



# CAYMAN ISLANDS GENERAL ELECTION 2021



# DOMESTIC OBSERVERS' REPORT



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# 1 | INTRODUCTION

## THE ELECTION

The 2021 Cayman Islands General Election was credible and legitimate, resulting in an orderly transition of power.

The Cayman Islands has an enviable reputation for the quality of its democracy, as shown by its consistently high voter turnout. More ballots were cast in this election than ever before.

The Elections Office deserves commendation for organising the poll effectively and transparently in the face of multiple challenges, including an early election date close to the Easter weekend and the COVID-19 pandemic.

The Domestic Election Observation Mission, (our ‘Observation’) offers the unqualified opinion that the election was held to a very high standard. Having followed the steps set out in this Report, we have arrived at several observations and recommendations to improve Cayman’s electoral process in the spirit of its democratic traditions.

With that understood, we observed a general appetite for improvement in several aspects of political life. We hope our recommendations acknowledge the issues raised with us during the election and present realistic options for Cayman’s electoral future.

## OUR OBSERVATION

To our knowledge, this was the first time that a team of domestic election observers conducted such a thorough and comprehensive observation mission. Our ‘nine-plus-two’ team of volunteers was a visible presence in the final weeks of the campaign and on Polling Day.

We also interviewed or tried to contact as many candidates and organisations as we could in the weeks following the election.

Each official member of our team, Hadleigh Roberts, Sidney Ebanks, Mark Hilton, Margott Lares-Alfonzo, Colford Scott, Olivaire Watler, Andrea Williams, Ian Whan Tong and Trecate Yong made a unique contribution to our Observation, offering their valuable skills, knowledge and, above all, volunteer time.

Though not present during polling, our two stand-by and reserve members, Yves Martel and Bryan Plug, made an equally valuable contribution. Their research, advice and input in all our meetings made a material difference to the quality of this Report.

We hope our efforts strengthen confidence in Cayman’s electoral system and our recommendations prove useful.





## 2 | OUR OBSERVATION

### APPOINTMENT

On 15 February 2021, the Governor issued the Election Writs, setting in motion the legal timeline for the election to take place on 14 April 2021.

With the COVID-19 pandemic raging on in most parts of the world, it became increasingly difficult to arrange the usual international election observation mission. The lack of a significant international presence created the need for an expanded and more comprehensive domestic election observation mission.

On 29 March 2021, the Governor invited nine volunteers to sign a Terms of Reference agreement confirming their appointment to serve as election observers. Two additional volunteers became reserve and stand-by observers.

Observers swore an oath of secrecy not to reveal information about any elector's vote should this be revealed accidentally, in line with local laws and regulations applied to all election officials.

Given the appointment date, observers were unable to witness a number of significant deadlines and events ahead of polling day and were able to catch only the last fortnight of the election campaign.

We advise that appointment of observers takes place in the two-week window between the Proclamation of Elections and Nomination Day.

This would enable observers to assess the fairness and accessibility of the nominations process, the printing and proofing of ballots, the first issuance of postal ballots and the first rounds of mobile polling. An earlier appointment date would have also enabled observers to assess the election campaign in more detail and establish important information networks.

It may be beneficial for future Observation Missions to be given office space located outside the Government Administration Building. Although our access to the office was unhindered and unmonitored by CIG (except for security and facilities management), we found it cumbersome to invite interviewees there for confidential discussions.

## SELECTION PROCESS

We understand that the Governor's Office received 47 applications. A Selection Committee chaired by Deputy Governor Franz Manderson comprised James M. Ryan, former chief secretary; Sophia Harris, chair of the Anti-Corruption Commission; Rosie Whittaker-Myles, former chair of the Standards in Public Life Commission and Jennifer Ahearn, strategic operations officer in the Office of the Deputy Governor.

In line with past practices, the Selection Committee decided to exclude public servants to protect the political impartiality of the public administration.

## COMPOSITION

The observers were a mix of Caymanians, Permanent Residents and others. This equipped our Observation with a range of experience in election observation, knowledge of elections in the Cayman Islands and familiarity with Cayman's political culture and history. Being known and knowing others in the community meant that political competitors were comfortable speaking to us confidentially and candidly.

The eight other observers unanimously elected Hadleigh Roberts to act as chair and spokesperson based on his prior experience as an observer in many elections in several European countries. He coordinated the Observation, was the primary contact point for the Governor's Office and Elections Office and coordinated our Observation and Report.

We agreed that individual observers would refrain from undertaking any observation work in the electoral district in which they resided. We were concerned that observers may be personally familiar with their local candidates given the size of the districts. To avoid confusion, we have used the term 'district' because this is used in the Elections Act. A district is known in other countries as a constituency or riding.

Observers voting in the election voted on the relevant mobile polling day. They did not behave as observers while voting and removed all observer identification. This was to avoid undermining elector confidence if an observer were seen as voting.



## 3 | OBSERVATION CONDITIONS

### TERMS OF REFERENCE

The Terms of Reference defined the relationship between the Cayman Islands Government ('CIG') and the Election Observation. Its aim was to affirm the Observation's independence while recognising we were a team of volunteers with no formal organisational structure and that it would be necessary to provide reasonable resources.

The CIG, including the Governor's Office, undertook as part of the terms of reference:

- ① To provide adequate funding and resources to facilitate the Observation;
- ② To respect the Observation's independence as non-partisan observers and to not interfere or direct our work;
- ③ To take no actions that anyone could perceive as partisan to influence the non-partisan Observation, the electoral process or the outcome of the election results; and
- ④ To recognise our independent and non-partisan Observation effort and, therefore, not to provide any input into any public statements or comments issued by us.

### OBSERVERS' ACCESS

The Elections Office and all relevant Government branches fully respected our role and independence. Our Observation was adequately resourced and the Elections Office accommodated all reasonable requests. We found the Elections Office extremely cooperative in facilitating observation work on the Sister Islands.

The Elections Office provided full accreditation in a timely manner. We were granted full, unfettered access to all polling stations in all districts and to other election facilities including the Elections Office Command Centre in before, on and after Polling Day.

RELATIONSHIPS  
WITH OTHER  
ORGANISATIONS

GOVERNOR'S OFFICE

Observers met with HE the Governor, the Deputy Governor, the Elections Supervisor and a few other officials at the appointment meeting on 29 March in the Cabinet Office.

The Governor's Office fully respected our independence and impartiality. After we signed, the Governor countersigned the Terms of Reference, confirming our appointment, the Cabinet Room was vacated to allow us to introduce ourselves to one another and discuss our Observation.

The Governor's Office did not contact the Observation at any time during the observation but were responsive when we needed to raise a query.

ELECTIONS OFFICE

The Elections Office provided us with a very helpful handbook that included all important dates and locations. It was particularly useful to have easy access to the Elections Act (2021 Revision) and the Cayman Islands Constitution Order 2009, being the most significant part of the legal framework for the elections.

The Elections Office also provided:

- ① Mobile telephones where requested
- ② A laptop with general office applications
- ③ Travel and accommodation for observers in Cayman Brac
- ④ Printing facilities
- ⑤ Stationery
- ⑥ Identification and accreditation
- ⑦ Access to two vehicles and drivers on Polling Day

CAYMAN ISLANDS GOVERNMENT

The Cayman Islands Government provided a conference room in the Government Administration Building from 6–16 April. Observers enjoyed unhindered access to this room notwithstanding the signing in and out process at the main reception and escort by security staff.

RCIPS

Except for informal greetings during polling, we had no contact (nor did we make contact) with the Royal Cayman Islands Police Service ('RCIPS'). RCIPS did, however, provide transportation for our observer on Cayman Brac on Polling Day.

COMMONWEALTH PARLIAMENTARY ASSOCIATION

We answered queries from the international observer organisation on 7 April and 16 April.

These calls enabled the international observers to seek our impressions of the electoral process, with the international observation being relegated to video conferencing. International observers provided no guidance to us and had no influence over our observation.

Although it is entirely proper for international and domestic observation missions to remain separate and have distinct purposes, under the circumstances we would have welcomed greater coordination with international observers. Lack of communication also resulted in unnecessary duplication of work.

We found that many stakeholders confused international and domestic observation as interchangeable and part of the same organisation. This was despite the press release from the Governor's Office announcing our appointment and other media coverage.





## 4 | METHODOLOGY

### GENERAL APPROACH

The Observation took a systematic and consistent approach when analysing polling activities. We created a set of forms to collect data coherently based on our initial analysis. This enhanced the process by bringing a sense of thoroughness and formality to our Observation and was useful for volunteers observing an election for the first time.

### TERMINOLOGY

In the single-member system implemented in 2017, an electoral district elects one Member of Parliament. Each district is polled on Polling Day (in 2021, this was 14 April) and several ‘mobile polling days’.

A district under mobile polling has two ballot boxes forming two ‘polling stations’. Polling Station 1 is a ‘static’ mobile polling station, where a ballot box is placed at a location for electors to come to vote. Polling Station 2 is a ‘mobile’ mobile polling station, that travels to an individual elector’s home. Collectively, the two polling stations would be more accurately referred to ‘advance polling’.

On Polling Day, each district has one location where electors cast their ballot. This can be a community building or air-conditioned tents erected a few days in advance. At the polling location, there can be between three and five ballot boxes referred to individually as ‘polling stations’. We used the term ‘polling station’ meaning the location where the ballot boxes were grouped and specified when referring to an individual room or tent containing a ballot box.

### TRAINING

We conducted training sessions to educate first-time observers about the principles and purpose of election observation. These sessions included a question-by-question walkthrough explaining the scope and purpose of each part of the checklists. This was an opportunity for first-time observers to ask detailed questions about local laws and what may be included as relevant information.

