

EXECUTIVE COUNCIL

PUBLIC

Title: General Election 2021

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Responsible Director: Attorney General

Report Author: Registrar General

Portfolio Holder: MLA Roger Spink

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For Policy Decision

Publication: Yes

Previous papers: N/A

List of Documents: N/A

1. Recommendations

Executive Council is recommended to:

- (a) Request that the Legislative Assembly be dissolved by Proclamation on 24 September 2021.
- (b) Request that the date of election be set by Proclamation as 4 November 2021.
- (c) Note that no other Returning Officer has been appointed and that the Chief Executive will be the Returning Officer for the election for both constituencies.
- (d) Note the intention to publish the Notice of Election on 24 September 2021, and that the timetable set out in paragraph 4.6 is intended to be followed.
- (e) Note that it is intended that the polling places to be appointed will be as described in paragraph 4.8
- (f) Note that it is intended that mobile polling in Camp will take place substantially as described in paragraph 4.7, and voting in institutions as described in paragraph 4.9

(g) Note that no change is proposed in relation to candidates' maximum election expenses, as described in paragraph 5.3

(h) Note that guidance will be given to public officers in relation to the period up to the election.

2. Additional Budgetary Implications

2.1 There are no additional budgetary implications, as sufficient funding to meet the costs of the election was provided in the 2021/22 approved budget.

3. Executive Summary

3.1 A general election is required soon, and it is desirable to decide when this will be, for Executive Council to note the current plans and assumptions around the election, and offer advice where appropriate.

4. Background

4.1 The Constitution upholds the right to self-determination and free and fair elections are a fundamental plank of a democratic society.

4.2 The Constitution sets the framework for election of members to the Legislative Assembly. This is then supplemented by detailed rules, as set out in the Electoral Ordinance 1988 and associated subsidiary legislation.

4.3 The previous general election was held on 9 November 2017, and the Legislative Assembly first met on 13 November 2017. The Assembly must therefore be dissolved by no later than 12 November 2021, and a general election must be held within 70 days of that date (by 21 January 2022).

4.4 It is intended, however, that an election be held in the normal way in November, and it is therefore proposed that the Legislative Assembly be dissolved early, in September, to facilitate this happening. Dissolution is effected by the making of a Proclamation by the Governor. At the same time, of election are to be issued.

4.5 The Electoral Ordinance 1988 sets out the detailed framework for the election. The Timetable following dissolution and proclamation as to the date of the election follows the requirements of section 50 of the Ordinance as follows:

50 Election timetable

The proceedings at an election subsequent to the issue of the writ shall be conducted in accordance with the following timetable:

(a) notice of the election ("the notice") shall be published in the Gazette as required by section 51 not later than the third business day from the day on which the returning officer received the writ;

(b) nomination papers shall be obtainable from the returning officer during a period beginning not later than the third business day after the day on which the returning officer received the writ and ending with such day as is specified in the notice

and being not earlier than fourteen days from the date of publication of the notice nor later than twenty-one days from such date;

(c) the last day for delivery to the returning officer of completed nomination papers shall be the last day on which nomination papers may be obtained from him;

(d) the last day for withdrawal of nominations shall be the last day on which completed nomination papers may be delivered to the returning officer;

(e) a list of candidates, if there is to be a poll, shall be published not later than the fourth business day following the last day for delivery to the returning officer of completed nomination papers; and

(f) the day on which a poll is to be taken ("polling day") shall (if the election is contested) be not earlier than thirty-five days following the publication of the notice and not later than forty-two days following such publication.

4.6 The key dates which are proposed are as follows:

Date	Activity
24/09/2021	Proclamation of Dissolution made
24/09/2021	Proclamation of Appointment of election date
24/09/2021	Notice of Election Published
24/09/2021	Nomination papers available and period for nominations opens
15/10/2021	Nominations close
21/10/2021	List of candidates published
03/11/2021	Mobile polling in Camp
04/11/2021	Polling day, including Count and announcement of results
05/11/2021	Writs completed and returned and results published

4.7 The Ordinance makes provision for mobile polling in Camp, and it is proposed that this be undertaken on the day before polling day. The routes to be followed by mobile polling teams will likely be very similar to those followed most recently in the Single Constituency Referendum, but are yet to be finalised. The routes used in September 2020 were:

- a) East Falkland Team 1 – Long Island, Brookfield, Port Louis, Horseshoe Bay and Rincon Grande.
- b) East Falkland Team 2 – Estancia, Riverview, Teal Inlet & Evelyn Station, Hope Cottage, Kings Ridge & Gibraltar Station gate, Elephant Beach, Moss Side, Port San Carlos (Race Point & Smylies), San Carlos (Blue Beach, Kingsford Valley, Wreck Point, Head of the Bay & Port Sussex).
- c) East Falkland Team 3 – Bluff Cove, Fitzroy, Mare Harbour/Darwin Road junction, Swan Inlet, North Arm.
- d) West Falkland – Port Howard, Bold Cove/Manybranch, Harps, Hill Cove, Chartres.

