. The first proposes maintaining the current law; when there is a General Election of 14 Conseillers plus casual vacancies requiring a By Election that are combined in the same ballot and such an election is contested by more candidates than available places, the 14 candidates with the largest number of votes be elected to the 14 seats that are being vacated and the remaining casual vacancies be filled by those with the next highest votes. In the event that such a combined election is uncontested, a ballot be held to determine which successful candidates serve which terms of office.

The second proposition is that By-elections should be called as soon as there is a single vacancy, for the outstanding period to fulfil. However, it should be noted that there is a significant cost amounting to in excess of £1,000 for each by-election. What should also be taken into account are the logistics and multiplication of costs associated with perhaps having to hold a series of single by-elections as each vacancy occurs.

9. Marked Register

Recommendation: *In the interests of transparency, the government of Sark should be minded to ensure the publication, with availability for continuing inspection, a Marked Register confirming the identity of those who did and did not vote at an election.*

Agree: 21 (42%)

Disagree: 22 (44%)

Non-committal: 7 (14%)

This recommendation created a degree of misunderstanding as to its purpose. The marked register is common practice in all United Kingdom elections (at every level) as it provides the Returning Officer with a cross-check against the number of ballot papers of how many electors have voted, thus confirming the turnout. Another respondent felt that a marked register should not be available for public inspection but should be available to the courts in case of a dispute.

A number of respondents were opposed to having a marked register on grounds of personal intrusion (“voting is a personal choice - why should it be marked publicly?”) and did not seem to realise that it is already done in Sark by the Returning Officer. The proposition is that the Returning Officer’s Marked Register confirming the identity of those who did and did not vote at an election is not published.

10. Any other Relevant Comments

Over half the respondents made additional comments. Those that are not already included in the responses to the recommendations above are summarised as follows:

The report of the independent observer of the Election “confirms that all arrangements for the election were excellent. It is reasonable to assume that, had an election taken place, it would have received an absolutely clean bill of health”.

“While I am encouraged that Chief Pleas are asking for public opinion, I feel that they have picked only certain parts of the report to comment on”.

“Whilst prepared to have an election observer, he has overstepped his role. We did not ask him for advice on what to change, only to see that matters were dealt with in a fair and open manner on Election Day”.

“Doubt if in future Chief Pleas needs such an intensive report as the current one”.

“Key issues to be addressed: - number of willing and able Conseillers is unsustainable; their roles are confused administrator or representative and this makes communications with their electors difficult, some people feel unable to vote for any candidate”.

“Deeply concerned that fewer and fewer candidates will stand due to vilification and totally unwarranted character assassination they will be subjected to”.

“All candidates should be limited to a maximum four year term, whereupon they would not be eligible to stand for two years. This would allow for new ideas and fresh approaches to government”.

“The government of Sark should reduce its number of Conseillers”.

The comments above comprise a random selection of personal opinions made by individual respondents and, as such, have not been used to formulate the following propositions.

Proposition 1 –

That the Election Ordinance be put to Michaelmas Chief Pleas in election years and the timetable announced at the same time. That the timetable allows two weeks for submission of nomination papers and closure of nominations 19 days before Election Day.

Proposition 2 (1) –

That there should be a mail drop from the Greffier to all residents inviting them to register giving them the criteria and stating how to register and a follow up annually, to update/register/deregister.

Proposition 2 (2) –

That the ‘Definition of a Resident PDT’ is urged to complete its work as soon as possible.

Proposition 3 –

The government of Sark should accept the majority view from the public consultation and oppose the introduction of ‘compulsory voting’.

Proposition 4 –

The government of Sark should accept the majority view from the public consultation and oppose the provision of a short candidate description on the ballot paper.

Proposition 5 - (a) –

That a controlled system of proxy voting be introduced for future elections with only one proxy vote per elector, renewable every two years.

Proposition 5 - (b) –

That a controlled system of postal voting should not be introduced for future elections.

Proposition 5 - (c) –

That those electors who may have difficulty on the day through disability should have provision as arranged by the returning officers to register their [sealed] vote to the Returning Officer or Deputy Returning Officer.

Proposition 6 (1) –

The government of Sark supports all initiatives to increase knowledge about the government and governance of Sark, including for potential candidates.

Proposition 6 (2) –

That, in the run up to Election Day, the status quo be maintained publishing a daily list of candidates.

Proposition 7 –

That the government of Sark should continue to encourage and to provide the opportunity for candidates to publish their ‘manifesto’ and arrange hustings or debates at the next election, if possible, by an independent organiser.

Proposition 8 - (a) –

That when there is a General Election of 14 Conseillers plus casual vacancies requiring a By Election that are combined in the same ballot and such an election is contested by more candidates than available places, the 14 candidates with the largest number of votes be elected to the 14 seats that are being vacated and the remaining casual vacancies be filled by those with the next highest votes. In the event that such a combined election is uncontested, a ballot be held to determine which successful candidates serve which terms of office.

Proposition 8 - (b) –

That By-elections should be called as soon as there is a single vacancy, for the outstanding period to fulfil.

Proposition 9 –

That the Returning Officer’s Marked Register confirming the identity of those who did and did not vote at an election is not published.

**Conseiller Charles Maitland
Chairman, Policy and Performance Committee**