## METHOD

The Observation developed three forms, available as appendices to this Report. This included an assessment of the immediate vicinity of the polling station inside and outside the exclusion zone as well as conditions inside each polling station.

- ① Opening procedure: to assess conditions and how well staff followed procedures when polling began.
- ② During voting: to assess conditions, procedures and general activity while polls were open throughout the day.
- ③ Closing procedure: to assess conditions and how well staff followed procedures when polls closed and during the count and announcement of results.

We used the same forms on mobile polling days and Polling Day to familiarise observers with the process. Future observers may wish to prepare separate forms based on the observations made in this Report.

## DEVELOPMENT

- ① We reviewed several precedent forms used by election observations in other jurisdictions and sample forms from international conventions.
- ② We adapted these forms to follow the applicable procedures and laws in the Cayman Islands.
- ③ We used local knowledge and previous observation reports to include specific questions. The aim was to respond to public and media concerns about, for example, vote buying, access for electors with disabilities and female participation.

## ANALYSIS

Using local and historical knowledge, observers identified several themes for the Observation to evaluate, including but not limited to:

- ① Priority themes: campaigning activities, transparency and efficiency of the Elections Office, voter secrecy.
- ② Priority areas: districts likely to be hotly contested, or where a large number of candidates are standing, or where certain candidates have a politically significant profile, or where numbers of electors are greater or lesser than the average.

Although our Observation set certain priorities, we were able to cover all 19 districts at least once.

## SCHEDULE

Observers followed a flexible schedule for coordination purposes, subject to their individual judgement, so that we could circulate between several polling locations on a polling day. This enabled us to react to conditions on the ground and unanticipated events.

Circulating observers added an element of flexibility and unpredictability to our Observation. There was no discernible pattern to where observers would be, moving between individual polling stations at each location frequently. The Elections Office (and political competitors) had no knowledge of when or where any given observer would be at any given time.

## MOBILE POLLING

We were present at the opening of polling at 08h00 and circulated approximately every two hours, depending on when Polling Station 1 (the 'static' box) closed. When Polling Station 1 closed early (because all registered voters for that day had been accounted for), we moved to another polling station or followed Polling Station 2 (home visits) for some time. We had an observer present on Cayman Brac to evaluate the two polling districts and an observer present in the Command Centre.

## ISOLATION POLLING

For personal safety and public health reasons, we did not observe isolation polling. We were, however, satisfied that the Elections Office was prepared to make appropriate adjustments had our Observation requested it. The Elections Office should be commended for its efforts to enable electors currently in COVID-19 isolation to vote safely.

## POLLING DAY

One observer was present outside the Government Administration Building around 5 am when the ballot boxes were transported to the districts. We were present at the opening of polling at 07h00 and evaluated approximately six districts.

We had an observer present on Cayman Brac moving between the two polling locations on that island. The Head of Mission was in the Command Centre to observe the instructions to begin polling and the communication of results until after the final result was declared at approximately 11:20 pm.



# 5 | MOBILE POLLING

## DATES

Mobile polling took place on Thursday 8 April and Friday 9 April 2021.

This appeared to be a logical and sensible division given the number of voters expected at each district and their geographical location. No observer was physically present on Little Cayman although the Elections Office were prepared to make arrangements subject to our request.

## CAMPAIGNING AROUND POLLING STATIONS

THURSDAY 8 APRIL	George Town districts
	Red Bay, Prospect, North Side, East End
	Cayman Brac East
	Little Cayman (only)
FRIDAY 9 APRIL	West Bay districts
	Bodden Town districts
	Cayman Brac West & Little Cayman

We noted some residual campaigning materials in the immediate vicinity of mobile polling stations in George Town North, Newlands, Bodden Town West, Bodden Town East, George Town West and Red Bay. There were no campaigning materials observed within any polling station.

### EXAMPLE: RED BAY

The mobile polling station was in the Seafarer’s Hall, a well-known community centre in the area. To access the venue, most electors would turn from the main road and turn a corner to access the parking lot. On that corner was a large and very prominent sign in support of one of the candidates. More confusingly, a small poster was tied to the chain fence of the venue, but this poster belonged to a candidate standing in a different district.

IDENTIFICATION &  
SIGNAGE

The addresses of mobile polling locations were easy to find on the elections website but a number of mobile polling stations required more prominent or clearer signage. Observers in Bodden Town West, Cayman Brac East, Cayman Brac West, George Town East, George Town North, George Town South, George Town West and West Bay West noted that polling stations were not immediately identifiable or clearly marked to passers-by.



EXAMPLE: GEORGE TOWN EAST

The mobile polling station address was the Agape Family Worship Centre (Hall) on Fairbanks Road. The Centre is easy to find and is a logical location for a polling station. It was not, however, immediately obvious that the polling station was located at the far end of the parking lot around the back of the venue.

LIGHTING

Observers noted that mobile polling stations needed better lighting in Bodden Town West and George Town East.

PRESENCE OF  
CANDIDATES &  
AGENTS

Observers noted the presence of candidates and political agents in most of the mobile polling locations. In some cases, an agent was present to observe from each campaign in the district. Agents were typically seated away from where electors would cast their ballot without their view of the process being unduly obstructed.

UNDERSTANDING  
OF PROCEDURE

All mobile polling stations opened and closed on time and maintained effective communication with the Command Centre. Observers found that mobile polling staff had an excellent understanding of the relevant opening, voting and closing procedures.

GENERAL CONDUCT

Observers rated the general conduct of mobile polling staff as excellent. Elections staff made every effort to enable that electors on the home voting list were accommodated.

**RECOMMENDATION ①**

Observers did not consider the residual campaigning materials deliberate wrongdoing. These were typically prominent and visible locations for a candidate to place a sign. Candidates cannot be expected to remove or relocate materials just for the one morning of mobile polling.

We recommend that an official check the immediate vicinity around a mobile polling station and is advised, at their discretion and using their judgement, to cover up campaign materials temporarily where appropriate.

**RECOMMENDATION ②**

Review the typical signage for mobile polling stations, which do not have the advantage of the large banners used on Polling Day. Where polling stations are not immediately visible on approach, consider placing guidance arrows or a volunteer at a logical place to guide an arriving elector. Additional lighting should be procured in the locations noted or alternative locations sought next time.

**RECOMMENDATION ③**

At present, electors applying to vote on a mobile polling day must provide a reason. This is often relevant to police and hospital workers, other essential workers and anyone participating in the electoral process (such as a polling clerk). This appears to be fair, reasonable and keeps access to mobile polling to a manageable level.

We recommend, however, that any elector registered at a physical address on Little Cayman should be pre-approved and encouraged to vote on a mobile polling day. This would ease pressure for electors and the Elections Office travelling between the Sister Islands on Polling Day.



## 6 | POLLING DAY

### ATMOSPHERE

Observers noted that in all circumstances the environment around the polling station was calm and uncrowded.

### CAMPAIGNING AROUND POLLING STATIONS

Many candidates and their agents were present in and around polling stations. Candidates' lengthy presence could be interpreted as active campaigning within the exclusion zone. Many electors raised objections and drew observers' attention to what they perceived as inappropriate campaigning behaviour.

### IDENTIFICATION/ SIGNAGE

Observers noted that all polling stations were clearly identifiable and easy to find.

### MATERIALS

All polling stations were well equipped and had received all the necessary election materials to conduct voting.

The Elections Office produced high-quality ballots, printed in colour photographs of each candidate and space for a party logo.

### GENERAL CONDUCT

Observers rated the general conduct of polling staff as excellent. Polling staff acted in a fair and transparent way at all times and in almost all cases were pleased to answer questions from observers.

### ACCESSIBILITY

Observers were pleased with the level of accessibility and the thought put into selecting locations accessible to elderly electors and electors with other physical impairments. We were very satisfied with the several ways the polling procedure was adapted, noting that in some locations a lower-down voting booth was available for electors unable to reach the standing booths.

We do, however, suggest a review of the parking facilities around the polling station in Savannah.

Despite the language requirements applied to naturalised citizens, for historical reasons there appeared to be some electors who were not proficient in English and struggled to understand instructions.

Recognising that English is the only official language of the Cayman Islands, we do not recommend there be full provision for non-English speakers. It may, however, be worth considering whether printed versions of the voting instructions would be helpful to some electors.



## IRREGULARITIES

Observers had no concerns about any standard form of election irregularity.

## WAITING TIMES

The time an elector spends waiting to vote is a clear opportunity for improvement, with observers reporting lines of up to 45 minutes in extreme cases. This was particularly evident in the morning. Across Grand Cayman, turnout reached an impressive 50% at around 12 pm and climbed to a little over 70% in total, similar to previous elections. This means that for every 10 voters, five voted in the morning, two voted in the afternoon and three did not vote.

Most delays were not procedural but related to the handing over of bags and mobile devices before entering the polling station.

## UNDERSTANDING OF PROCEDURE

All polling stations opened and closed on time and maintained effective communication with the Command Centre. Observers found that polling staff had an excellent understanding of the relevant opening, voting and closing procedures. In accordance with the law, all voters at a polling station by 6 pm were permitted to vote.

PROCEDURAL  
DIFFERENCES

Observers noted that opening and closing procedures were sometimes different across polling stations. This included the way ballot boxes were unlocked or locked, with multiple locks and types of seal. Sometimes agents were invited to sign the seals, in other cases not. The adhesive on some seals was insufficiently strong and made them prone to falling off without any tampering.