4.8 On polling day it is proposed that several polling stations will be appointed – again, likely the same as those appointed in the Single Constituency Referendum and in previous elections, as follows:

- a) Town Hall, Stanley
 - b) Social Club, Goose Green
 - c) Social Club, Fox Bay
- 4.9 It is also proposed that voting in institutions will also be facilitated, with a polling team visiting KEMH, sheltered housing, HMP Stanley and any other institutions which might be designated, where there are staff or residents/inmates eligible to vote – depending on whether the move has been undertaken, the accommodation being prepared at Hillside may need to be designated for this purpose. This can allow staff and residents/inmates to vote who might otherwise find it difficult to visit a polling station.
- 4.10 Postal voting will be undertaken as normal – with votes being issued at the earliest practicable opportunity after close of nominations. Those living on outer islands, which are not proposed to be visited by mobile polling teams, have consistently been encouraged to register for postal votes, or to appoint proxies to vote on their behalf.

5. Option and Reasons for Recommending Relevant Option

- 5.1 A number of the functions under the Ordinance are for the Governor acting in his discretion, but this is not universally the case. Even in such cases, it would be helpful for elected members to express their views on the proposed arrangements – officers will naturally tend to follow the same arrangements as have applied to previous elections/referendums.
- 5.2 Dissolution of the Assembly could be requested for a different day to that proposed. This is not recommended. It is contrary to practice in recent general elections – with an election in early November being the “norm”. It would also have a knock-on impact on government business – as a November election has been planned for.
- 5.3 The limits on election expenditure are regulated by section 137 and 138 of the Ordinance, as supplemented by the Candidates’ Election Expenses (Increase) Regulations 2001. They are currently:
- a) £600 in the case of the Camp constituency; and
 - b) £500 in the case of the Stanley constituency.
- 5.4 It is not currently proposed that the limits on expenditure be changed, but if Executive Council considers that they ought to be changed, they can be set, by Regulations, at such other levels as are considered appropriate.
- 5.5 The Returning Officer may be appointed by the Governor (acting in his discretion) under section 47(1) of the Ordinance. Currently no other Returning Officer is appointed and in default, under section 47(2A) the function rests with the Chief Executive. The Chief Executive generally appoints one or more Deputy Returning Officers, usually the Registrar General, to act on his behalf. An alternative is to appoint another person to be Returning Officer; this is not recommended.
- 5.6 The Returning Officer may permit independent observers of the election process. It is not clear whether independent observers will be appointed in relation to the 2021 election; given the difficulties of travel and quarantine, it is unlikely that observers will be able to visit.

- 5.7 In addition to the mobile teams and polling places proposed, it would be possible to make further provision. This is not recommended. The cost would be significant and there is no evidence that turnout will be improved – recent general elections have had a high turnout.
- 5.8 There are powers in the Ordinance which have not been used – for example section 152A permits subsidiary legislation to be made relating to the coverage by the media of the campaign for an election. It is expected that this has not specifically been used due to the provisions of the Media Trust Ordinance 1989, which in section 5 include the following:

5 Duties of Trust

- (1) Subject to subsection (2) it shall be the object of the Trust, so far as funds belonging to or made available to the Trust and all other relevant circumstances allow-*
- (d) subject to subsection (3), to ensure as far as possible that the programmes broadcast by the Trust in its provision of the broadcasting service comply with the following requirements:*
- (vi) that a sufficient amount of broadcasting time be afforded free of charge, impartially between candidates, at times of Legislative Assembly and other elections, to public bodies in the Falkland Islands.*

6. Resource Implications

- 6.1 Financial Implications: A budget of £20,000 has been approved in relation to the conduct of the election, and it is considered that the process can be administered well within this amount.
- 6.2 Human Resource Implications: There are no direct human resource implications for the Falkland Islands Government in the conduct of the election. The Returning Officer will engage such staff as he considers necessary to undertake the necessary roles, including presiding officers, poll clerks and count staff, but these are not government appointments.
- 6.3 Other Resource Implications: None

7. Legal Implications

- 7.1 The provisions of the Constitution and Electoral Ordinance 1988, have been considered in the body of this report. It is important that the requirements are met in order to ensure that the election result is legitimate.

8. Environmental & Sustainability Implications

- 8.1 None.

9. Camp Implications

- 9.1 The general election involves the whole of the Falkland Islands. The particular circumstances of voters in Camp have been taken into consideration in the statutory arrangements and their practical application. It is considered that the provision of mobile polling, as suggested, in addition to opportunities for postal voting and static polling stations in Camp are sufficient to ensure that voters in Camp are properly

accommodated. The turnout in Camp for the past two general elections (2013 and 2017) has been over 80%.

10. Significant Risks

10.1 There are no significant risks arising from this report.

11. Consultation

11.1 This report is provided in part for decision, and in part by way of consultation of Executive Council. It is not considered that further consultation is necessary.

12. Communication

12.1 The report will be published and the Registrar General will prepare all necessary information for candidates and electors at the appropriate time.