

ASSOCIATION OF ELECTORAL ADMINISTRATORS



Beyond 2010: the future of electoral administration in the UK

July 2010

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Executive summary

The Association of Electoral Administrators (AEA) is a non-governmental and non-partisan body founded in 1987 to represent the interests of electoral administrators in the United Kingdom.

The AEA strongly supports and advocates the principle that all those with a role in organising elections should consider the voters' interests above all other considerations.

Electoral administrators continue to deliver elections within an increasingly complex and challenging environment. With the prospect of more elections and referendums, and a trend for holding these on the same day, there is also the likelihood of fewer resources with which to deliver them. The AEA is acutely concerned that, unless the issues identified in this report are properly considered and addressed, the structures, processes and people delivering electoral administration will not be able to cope with the additional burdens being placed upon them.

This report reflects on the experiences of those tasked with delivering the elections that took place across the UK in May 2010, and contains an agenda for re-building the electoral process to ensure that it is fit for purpose in the 21st century and can also deliver the scale of political reform being proposed by the UK Government.

To achieve this will require urgent joint action by those with a role in shaping policy and practice in electoral administration, and the AEA looks forward to actively working with Governments across the UK, the Electoral Commission and other key stakeholders.

Recommendations

A thorough and systemic review of the electoral process in the UK is required that integrates with the development and implementation of the new individual electoral registration system. This should deliver measurable outcomes before the date fixed for the next UK Parliamentary General Election. It should specifically include:

- Consultation to identify **a model for the structure and delivery of electoral administration in the UK in the 21st century** – with the aim of achieving agreed key outcomes and founded on agreed principles. This will need to reflect the diversity of the four nations of the UK. The AEA will initiate a wide and inclusive debate amongst its membership and with a range of stakeholders as to what form a new

model for electoral administration might take and will seek innovative solutions to this complex question.

- The creation of a **single Electoral Administration Act** in accessible language setting out the high-level framework with the operational detail contained in secondary legislation. The key aim should be the simplification and consistency of rules across all elections. Except in cases of unforeseen emergencies, changes to election law should not be applicable to any elections within a six-month period from the date the legislation comes into effect.
- A UK-wide **review of funding and resources** with the aim of delivering a coherent and efficient structure, cost effectiveness over time and that funding for new responsibilities reaches electoral services. The AEA will undertake a staffing survey to inform the wider debate on funding and resourcing any new structure of electoral administration.
- The design of a **clearer and local system of accountability and challenge** through the introduction in election law of a formal complaints system. This should establish a court of first resort to deal with complaints arising from the conduct of elections.
- The implications for voters and for the administration of polls of **holding elections and referendums on the same day** should be reviewed. This should particularly consider the scenarios arising from the proposals for a UK referendum on 5 May 2011, and a UK Parliamentary General Election in May 2015.
- **A review of statutory election timetables** and in particular the statutory election timetable for UK Parliamentary elections to achieve consistency across all elections and to lengthen the current UK Parliamentary General Election timetable.
- **Equal access** should be central to the electoral process and future policy development and implementation. The Electoral Commission should consult on what types of buildings should be made available for Returning Officers to use *by right* as polling stations. All voter materials should undergo appropriate usability analysis, and relevant representative groups consulted as part of their development.

The full recommendations are included at the end of this report.

Introduction

The Association of Electoral Administrators

The Association of Electoral Administrators (AEA) was founded in 1987 and has since established itself as a professional body to represent the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has 1648 members, the majority of whom are employed by local authorities to provide electoral registration and election services.

The key aims of the AEA are to:

- Contribute positively to electoral reform within the United Kingdom;
- Foster the advancement of consistent and efficient administration of electoral registration and the conduct of elections in the UK;
- Raise the profile of electoral administration both within the UK and internationally;
- Enhance and maintain the AEA's reputation as the leading professional body for electoral administrators within the UK.

The AEA supports and advocates two key principles set out by Gould¹ in his report on the 2007 elections in Scotland, namely that:

- All those with a role in organising elections should consider the voters' interests above all other considerations; and
- Electoral legislation should not be applied to any election held within six months of the new provision coming into force.

Purpose of this report

The purpose of this report is twofold. Firstly, it presents the issues and experiences expressed by members of the Association who were tasked with delivering the elections that took place in May 2010. Secondly, the report contains an agenda for re-building the electoral process to ensure that it is fit for purpose in the 21st century.

It is the AEA's intention to offer solutions where we can, and a willingness to work with members of the Association, Governments and government officials, Electoral Registration Officers, Returning Officers, the Electoral Commission and other key stakeholders where there is a need for further consideration. Solutions should be capable of being administered effectively by statutory officers and electoral administrators and deliver

¹ *Independent Review of Scottish Parliamentary and Local Government Elections*, Ron Gould, 2007.

outcomes that support the effective participation by eligible electors and by those standing for election.

Scope

This report addresses the administration of the elections in May 2010. The Association does not, however, comment on the performance of individual Electoral Registration Officers or Returning Officers or their staff.

It is not within the Association's remit to address issues of voter engagement, or matters relating to party and election finance other than where there is an impact on or from the administration of electoral processes.

The report sets out a number of recommendations for the future development of electoral administration in the UK. Where a recommendation is applicable across the UK (for example in respect of UK Parliamentary elections) this is clearly stated. It should be recognised that recommendations may have specific implications for the different nations of the UK.

Sources of evidence used in this report

This report is based on evidence from Returning Officers and electoral administrators from across the UK. This evidence was provided in response to a survey posted on the AEA's website; through direct email comments; and through branch minutes and post-election discussion notes from AEA Regional Branches. This report includes anonymised quotations from the feedback and submissions that we received and have been selected as representative of the nature of concerns and views expressed in relation to a particular issue.