Observers were most satisfied in polling stations where the applicable Officer approached the opening and closing of polls as a ceremony. The best-performing polling stations had all relevant people gathered around so the Officer could announce each step of the procedure loudly and clearly to everyone. We would encourage this practice to become part of the standard training.

COMMAND CENTRE

The Command Centre was well organised, adequately staffed and was fully in control of the electoral process. There appeared to be excellent communication between staff on the ground and in the Command Centre through coordinated use of radio technology. Where inevitable logistical (e.g., batteries) or elector (forgetting ID) issues arose, the Command Centre was made aware of them promptly and implemented solutions quickly. Elections officials were transparent with the media and providing regular briefings. A live video feed of the Command Centre was available to stream on YouTube.

COUNTING

Counting began shortly after 7 pm in all locations. Results were published on a dedicated website showing other relevant statistical information as soon as each ballot box reported in.

The website was not particularly graphically sophisticated or intuitive for members of the public, but sufficient for the purposes of reporting outlets and data security. Declarations were also published on social media.

**RECOMMENDATION** ④

The 2017 and 2021 elections show clearly that most electors cast their ballot before noon. We recommend that the Elections Office explores options to decrease the ‘service time’ between an elector arriving at a polling location and casting their ballot. It may be possible to place a ‘drop-off station’ for electronic devices away from the check-in desk or explore using broken lists to process lines more quickly.

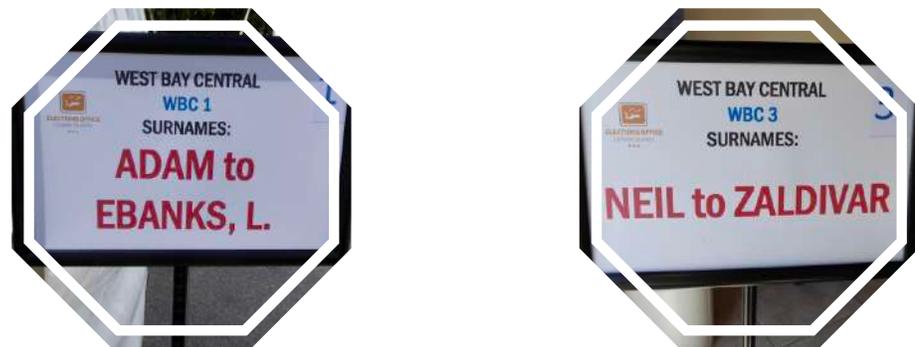
**RECOMMENDATION ⑤**

Counting was reasonably timely in all districts, but some were notably faster than others. We observed that the presence of a Deputy Returning Officer permitted a district to set up two counting stations to divide the ballot boxes and speed up the process. We recommend that this becomes standard practice.

**RECOMMENDATION ⑥**

We observed that electors were allocated to numbered polling stations alphabetically by surname. From an administrative point of view, this was probably an expedient way to process electors. From a secrecy point of view, however, we were concerned because it established a link between an elector’s name and a specific ballot box.

It is possible to use this information to breach the secrecy of the vote and deduce how an elector voted. With the results being published per box, combined with some particularly common surnames, it may, however, be possible to analyse and infer with reasonable confidence, for example, that an elector with an E-surname was much more likely to vote for Candidate A or that an elector with a W-surname probably voted for Candidate B.



We recommend, therefore, that the Elections Office considers alternative ways to allocate electors to an individual polling station, taking into account how results are analysed per box. Address or elector number may encounter similar difficulties so random or sequential allocation could be necessary. In the alternative, it may not be appropriate to publish results by box.

Further, we observed that some polling booths were numbered. This appeared unnecessary and we recommend that the booths are totally unmarked.



## 7 | ADDITIONAL POLLING OBSERVATIONS

### REPRESENTATION OF WOMEN

In the light of concerns raised over the representation of women in the electoral process in the past (as candidates, elected representatives and more), Observers were pleased to note that women were at least well represented among polling staff and that many Presiding Officers and Returning Officers were women. This enhances the participatory nature of Cayman Islands elections and reflects good practices regarding access to training and promotions for women.

### REPRESENTATION OF YOUNG PEOPLE

Observers remarked that there was a noticeable proportion of young people among the polling staff. This reflects well on participation and training opportunities for future elections.

### ACCESSIBILITY

Throughout our numerous interviews with the Elections Supervisor, it was clear that every effort had been made to include the elderly, unwell and those with disabilities or handicaps. It is not possible to explain the details of isolated cases without revealing the identity of the electors in question, but we were extremely impressed by the degree to which the Elections Office could adapt itself to the individual, highly specific needs of certain voters. They achieved this while guaranteeing the secrecy and integrity of the voting process.

In some cases, this meant a 'voting tray' an official could place on an elector's lap. In others, voting booths were placed on shorter stands to put them at an accessible level. A process was in place to allow electors to vote with assistance in a way that prevented any undue influence and made sure the elector's wish was carried out.

TRANSPARENCY  
AND EFFICIENCY OF  
THE ELECTIONS  
OFFICE

The Elections Office was completely transparent regarding timely access to all information that observers requested and at all times permitted observers to scrutinise election activities.

Where issues were reported, Elections Office officials acted transparently and spoke freely in the presence of observers. Elections Office officials were confident enough to bring issues to the attention of observers, explaining the nature of the issue and steps they were taking to resolve them. Most issues were minor, administrative in nature and resolved effectively, improving confidence in the system.

The Elections Office was located in a visible, easy-to-find and convenient location on West Bay Road, with good parking. When observers visited the Elections Office, we typically saw fewer than 10 people waiting in line for their identification, which appeared to be produced and printed quickly.

APPOINTMENT OF  
ELECTIONS STAFF

A few candidates we spoke to attempted to establish a link between the Elections Supervisor and the outgoing Premier. The basis for this was that the Elections Supervisor worked as a Chief Officer in the ministry of the Premier, who was standing for re-election. They argued that an independent person should be appointed as Elections Supervisor next time.

Most elections staff were seconded from the Civil Service or temporary workers and volunteers. All Civil Servants are bound by a Code of Conduct and reminded by administrative circulars of their duty to maintain strict political impartiality.

Based on our observations and interviews, we are confident in our conclusion that the Elections Staff, in particular the Elections Supervisor, always conducted themselves fairly and impartially.

It is important to remember that this was a snap election during the COVID-19 pandemic. The competence and experience of the Elections Staff in delivering high-quality elections should not be underestimated.

## DEALING WITH COMPLAINTS

We asked for a list of complaints made during the elections process and how the Elections Office had responded to them. We did not receive this information because, apparently, it may have affected ongoing police investigations. Where the police were not involved, we were shown some relevant emails that referred complainants to extracts of the Elections Act or explained in detail the procedures and safeguards relevant to the complaint.

## MOVEMENT OF MOBILE/POSTAL BOXES

A highly publicised complaint was made about the movement of the mobile and postal ballot boxes in the afternoon of Polling Day as they were escorted from a secure location to polling locations in time for the count. After making enquiries, we were satisfied that this complied with the law and that the procedure was reasonable.

The complaint centred on the fact that candidates had not been informed that this would take place or when. A logical solution, therefore, could be to transport these boxes alongside the empty Polling Day ballot boxes before polling begins.

## POLICE

Police officers have a significant role to play on Polling Day and above all on mobile polling days. The movement of ballot boxes can be a critical weakness in an electoral system and police officers are integral to guaranteeing the security of the vote.

On mobile polling, we noted that some police officers would enter the elector's home or be present upon the property, in the yard outside the home. This raises multiple concerns about an elector's human rights. It also raises the question of what would happen if a police officer saw something in the elector's home and used that information against them. Though the police officer's duty is to protect the box, there are other procedures in place, such as three polling staffers and the Field Officer, to maintain the integrity of the ballot box.

The best practice was on Cayman Brac, where police officers escorted the box while in transit but remained outside the house.

In many instances, a police presence can reassure members of the public. In an election context, however, police officers need to be aware that, in certain situations and in certain electors' minds, they may be perceived as an emanation of the State and unintentionally intimidating.

All observers at all times noted that the atmosphere in and around polling stations reported a calm atmosphere. With that fact in mind, observers noted that police presence was generally greater than necessary and that police officers were positioned inconsistently in and around polling stations. In some particularly concerning cases, observers saw police officers seated directly next to a ballot box.

## **RECOMMENDATION ⑦**

An election is an expression of civilian sovereignty. With respect to the operational independence of the RCIPS, we recommend that police presence on polling days should be minimised within the exclusion zone and no police officer should be permitted to enter a polling station (room or tent) unless it is at the request of the Presiding Officer or in an emergency.

Where the police were required on polling day, it appeared to be to 'shoo away' overeager candidates. This role would be better performed by an Elections Office official such as the Returning Officer.

## **VOTE-BUYING**

Throughout the Observation, we were made aware of several allegations, rumours and complaints about vote-buying. In response, we added a question to our observation checklist to record whether observers had seen or been told about relevant behaviour on polling days.

There are several conditions that make vote-buying an appealing technique to any bad-faith actor in the Cayman Islands. The single-member district system, the small geographical district size, and voting population and the first-past-the-post electoral system become factors, when combined, that make it easier for candidates to entrench themselves politically and economically.

The very narrow margin of victory in most districts is typically a benefit to an electoral system because it makes seats competitive, but when this margin can amount to as few as 15 votes, it becomes very easy to influence enough electors to make a material change to the outcome.

These factors, in addition to local legends of past practices, set alight by social media, go a long way to explain vote-buying accusations. A few candidates claimed that they had received approaches from electors expecting to receive inducements to vote. We cannot conclude confidently whether vote buying did or did not take place.

To the extent that any suspicious behaviour may have taken place close to but outside of the exclusion zones on Polling Day, plain-clothes police officers could observe and investigate. We heard second-hand that this was done.

## POSTER DESTRUCTION

During the campaign there was substantial media coverage about posters being damaged and destroyed. The only relevant regulation of this behaviour is damage to private property.

We attempted to assess whether the damage to posters was targeted against certain groups of candidates, in certain districts, or against certain political movements with the aim of intimidating candidates and their supporters.

It appeared that the media coverage was overblown and there was no discernible pattern to the minor vandalism, which did not amount to intimidation and appeared to cease after the initial controversy.





## 8 | ACTION ON PREVIOUS OBSERVATIONS

With some exceptions, there appeared to have been little action taken on the recommendations made by the international observers in 2017, ostensibly for lack of legislative time.

Given that we have no knowledge of the contents of the international observer report for 2021, and did not cover these topics in our own Observation, we acknowledge the following recommendations from the 2017 report and suggest they be given appropriate consideration:

- ① The Grand Court’s decisions on the eligibility of candidates of dual nationality.
- ② Coherence of the exclusion from public office for persons who have served a prison sentence of 12 months or more in the context of the European Convention on Human Rights. This is particularly relevant given that more than one candidate advocated that the exclusion should extend to any conviction for any offence.
- ③ Applicability of the UN Convention on the Rights of Persons with Disabilities regarding restrictions on the right to vote if a person is certified to be of unsound mind.

### REGISTRATION & ELIGIBILITY

#### CANDIDATE NOMINATION

Candidates did not raise concerns about the nomination process, suggesting it was efficient and straightforward.

50 candidates were nominated across the 19 districts.

12 districts were head-to-head two-candidate contests.

7 candidates (14%) received less than 10% of the vote in their district.

5 candidates (10%) received between 10% and 15% of the vote in their district.

Given that 24% of the candidates received less than 15% of the vote, some consideration should be given to raising the threshold under section 33 of the Elections Act, an increase in the nomination deposit, or both.

### RESIDENCY REQUIREMENTS

As previous observation reports have discussed, the residency requirements for eligibility as both an elector and a candidate are particularly onerous and may unduly restrict the right to stand for office and the right to vote.

Under the two principles that the electorate deserves to have as much access to talent as possible and that individuals should be free to pursue opportunities abroad, the residency requirements are likely to exclude both talented candidates and voters who have a positive contribution to make to Cayman’s political life.

### RECOMMENDATION ⑧

The UK recently removed the 15-year expiration on the right to vote of citizens living abroad. We recommend that Cayman also take action to expand its voting population to avoid disenfranchisement and associated political problems. The burden of residency requirements should be eased if they cannot be removed altogether.

### RECOMMENDATION ⑨

Registering to vote, updating elector information (such as place of residence) and requesting mobile polling should be included in the general scheme of e-government services.





## 9 | SECRECY OF THE VOTE

With a very small voting population among a small general population, Cayman must take extra care to make sure its processes guarantee secrecy in the electoral process.

### MIXING MOBILE/ POSTAL BALLOTS

The procedure for counting mobile and postal ballots was amended as a last-minute change right before Polling Day. Previously, mobile and postal ballots were counted separately and could be identified as such.

In several cases, the number of ballots inside each mobile box or each postal box could be very low. Sometimes this was fewer than 10, but nearly always fewer than 40 or 50 combined. This meant that it would be simple to reconcile the list of electors voting in those boxes with the result, representing a great risk that voter secrecy could be compromised.

As reported in the media, the process was changed by Cabinet a few days before Polling Day to allow postal and mobile station ballots to be mixed with ballots in Polling Day boxes prior to the start of any count so that agents, candidates and others present at the count would not be able to determine how a particular ballot was cast via mobile and postal voting.

The Elections Office fought for this amendment which improved the ability to keep the ballot secret.

We strongly commend this change; however, changes to election-related rules should generally not be made such a short time before Polling Day.

THE VOTING  
PROCEDURE

When an elector approaches the polling station:

- ① The elector identifies themselves by declaring their name, address and occupation and, normally, presenting the Voter's Registration Card.
- ② The Poll Clerk then confirms by reference to the official list of voters announcing all the elector's particulars out aloud (i.e.: name, address, occupation, and importantly, the elector's voter registration number (e.g.: GTN 1234)). The Polling Clerk will also record the participation of the elector by means of notations in the Poll Book.
- ③ The Presiding Officer records the elector's voter registration number on the counterfoil then the ballot is specially folded by the Elections Official and handed to the elector.
- ④ The elector takes the ballot to the designated polling station to register their vote privately and secretly.
- ⑤ After the elector has marked the ballot, it is returned to Elections Officials, whereupon the counterfoil is detached from the ballot, and the ballot is given back to the elector to deposit into the appropriately secured ballot box.
- ⑥ The counterfoil is then placed in a marked envelope for counterfoils. These will be counted later and cross-referenced against total ballots cast (or spoiled) to reconcile of the number of ballots counted.

COUNTERFOILS &  
SERIAL NUMBERS

The counterfoils are kept to reconcile the number of ballots cast, with the number of electors recorded in the Poll Book, and the number of electors crossed off from the election list.

Both the counterfoil *and the ballot* are numbered sequentially on the back of each counterfoil/ballot combination with the same number (e.g.: 07531) in small, bold red typeface. As a result, once the counterfoil and the ballot are separated along the perforation line, they could be reconciled because they have the same reference number printed on the back.

The voting procedure for postal ballots also carries a similar, or greater, risk. When postal ballots are disseminated and subsequently received, they are entirely traceable as the serial number of the ballot and counterfoil is recorded and is traceable back to the elector. The ballot number is also written on the outside of the interior envelope.

## RISK

The ballot is numbered serially, the counterfoil has the same number, and the counterfoil has the elector's registration number. It is possible to cross reference and reconcile the elector's registration number and their ballot and for whom the vote was cast, via the number on the counterfoil. This would be a fundamental violation of voter secrecy. The system relies on the integrity of those charged with the ballots, counterfoils and Poll Book to protect secrecy.

We emphasise that we never saw any activity that suggested any election official in any way would so compromise voter secrecy by such cross-references and reconciliation. It is, however, theoretically possible, whether through carelessness, negligence or bad faith, at any time between the vote being cast to being destroyed months after the election, that referencing and reconciliation of elector's registration number and ballot serial number could be used to determine how any individual, or groups of individuals voted.

This threat to the secrecy of the vote only increases over time as the ability to capture, record and cross reference the information contained on ballots, counterfoils and elector registration becomes simpler and much more prevalent in an ever-increasing electronic and digital world.

We understand that the recording of the elector number on the counterfoil, and the serialised numbering of the counterfoil and ballot exists so that, if an elector queries whether their vote was counted, the relevant ballot could be cross-referenced with the counterfoil that would have the elector's registration number, and thus prove that the ballot was counted. We understand that this challenge has never been made, at least within recent memory. It is certainly not a common challenge and is hard to imagine.

It is also questionable whether the mere proof that a ballot can be cross-referenced to a counterfoil and then to an elector in any way proves that the ballot was counted properly, without a full recount of the entire box.

It is our view the benefits of this ability to provide this retrospective proof is near zero while the cost of inadvertent or wilful violation of the secrecy of the vote is easily possible, foreseeable and irreparable. Every reasonable effort should be made to maintain secrecy and prevent traceability.

**RECOMMENDATION ⑩**

We recommend that any ability to cross reference the identity of electors (via their individual registration number) and their respective vote(s) (via the serial number of the ballot) be removed (in both in person and postal voting situations).

Ballots should not be serially numbered and the elector’s registration number should not be recorded on any part of the ballot or counterfoil.

If necessary, additional security marks may be printed on the ballot and counterfoil (e.g.: watermark) to guarantee integrity and authenticity, but not relate to traceability to an elector.





## 10 | DATA PRIVACY

### DATA PROTECTION ACT AND THE ELECTIONS ACT

Among other policy objectives, the Elections Act seeks to balance the ability to guarantee and confirm an elector’s right to vote, to confirm the identity and authenticity of the elector, and the secrecy of the elector’s vote.

To do so, the Elections Act prescribes that certain personal data be obtained and maintained (name, address and occupation of the elector). The collection of such data served a useful purpose, but in the age of data protection, particularly the enactment of the Data Protection Act, it is our view that the collection and publication of some of this data contravenes the Data Protection Act.

We recommend that the Elections Act and all associated rules and procedures be reviewed and compared critically to guarantee compliance and consistency with the Data Protection Act.

The Data Protection Act is new to the Cayman Islands. It was enacted in 2017 and came into force in 2019. This present election is the first election in which the Data Protection Act was in force. The Data Protection Act applies throughout the Cayman Islands to all bodies, whether they are public or private, including the Government and the Elections Office.

The Data Protection Act promotes eight data protection principles. It is beyond the scope of our Report to outline the entirety of the Data Protection Act, but for these purposes, it appears to us that the Elections Act contravenes the Third Principle of Data Protection, being Data Minimisation; the Fourth Principle of Data Accuracy; and the First Principle of Fair and Lawful Use, among others.

DATA COLLECTED  
ON ELECTORS

It is clear that an Electors List must be created, and that the elector's name must be gathered. It is also reasonable to gather the elector's address as a means of confirmation of identity. All the other information on Form 4 is probably appropriate to be gathered to confirm and register as an elector.

We did not see and are unaware of any Privacy Notice from the Elections Office or any other elections entity relating to the personal data gathered, its use, basis, etc. A Privacy Notice is required and should be drafted and presented.

The collection of an elector's occupation probably contravenes the Third Principle of Data Protection because occupation has no bearing on an elector's right to vote, and little to do with proving identity. Moreover, given that a person's occupation may change over time, the information on record may be inaccurate, but yet still not invalidate a right to vote. An elector's occupation ought not to be gathered, recorded, or published in any way.

An elector's occupation is only one example in which personal data is gathered, when it is probably not relevant or appropriate any more to do so.

We recommend a careful analysis of all the personal data that is collected on electors and candidates, and any other persons involved in the elections process to guarantee compliance with the Data Protection Act.

DATA MADE PUBLIC

Some personal data is unnecessarily published or made publicly available. We observed that some of the data as collected under the Elections Act was made public, either published or publicly announced, when there was no need for such publication or access.

For example, we observed that the Electors List is freely and publicly available on the Elections website, without restriction. Anyone can determine with ease, the name, address and occupation of any elector in any district, as prescribed under the Elections Act.

The publication of the Electors List ought not to be freely and publicly available. Some of information gathered is important and should be shared with those who need it, including elections officials and candidates and their teams.

There is no justifiable need, however, to publish the complete list, by district, freely and publicly. Those who need to know can have access to the information, presuming reasonable confidentiality measures are taken.

For example, in British Columbia, Canada, the voters list must be used only in accordance with certain statutory provisions, and anyone wishing to access the list must first file a privacy policy that is acceptable to the Chief Electoral Officer. Political candidates receive the voters list for their own district only, and not for other districts, hence limiting access and availability as appropriate.

We recommend that restrictions on the Electors List be imposed such that only necessary and relevant information is provided to certain persons who need to know, all in conformance with an appropriate privacy policy.

We also observed that the elector's name, address, occupation and voter number were loudly announced in many polling stations. This practice arises so that the candidates' agents may know or challenge the identity of the voter. Yet, all of this information need not be announced so publicly because name and voter number may be sufficient.

Furthermore, public announcement of an elector's occupation serves no valid purpose, and again, may be wrong. We recommend that new procedures be developed so as to accommodate the agents' right to know who is voting, without breaching the privacy principles.

## **RECOMMENDATION ⑪**

We understand that the Elections Office has already been working with the Cayman Islands Ombudsman on these issues, but they were clearly not resolved by Polling Day. Easily identifiable issues as outlined above, such as collection and publication of an elector's occupation, the free and available publication of the Electors List and the publication of a Privacy Notice by the Elections Office or under the Elections Act, ought to be remedied to be consistent with the Data Protection Act.

We recommend a thorough review of the Elections Act and all related procedures with the Ombudsman to achieve consistency and compliance with the Data Protection Act, with particular emphasis to make sure that the personal data gathered is (a) necessary for the relevant purpose, (b) processed and publicised in a manner that is consistent with the Data Protection Principles and (c) appropriate notice be given to all data subjects about the use of their personal data.



## 11 | POLITICS

Many candidates and media commentators looked to our Observation hoping that we would offer opinions, perhaps even ‘rulings’, on all kinds of political issues. There was a common belief that, as independently appointed persons, we were thought to be in an ideal position to investigate matters and settle disputes.

There is, therefore, an evident appetite in Cayman for a body or organisation to play the role of political referee, most effectively in the form of an ombudsman. The next stage in Cayman’s democratic development should focus on this.

The Elections Office excelled in the organisation and running of the administrative aspects of the election. It ran into difficulty when awkwardly having to try to ‘regulate behaviour’ either between campaigns calling foul or, more awkwardly, between itself and a complainant.

The Elections Act is too cumbersome in its list of elections offences and often too prescriptive and restrictive. The criminal justice system is an ineffective tool because the burden of proof needs to be extremely high in the light of the fact that the sanctions are classed as offences. The police can easily find itself in an uncomfortable position where its actions have political consequences. The Anti-corruption Commission was, we were told, unhelpful when candidates asked for guidance and referred them back to the Elections Office.

### EXAMPLE: VOTE-BUYING ALLEGATIONS

The ‘tourism stipend’ dispute is an example of how the various entities (Elections Office, Media, Police etc) can be utilised as political footballs.

The outgoing Premier made a campaign promise to the effect that if the Government were re-elected, their policy would be to increase the payments made to furloughed tourism workers. Opponents seized on this and attempted to link the policy to illegal vote-buying.

After contacting the media, a complaint was made to the Elections Office. When the Elections Office did not see it in their power to deal with the complaint, the matter was referred to the police. This was reported carefully as '*Police receive complaint over premier's stipend comment*' but breathed new life into the story. After further consideration, the police determined that the statements made did not amount to an election offence but the political damage was, presumably, done.

## RECOMMENDATION ⑫

We recommend the creation of a Political Ombudsman (to avoid naming confusion with the Elections Office) or similar. Many of the issues considered in the commentary of this Report could be subject matter for the Political Ombudsman.

Its mission between elections should be to develop guidelines that are politically realistic and more intuitive than elections legislation. At election time, its leading role would be to deal with disputes and complaints. Most crucially, the Political Ombudsman should have political experience and political intelligence in the way that other regulatory bodies do not.

## CANDIDATES ON POLLING DAYS

Having invested a great deal of time, money and effort into the election, candidates frequently tested the limits of the Elections Act on polling days, as well as the patience of electors and staff by deploying a number of techniques to circumvent the ban on active campaigning.

In a hyper-localised election, candidates, particularly independent candidates who do not have a party logo, must appreciate that their likeness becomes their campaign trademark. This is particularly powerful where a candidate has submitted the same photograph for inclusion on the ballot paper as the one that appears on all their election materials.

Candidates are very visible and recognisable all over the island, partly resulting from the political signs erected during the election campaign. Their mere personal presence, therefore, is enormously powerful on polling days.

MOBILE POLLING

Observers were concerned that election candidates accompanied the mobile ballot boxes into the homes of extremely vulnerable electors. The Elections Office rightly attempted to discourage this practice but acknowledged that it was permitted under the law.

In the absence of a body (such as the Political Ombudsman) to set guidelines about this issue, candidates must remember their duty to respect the needs of vulnerable electors and enter into a ‘truce’ with other candidates not to enter individuals’ homes. Best practice, as far as it is necessary at all, would be to send a representative to follow the box without entering a private residence.

POLLING DAY

Candidates rarely, if at all, appeared to act in bad faith on Polling Day. In some districts, notably but not exclusively George Town North, West Bay South and West Bay Central, a competition emerged where candidates felt the need to make their presence increasingly known.

There were various complaints about the location of campaign tents close to, but still outside, the exclusion zone. Electors also raised objections to candidates being present for lengthy periods of time greeting people and ‘checking in’ on their agents within the exclusion zone. The 15-minute rule under s.56 of the Elections Act was not particularly helpful in keeping candidates in check because they were able to hover between polling stations.

**RECOMMENDATION ⑬**

We recommend that election candidates not be allowed within the polling station area unless it is to cast their own ballot. Once they have cast their ballot, the candidate should leave the area promptly. It is possible to recommend that candidates be asked to cast their ballots on a mobile voting day, but there may be such resistance to that issue that it may not be beneficial.

**RECOMMENDATION ⑭**

All candidates should have a nominated person who acts as their official representative with the full authority of the candidate themselves. There was scope for someone to act as a ‘super-agent’ supervising the polling station agents, but these roles are unclear and undefined at present.

**RECOMMENDATION 15**

Campaigns need greater freedom appointing political agents. At present, a single agent is permitted only to observe one polling station. Only the ‘super-agent’ is permitted to move between polling stations (and some candidates appointed themselves to this role). In addition, each agent must be a registered elector at that station, which is an unnecessary restriction on candidates’ freedom to organise their own campaigns.

**RECOMMENDATION 16**

We recommend a clear framework that sets out the rights, responsibilities and accreditation of candidates and their representatives on polling days. It may be worthwhile to establish similar provisions for international and domestic observers.

**THE BAN ON  
CAMPAIGNING**

Section 94 of the Elections Act prohibits various specific activities on Polling Day which the Elections Office (and others) interpret as a general ban on all campaigning. We are not convinced that this is an accurate interpretation of the law. Subsections 94(1) and 94(2) provides that the furnishing or supply of various campaign materials as an elections offence but carves out an exception under s.94(4) for banners that contain the name of a candidate preceded only by the words ‘Vote for’ or a rosette to that effect.

In our observation, had anyone been seen with a legally permitted banner or rosette, it would have been considered, probably incorrectly, as prohibited campaigning and referred to the police. This is perhaps an example of how the ban on campaigning needs clarification.

**ELECTION SIGNS &  
SITES**

The Elections Office interprets election signs to be within the definition of prohibited campaigning and requires that all signs must be removed by midnight on the start of Polling Day. This appears to be accepted practice. Given that s.94 prohibits only the ‘furnish and supply’ of campaign materials, it would appear that signs erected *before* Polling Day would not need to be removed.

There is also inconsistency regarding online materials where some candidates choose to deactivate their websites, but others remain accessible. This includes social media and political broadcasts on video sharing platforms.

## GET OUT THE VOTE

An organised political campaign will typically maintain a list of its supporters in time for its Polling Day ‘get out the vote’ (‘GOTV’) operation:

- ① Agents in polling stations will take notes about which electors have voted.
- ② The agents communicate their information to a Campaign HQ.
- ③ The HQ cross references the information received with their list of supporters.
- ④ The HQ sends out volunteers to remind its supporters who have not yet voted to do so.

This is standard practice which we believe also happens in Cayman. It is hard to reconcile this as falling outside of ‘active campaigning’. Similarly, the practice of providing transportation to supporters could be made more transparent if a campaign vehicle were permitted to identify itself as such.

## TENTS AND HANDSHAKES

If signs and shirts bearing a candidate’s face are considered active campaigning, then the candidate greeting electors, or even ‘hanging out’ under a tent on the exclusion zone boundary also, logically, fall under active campaigning even if no campaign flyers are being distributed.

Campaign tents were a sore issue on Polling Day. A complaint was raised in North Side about a candidate’s tent because it was located in a very prominent position but, by virtue of the length of the walkway to the polling station, was determined to be outside the exclusion zone.

## RECOMMENDATION ⑰

Though bans on campaigning are implemented in certain other countries, they are typically in jurisdictions that do not permit GOTV activities (as a consequence of other provision).

We recommend a review of the s.94 prohibition that takes into account how campaigns operate in Cayman. Equally, with campaign techniques continually evolving, this is better administered by a potential Political Ombudsman rather than an elections offence.

CAYMAN’S SHADOW PARTY SYSTEM

The applicable framework for political parties is covered by Part III of the Elections Act, which deals only with their registration and not their governance.

GROUP	CANDIDATES	ELECTED
The Progressives	8	7
Cayman People’s Party	1	0
The Alliance	4	1
Community Creates Country	3	2
Former Cayman Democratic Party	3	1

The term ‘political party’ can be controversial in Cayman. Despite nine registered party candidates and 41 non-affiliated candidates, we observed several political forces present in the campaign. These forces were easily identifiable because they shared websites, platforms, events and campaign logos and slogans, operating and, presumably, organised in the same way as a political party.

Of the above five (perhaps six) political forces, sometimes referred to as ‘teams’ in Cayman, only two were registered as political parties (the Progressives and the People’s Party) yet all of them, with the exception of the People’s Party, entered Parliament. We also became aware of a group of independent candidates who were apparently covertly aligned.

This shadow party system could lead to consequences such as:

- ① A lack of accountability from candidates who do not disclose their allegiances and alliances.
- ② A greater likelihood that the electorate will vote for an individual rather than a set of declared principles or policies.
- ③ A lack of understanding of the candidates’ position, if any, on prominent issues.
- ④ Elected members being untethered by their pre-election promises and not held accountable for them, leaving them free to abandon their commitments in the pursuit of office.
- ⑤ Electoral inertia giving incumbents significant advantage.
- ⑥ An inequality of arms between nominally equal political forces.

We understand that the Elections Office has the power to treat a grouping as a party if it deems that the grouping is acting as such, but it is unclear what effects that would have and what conditions would be necessary to ‘trigger’ this power.

POLITICAL  
ACCOUNTABILITY

Elections best represent the ‘will of the people’ when successful candidates are held accountable and act transparently. Electors have a right to know about a candidate’s political affiliations so that they can evaluate a group’s candidates on clearly stated policies and platforms. Of particular concern to Cayman, the absence of pre-defined political affiliations (and their accompanying requisite policies and platforms) means that an individual candidate, or small group of individual candidates, could be influenced to align or re-align themselves in a way that does a disservice to the electorate.

**RECOMMENDATION** ⑱

We recommend the development of a framework for political parties that promotes political stability and improves democratic accountability.

For example, as part of a general overhaul of the political financing system, there could be an additional spending allowance permitted to party organisations in addition to a district spend per candidate. This could also provide greater transparency of financing of candidates between elections.

This would, in turn, allow allied candidates to share the costs of political advertising, office space and build a network of volunteers reducing the role of finance in the electoral process.





## 12 | FINANCE

### DONATIONS AND LOBBYING

There were many concerns raised over the lack of transparency in political financing emphasising the income side rather than the expenditure side. It was noted that a lot of political financing took place in advance of the regulated period covering the campaign. It is very possible that significant funding from individual wealthy Caymanians may distort the integrity of the campaign and damage confidence in the electoral process.

Questions were asked about organisations who may have secretly funded candidates and, after the election, there were many claims about financial incentives offered to elected members in exchange for their political support in forming the Government.

#### **RECOMMENDATION** ①<sup>9</sup>

It is beyond our resources to recommend any specific financial structure, but it is clear that political financing needs comprehensive reform. A register of political donations made and received would be a first step. A framework for lobbying and lobbyists seems appropriate and it may be worth considering the role of third-party financing.

#### **RECOMMENDATION** ②<sup>0</sup>

Cayman's register of interests is governed by the Standards in Public Life Act. In the name of transparency, we recommend that the rules on what elected members must declare should be reviewed and, most importantly, this register should be made available to the public online. Elected members should continually update the register between elections.

### REPORTING

At present, there are daily penalties levied against elected members who fail to submit an expenses declaration. There are also penalties applied to any candidate who knowingly submits false information.

There is, however, no penalty for an unsuccessful candidate who fails to make any declaration. This amounts to an incentive not to submit an expenses return.

**RECOMMENDATION** (21)

We recommend that the loophole be closed and that all nominated candidates submit detailed accounts of their political income and expenditure.





## 13 | MEDIA

The news media is a significant part of the electoral process, with the power to provide publicity to political issues in its reporting and to scrutinise candidates on behalf of the electorate.

Most media outlets featured extensive coverage of the election and the candidates. Access to, and through, the media by candidates appeared to be sufficient as the statements made, and press releases issued by candidates were covered and reported by the media.

Media organisations usually operating with a paywall made their election coverage free to view. The death of the Duke of Edinburgh shortly before Polling Day led the *Cayman Compass* to withdraw its publication that week and reprint its edition planned for Polling Day with the election supplement.

### BROADCASTING ON POLLING DAY

The media performs several functions on Polling Day above its usual news reporting. To a significant extent, it sets the tone for the voting process, reminding electors to vote and educates them about the voting procedure. An elector is more likely to refer to the media than they are to visit the source (the Elections Office) and this is particularly true when reporting results.

We observed confusion over the application of s.94 of the Elections Act (the ban on campaigning as discussed above) and its companion provisions for the media under s.76, prohibiting any 'political broadcast, election advertising or political announcement on a polling day.'

We understand that a major media outlet was instructed by the Elections Office to cease interviewing candidates on Polling Day. When asked for guidance, the Elections Office referred them to the relevant provisions in the law.

There was also confusion about where journalists could position themselves outside the exclusion zone. We did not observe any overzealousness from the media towards candidates or electors.

**RECOMMENDATION** (22)

There is further scope to clarify and improve the rules on campaigning and broadcasting imposed by ss.94 and 76. Editorial news reporting should be permitted and journalists should be able to interview candidates on Polling Day without interference or restriction outside of the Polling Station exclusion zone. Amendments to the Elections Act could achieve this or, at a minimum, media organisations would welcome non-regulatory guidelines.

**ADVERTISING**

Our Observation is not aware of any restrictions or limitations on candidates' content exercised by the media outlets. A consistent theme we heard, however, was that advertising costs (print and livestreaming) were excessively high. The media organisations we interviewed, however, stated that their advertising rates remained consistent throughout the year and did not increase generally during election time or for political advertising specifically.

Additionally, some media outlets provided a multi-media platform available to all candidates to deliver their message to the electorate free of charge. Candidates exercised this to varying degrees.

In addition to the free coverage offered to candidates by local media, some candidates took advantage of new technologies to campaign electronically. Conversely, media organisations reported to us that the availability of New Media channels negatively affected their revenue.

In some cases, media organisations explained that the public service element of their election coverage caused a temporary decline in their (international) readership, with consequences on their revenue. It is not clear at this stage what effect this will have, if any, on future coverage of elections.

Although most political advertising on media websites rotated through several candidates each time a visitor refreshed the web page, at least one media organisation displayed advertisements on behalf of candidates aligned to one of the 'shadow parties' identified above, to the exclusion of most, if not all, other candidates. We do not know whether this was because other candidates simply chose not to advertise on those outlets or those outlets refused to accept advertisements from certain candidates, for whatever reason. It is common for media to 'endorse' particular candidates, but it serves the electorate best when this support is made explicitly and transparently.

**RECOMMENDATION** (23)

As part of the wider framework for transparent political financing, any payments a campaign makes to media organisations should be disclosed by the candidate in their returns. Media organisations should publicly disclose any payment made to them by or on behalf of political campaigns so that electors can evaluate their sources accordingly.

**DIVERSITY AND OWNERSHIP**

The media landscape in the Cayman Islands has developed from the two traditional pillars of print media and broadcast media through radio and television. Most media outlets in Cayman have now transformed into multi-media deliverers of information and editorial content, using a mix of print, audio and video integrated between a traditional format and online presence, including a website and social media. This development enables a greater volume and diversity of coverage, replacing ‘column inches’ and ‘air time’ as a metric to assess the media.

The Cayman Islands, because of its small population, lacks the critical mass necessary for a diverse media landscape. Since the 2017 election, Cayman has seen a significant reduction in the number of licensed media organisations. The only private television channel, *Cayman 27*, and a free newspaper, the *Cayman Reporter*, both closed. As another consequence of the COVID-19 pandemic, the *Cayman Compass* reduced its print output from daily to weekly. Currently there are fewer than a dozen significant media organisations operating Cayman.

Though approved by OfReg, the merger earlier in the year of two major media organisations operating within the Islands raises questions over future media ownership. From a policy perspective, concentration of ownership tends to reduce the diversity of viewpoints available to electors and risks a homogenous news culture, ultimately depriving electors of choice. The vulnerability in any concentrated media landscape is that a small number of individuals can acquire a significant enough share to exercise control to further specific commercial interests.

Any emerging policies affecting the media should take ownership into consideration. This could include safeguards over public service requirements applied to any organisation that controls a significant cross-media ownership share.

REGULATION

With the exception of radio, which is regulated by OfReg, the media industry in the Cayman Islands is unregulated. There exists no industry association or industry guidance, code of conduct or criteria.

Although the major media organisations publish their policies and procedures for public inspection and their coverage reflected unbiased and impartial coverage, not all media organisations currently operating in the Cayman Islands make such efforts.

The media has substantial influence over the electoral process through the way it frames political issues, portrays political competitors in a certain light and shapes public opinion. One of the ways it sought to do this was with straw opinion polls that emerged in the final weeks of the campaign. There were no restrictions on who could participate in these polls and any individual could vote multiple times to skew the results and create a bandwagon effect. The publication of such statistical information is prohibited under ss.81–84 of the Elections Act. When confronted with action from the Elections Office and the RCIPS, some of these polls were taken offline. Others, however, refused to remove the polls and added a small disclaimer to the effect that the polls were for entertainment purposes. We do not know whether further action was taken against these websites.

Although we heard a desire for minimum professional standards, we understand previous attempts to create a self-regulatory body or industry association were unsuccessful.

We cannot at this time recommend a full regulatory system but there is a need to consider the media's role at election time. The emphasis should be on the constitutional guarantee of freedom of expression to encourage critical yet fair coverage, with awareness of the media's ability to influence as well as report on the electoral process.



## ON MOBILE POLLING DAYS

# 14 | SUMMARY OF RECOMMENDATIONS

- ① Elections Officials should check the immediate vicinity around a mobile polling stations regularly and cover up campaign materials temporarily where appropriate.
- ② Review the typical signage for mobile polling stations and consider placing guidance arrows or a volunteer at a logical place to guide an arriving elector. Additional lighting should be procured in the locations noted or alternative locations sought next time.
- ③ Any elector registered at a physical address on Little Cayman should be pre-approved and encouraged to vote on a mobile polling day.

## ON POLLING DAY

- ④ The Elections Office should explore options to reduce waiting times at polling stations.
- ⑤ Deputy Returning Officers should be present at all districts to speed up the counting process.
- ⑥ Electors should not be allocated to a polling station alphabetically by surname and the Elections Office should consider alternatives, taking into account that results are analysed per box. Polling booths should not be numbered.
- ⑦ Police presence on polling days should be minimised within the exclusion zone and no police officer should be permitted to enter a polling station (room or tent) unless it is at the request of the Presiding Officer or in an emergency. An Elections Office official should be tasked with 'shooing away' overeager candidates.

ADDITIONAL  
POLLING  
OBSERVATIONS

⑧ Cayman should explore ways to extend the franchise including easing the burden of its residency requirements for candidates and electors.

⑨ Registering to vote, updating elector information and requesting mobile polling should be included in the general scheme of e-government services.

PRIVACY & SECURITY

⑩ Ballots should not be serially numbered and an elector's registration number should not be recorded on any part of the ballot or counterfoil.

⑪ All elections processes should be brought into compliance with the Data Protection Principles and the Data Protection Act.

POLITICS

⑫ A Political Ombudsman should be created to consider Observation recommendations, develop politically realistic guidelines where legislation is the inappropriate tool, and deal with elections disputes and complaints.

⑬ Candidates should not be allowed within the polling station exclusion zone unless it is to cast their own ballot. Once they have cast their ballot, the candidate should leave the area promptly.

⑭ Candidates, relieved of their role as 'greeters' at polling locations, should have a nominated person who acts as their official representative with the full authority of the candidate themselves.

⑮ Campaigns need greater freedom appointing political agents and the condition that agents should be registered in that district should be abolished.

⑯ We recommend a clear framework that sets out the rights, responsibilities and accreditation of candidates and their representatives on polling days. It may be worthwhile to establish similar provisions for international and domestic observers.

⑰ The s.94 prohibition on campaigning should be reviewed and revised, ideally administered by a potential Political Ombudsman rather than under the scope of elections offences.

⑱ There should be a better framework for the development and governance of political parties that promotes political stability and improves democratic accountability.

## FINANCE

⑲ Political financing needs comprehensive reform, including a register of political donations made and received and a framework for lobbying and lobbyists.

⑳ The rules governing the Member's Register of Interests should be more robust, published online and continually updated between elections.

㉑ All nominated candidates should submit detailed accounts of their political income and expenditure, closing the loophole on the lack of penalties for non-submission from unsuccessful candidates.

## MEDIA

㉒ There is further scope to clarify and improve the rules on campaigning and broadcasting imposed by ss.94 and 76. Editorial news reporting should be permitted and journalists should be able to interview candidates on Polling Day without interference or restriction outside of the Polling Station exclusion zone.

㉓ As part of the wider framework for transparent political financing, any payments a campaign makes to media organisations should be disclosed by the candidate in their returns. Media organisations should publicly disclose any payment made to them by or on behalf of political campaigns.



# 15 | APPENDICES

## ELECTION OBSERVATION SAMPLE FORMS

- ① Opening Procedure
- ② During Voting
- ③ Closing Procedure and Count

**OPENING OF POLLING STATION**

<b>Observer name:</b>		<b>Constituency name:</b>		
Arrival time:		Box number:		
Departure time:				
A. In the immediate vicinity of the polling station			Yes	No
A1	Is there campaign activity taking place? <input type="checkbox"/> Residual (leftover posters) <input type="checkbox"/> Active (rallies, volunteers distributing info)	<input type="checkbox"/>	<input type="checkbox"/>	
A2	How would you describe the environment around the PS? <input type="checkbox"/> Calm, no crowding <input type="checkbox"/> Crowded but generally calm <input type="checkbox"/> Tense / Violent			
A3	Is the PS clearly marked and correctly identified?	<input type="checkbox"/>	<input type="checkbox"/>	
A4	Is the PS entrance accessible to persons with disabilities?	<input type="checkbox"/>	<input type="checkbox"/>	
A5	Did you observe any other problems within the vicinity of the PS?	<input type="checkbox"/>	<input type="checkbox"/>	
Notes				
B. Inside the polling station			Yes	No
B1	Are there any unauthorised campaign materials/activities present inside the PS (including any electoral propaganda)?	<input type="checkbox"/>	<input type="checkbox"/>	
B2	How would you describe the atmosphere inside the PS? <input type="checkbox"/> Organised, calm <input type="checkbox"/> Disorganised, calm <input type="checkbox"/> Disorganised, chaotic <input type="checkbox"/> Insecure or tense <input type="checkbox"/> Violent			
B3	Were all necessary election materials present? <input type="checkbox"/> Voters Lists <input type="checkbox"/> Ballot Boxes <input type="checkbox"/> Polling Booths <input type="checkbox"/> Ballot Papers <input type="checkbox"/> Other	<input type="checkbox"/>	<input type="checkbox"/>	
B4	How many members of staff are present?			
B5	How many members of staff are women?			
B6	Is the Presiding Officer a woman?	<input type="checkbox"/>	<input type="checkbox"/>	
B7	In addition to polling staff, are there any other people present inside the PS? (s.56) <input type="checkbox"/> Security / Police <input type="checkbox"/> Authorised Party Agents <input type="checkbox"/> Media <input type="checkbox"/> Persons with unclear roles	<input type="checkbox"/>	<input type="checkbox"/>	
B8	Which parties/campaigns are present at the polling station as observers?			
Notes				

Opening Procedure

Before voters enter		Yes	No
C1	How many people were in the queue to vote when the polling station opened?		
C2	Did the Polling Station open on time (7am)? Time:	<input type="checkbox"/>	<input type="checkbox"/>
C3	Did the Presiding Officer and a Polling Clerk check the ballot box is empty?	<input type="checkbox"/>	<input type="checkbox"/>
C4	Did they lock the ballot box?	<input type="checkbox"/>	<input type="checkbox"/>
C5	Did the Presiding Officer keep the key?	<input type="checkbox"/>	<input type="checkbox"/>
C6	Was the ballot box placed in full view of everyone?	<input type="checkbox"/>	<input type="checkbox"/>
C7	Is anyone wearing anything that may indicate political affiliation?	<input type="checkbox"/>	<input type="checkbox"/>
Voting begins		Yes	No
D1	What time did the first voter cast their ballot?		
D2	How do you rate the PS staff's understanding of the Opening Procedure? 5 = Excellent / 1 = Very poor		
D3	How do you rate the conduct of the Opening Procedure at this polling station? 5 = Excellent / 1 = Very poor		
Overall Procedure		Yes	No
E1	Did any agent/observer make a formal complaint about the opening procedure?	<input type="checkbox"/>	<input type="checkbox"/>
E2	Does anyone appear to have influenced the opening procedure in a way that is at odds with their role under the Elections Act? <input type="checkbox"/> Security / Police <input type="checkbox"/> Authorised Party Agents <input type="checkbox"/> Media <input type="checkbox"/> Persons with unclear roles	<input type="checkbox"/>	<input type="checkbox"/>
E3	Did you observe anything that makes you suspect some form of election irregularity?	<input type="checkbox"/>	<input type="checkbox"/>
Notes			



Cayman Islands Parliamentary Election 2021

Election Observation Forms

General procedure		Yes	No
C3	How many electors were waiting to vote when you arrived?		
C4	Can the ballot boxes be seen clearly by staff and observers at all times?	<input type="checkbox"/>	<input type="checkbox"/>
C5	Is there adequate light and space in the voting booths?	<input type="checkbox"/>	<input type="checkbox"/>
C6	Do staff respond to questions, concerns and complaints?	<input type="checkbox"/>	<input type="checkbox"/>
C7	Do the actions of staff appear impartial?	<input type="checkbox"/>	<input type="checkbox"/>
C8	Do staff appear to perform their duties as prescribed by the Elections Act? <input type="checkbox"/> Procedures are being followed properly <input type="checkbox"/> Procedures not being followed, but unlikely to affect outcome <input type="checkbox"/> Procedures not being followed, and likely to affect outcome <input type="checkbox"/> Procedures not being followed at all	<input type="checkbox"/>	<input type="checkbox"/>
C9	Is each elector able to cast their ballot quickly and easily? <input type="checkbox"/> Very much so <input type="checkbox"/> Reasonably so <input type="checkbox"/> Not particularly <input type="checkbox"/> Not at all		
Potential irregularities		Yes	No
D1	Is the secrecy of voting maintained throughout the day?	<input type="checkbox"/>	<input type="checkbox"/>
D2	Are voters voting only for themselves?	<input type="checkbox"/>	<input type="checkbox"/>
D3	Did you observe voters being handed more than one ballot? (Multiple voting)	<input type="checkbox"/>	<input type="checkbox"/>
D4	Did you observe voters receiving ballots for other persons? (Proxy voting)	<input type="checkbox"/>	<input type="checkbox"/>
D5	Did you observe voters voting in groups? (Family voting)	<input type="checkbox"/>	<input type="checkbox"/>
D6	Did you observe voters being handed pre-marked ballots? (Carousel voting)	<input type="checkbox"/>	<input type="checkbox"/>
D7	Did you observe the same person 'assisting' numerous voters?	<input type="checkbox"/>	<input type="checkbox"/>
D8	Was anyone denied the right to vote for inappropriate reasons?	<input type="checkbox"/>	<input type="checkbox"/>
D9	Do you see any evidence of illegal tampering with the ballot boxes?	<input type="checkbox"/>	<input type="checkbox"/>
D10	Were there any incidents of vote buying (bribery)? <input type="checkbox"/> You heard observers, voters or officials make allegations of vote buying <input type="checkbox"/> You witnessed activities that give you concern about vote buying	<input type="checkbox"/>	<input type="checkbox"/>
As you leave		Yes	No
E1	How do you rate the PS staff's understanding of the Voting Procedure? 5 = Excellent / 1 = Very poor		
E2	How do you rate the conduct of the Voting Procedure at this polling station? 5 = Excellent / 1 = Very poor		
E3	Did any agent/observer make a formal complaint about the voting procedure?	<input type="checkbox"/>	<input type="checkbox"/>
E4	Does anyone appear to have influenced the opening procedure in a way that is at odds with their role under the election law? <input type="checkbox"/> Security / Police <input type="checkbox"/> Authorised Party Agents <input type="checkbox"/> Media <input type="checkbox"/> Persons with unclear roles	<input type="checkbox"/>	<input type="checkbox"/>
E5	Did you observe anything that makes you suspect some form of election irregularity?	<input type="checkbox"/>	<input type="checkbox"/>

**CLOSING OF POLLING STATION**

<b>Observer name:</b>		<b>Constituency name:</b>	
Arrival time:		Box number:	
Departure time:			

Before the polling station closes (5pm)

A. In the immediate vicinity of the polling station		Yes	No
A1	Is there campaign activity taking place? <input type="checkbox"/> Residual (leftover posters) <input type="checkbox"/> Active (rallies, volunteers distributing info)	<input type="checkbox"/>	<input type="checkbox"/>
A2	How would you describe the environment around the PS? <input type="checkbox"/> Calm, no crowding <input type="checkbox"/> Crowded but generally calm <input type="checkbox"/> Tense / Violent		
A3	Is the PS clearly marked and correctly identified?	<input type="checkbox"/>	<input type="checkbox"/>
A4	Is the PS entrance accessible to persons with disabilities?	<input type="checkbox"/>	<input type="checkbox"/>
A5	Did you observe any other problems within the vicinity of the PS?	<input type="checkbox"/>	<input type="checkbox"/>
B. Inside the polling station		Yes	No
B1	Are there any unauthorised campaign materials/activities present inside the PS (including any electoral propaganda)?	<input type="checkbox"/>	<input type="checkbox"/>
B2	How would you describe the atmosphere inside the PS? <input type="checkbox"/> Organised, calm <input type="checkbox"/> Disorganised, calm <input type="checkbox"/> Disorganised, chaotic <input type="checkbox"/> Insecure or tense <input type="checkbox"/> Violent		
B3	Do the staff have all necessary materials from the Elections Office?	<input type="checkbox"/>	<input type="checkbox"/>
B4	How many members of staff are present?		
B5	How many members of staff are women?		
B6	Is the Presiding Officer a woman?	<input type="checkbox"/>	<input type="checkbox"/>
B7	In addition to polling staff, are there any other people present inside the PS? (s.56) <input type="checkbox"/> Security / Police <input type="checkbox"/> Authorised Party Agents <input type="checkbox"/> Media <input type="checkbox"/> Persons with unclear roles	<input type="checkbox"/>	<input type="checkbox"/>
B8	Which parties/campaigns are present at the polling station as observers?		
B9	Notes for this section		

Closing Procedure

Closing Procedure		Yes	No
C1	Did the PS close on time? (6pm). Time:	<input type="checkbox"/>	<input type="checkbox"/>
C2	Did the Presiding Officer seal and lock the ballot boxes at closing?	<input type="checkbox"/>	<input type="checkbox"/>
C3	How many electors are registered to vote in the PS?		
C4	How many ballots were received in the PS?		
C5	Were spoiled ballots, counterfoils, unused ballots inventoried?	<input type="checkbox"/>	<input type="checkbox"/>
C6	Did anyone other than electors enter or return to the polling station after 5pm?	<input type="checkbox"/>	<input type="checkbox"/>
C7	Does the ballot box show any signs of being improperly sealed or tampered with?	<input type="checkbox"/>	<input type="checkbox"/>
C8	Were all voters inside the polling station allowed to finish voting?	<input type="checkbox"/>	<input type="checkbox"/>
C9	Notes for this section		

End of Closing Procedure		Yes	No
D1	How do you rate the PS staff's understanding of the Closing Procedure? 5 = Excellent / 1 = Very poor		
D2	How do you rate the conduct of the Closing Procedure at this polling station? 5 = Excellent / 1 = Very poor		
D3	Did any agent/observer make a formal complaint about the Closing Procedure?	<input type="checkbox"/>	<input type="checkbox"/>
D4	Does anyone appear to have influenced the Closing Procedure in a way that is at odds with their role under the Elections Act? <input type="checkbox"/> Security / Police <input type="checkbox"/> Authorised Party Agents <input type="checkbox"/> Media <input type="checkbox"/> Persons with unclear roles	<input type="checkbox"/>	<input type="checkbox"/>
D5	Did you observe anything that makes you suspect some form of election irregularity?	<input type="checkbox"/>	<input type="checkbox"/>
D9	Notes for this section		

Counting Procedure

Counting Procedure		Yes	No
E1	Is the Returning Officer willing to have you observe the count?	<input type="checkbox"/>	<input type="checkbox"/>
E2	Did the Counting Procedure begin on time? (7pm) Time: _____	<input type="checkbox"/>	<input type="checkbox"/>
E3	In addition to polling staff, are there any other people present inside the PS when the boxes were opened or during the count? <input type="checkbox"/> Security / Police <input type="checkbox"/> Authorised Party Agents <input type="checkbox"/> Media <input type="checkbox"/> Persons with unclear roles <input type="checkbox"/> Others: _____		
E4	In addition to Returning Officer, who witnessed the count take place? <input type="checkbox"/> Security / Police <input type="checkbox"/> Authorised Party Agents <input type="checkbox"/> Media <input type="checkbox"/> Persons with unclear roles <input type="checkbox"/> Electors <input type="checkbox"/> The Counting Clerk		
E5	Were tally sheets provided to the Counting Clerk and two witnesses?	<input type="checkbox"/>	<input type="checkbox"/>
E6	Is anyone improperly congregating within 100 yards of the polling station?	<input type="checkbox"/>	<input type="checkbox"/>
E7	Did the Returning Officer properly record all objections to inferences drawn from unclear ballots?	<input type="checkbox"/>	<input type="checkbox"/>
E8	Use this space to record the results announced by the Returning Officer		
Counting Overall		Yes	No
E1	At what time did the count conclude?	<input type="checkbox"/>	<input type="checkbox"/>
E2	Did any candidate request a recount? s.58(11)	<input type="checkbox"/>	<input type="checkbox"/>
E3	At what time did the Returning Officer officially conclude proceedings?		
E4	Did any agent/observer make a formal complaint about the Counting Procedure?	<input type="checkbox"/>	<input type="checkbox"/>
E5	How do you rate the PS staff's understanding of the Counting Procedure? 5 = Excellent / 1 = Very poor		
E6	How do you rate the conduct of the Counting Procedure at this polling station? 5 = Excellent / 1 = Very poor		
E7	Does anyone appear to have influenced the Counting in a way that is at odds with their role under the election law? <input type="checkbox"/> Security / Police <input type="checkbox"/> Authorised Party Agents <input type="checkbox"/> Media <input type="checkbox"/> Persons with unclear roles	<input type="checkbox"/>	<input type="checkbox"/>
E8	Did you observe anything that makes you suspect some form of election irregularity?	<input type="checkbox"/>	<input type="checkbox"/>
E9	Notes for this section		

# DOMESTIC OBSERVERS' REPORT



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Although each of the Election Observers, jointly and severally, have exercised care and diligence in making their observations in preparing this Report and have relied on information believed to be reliable, except for an honorarium none of the Election Observers were paid.

**As a volunteer, each Election Observer undertook his or her responsibilities to the best of his or her abilities, in good faith.**

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