The AEA has made recommendations on key challenges and issues facing electoral administration in its previous reports, consultation responses and issues papers. Where recommendations have yet to be acted upon, these are highlighted.

Roles and responsibilities – references within this report

There are a number of different statutory officers with specific responsibilities for delivering the different types of elections that took place in May 2010.

For the purposes of this report, the generic term *Returning Officer (RO)* is used throughout.

However, in respect of the UK Parliamentary General Election in England and Wales, it is the Acting Returning Officer (ARO) who has responsibility for the day-to-day conduct of the election. In Scotland, it is the Returning Officer. Acting Returning Officers can appoint Deputy Acting Returning Officers (DARO). In Scotland, the role is Depute Returning Officer (DRO).

It is recognised that there is a different structure in Northern Ireland and that the Chief Electoral Officer has responsibility for the conduct of the UK Parliamentary General Election in Northern Ireland.

Local government Returning Officers are responsible for the conduct of local government elections in England, including the Mayoral elections.

In Great Britain, the Electoral Registration Officer is responsible for compiling and maintaining the electoral registers for the UK Parliamentary and local government elections, in addition to receiving and determining applications from electors for absent voting arrangements. In Northern Ireland, the Chief Electoral Officer undertakes these responsibilities. However, the term *Electoral Registration Officer (ERO)* is used throughout this report to reflect this statutory role and responsibility.

Framework

At present there is considerable systemic complexity in the legal and structural framework for elections in the UK.

The 2010 UK Parliamentary General Election took place on Thursday 6 May in 649 constituencies (voting in the Thirsk and Malton constituency was postponed for three weeks to 27 May due to the death of a candidate). In addition, in England, all seats in the 32 London Boroughs were up for election, seven district councils had half of their seats up for election, and 69 district councils, 36 metropolitan councils and 20 unitary councils had one third of their seats up for election. There were also four mayoral elections and one mayoral referendum. The polls for the parish council elections in England due to take place on 6 May were deferred by law by three weeks to 27 May, which in itself placed an additional burden on voters, electoral administrators and candidates.

Structure of electoral administration in the UK

As evidenced in the paragraphs above that outline the various statutory officers across the UK with responsibilities for electoral registration and the conduct of elections in May 2010, the structure for electoral administration across the UK is equally diverse and decentralised².

Electoral policy is generated by Governments and the Electoral Commission. Subsequent legislation is then debated and/or approved by Parliaments and Assemblies.

The Electoral Commission has a statutory role in setting performance standards, regulating party and election finance, running referendums, public awareness activity, providing advice and assistance, and reporting on the administration of elections.

Local authorities provide core electoral services and review polling districts and places.

There are also a plethora of non-statutory bodies and groups – the Interim EMB in Scotland, the Elections Coordination Group chaired by the Ministry of Justice (now Cabinet Office), the Elections and Registration Working Group chaired by the Electoral Commission, the Wales Election Planning Group, and many county and other local groupings across England.

² Except in Northern Ireland where there is one Chief Electoral Officer with overall responsibility for registration and the conduct of elections.

Finally, there are a range of partners and contractors – including the police, Royal Mail, print companies, and software suppliers.

There has been considerable debate about the structure of electoral administration in the UK, but this fundamental issue remains unresolved. The AEA believes that the status quo is not sustainable for the future.

In May 2008, the AEA responded to the Electoral Commission's issues paper, *Examination of the structure of electoral administration in the United Kingdom*, as follows:

“...the current structure does not ensure consistently high quality service. There are major problems with the complex and fragmented legal framework, resources and funding arrangements and inadequate accountability mechanisms ...”

Since that statement there has been yet further legislation ‘bolting on’ new provisions to those already in place, and no progress on reforming funding and accountability mechanisms. Resourcing continues to be a concern with evidence in this report of small core electoral services teams continuing to work excessive hours in order to deliver the elections.

The AEA response also pointed to further work needing to be done to arrive at a new model for electoral administration in the UK.

“In terms of a new model, the AEA considers that it is too early in the process of this review to identify a firm model. Instead it believes that a more considered review and debate is required to explore the options which might arise from this issues paper. Such an approach would also allow an opportunity for those who have not yet engaged in this debate so to do. We look forward to working with the Electoral Commission and other stakeholders including Government in such an approach.”

However, without this further debate, the Commission recommended regionally-based structures in the form of Electoral Management Boards. Previously, the Committee on Standards in Public Life (CSPL) had also recommended a regional structure with statutory Regional Electoral Officers, and Gould recommended a Chief Electoral Officer for Scotland. In response, there has been the development of the Interim Election Management Board in Scotland with work ongoing to provide the Board with a statutory basis.

The AEA is concerned that those structures proposed or part implemented do not address the fundamental issue of accountability, and they add yet

another layer to the already complex web of roles, responsibilities and relationships.

A solution that may deliver effective coordination and accountability in a geographic area where relevant statutory officers are based in a relatively small number of local authorities may not necessarily work in an area where there are many more statutory officers and local authorities. Therefore, we will need to consider a structure for electoral administration across the UK that has the flexibility to respond to the different contexts and needs of the four nations that make up the UK, but that delivers agreed outcomes and standards of service delivery.

At micro level, within local authorities, there are also considerable inconsistencies in structural and staffing arrangements for delivering electoral services with, in many cases, several management levels between the Electoral Services Manager and the Returning Officer. This places a structural and often operational distance between the statutory officer who has personal responsibility for delivering the election and the core team undertaking those duties on his or her behalf.

There are also examples of effective and close working between Returning Officers and their core electoral services team, with engagement and capacity building across the local authority. However, there is considerable concern that in the context of local government spending cuts and an increasing trend towards authorities sharing Chief Executives, there will be a widening gap between the Returning Officer and the electoral service, or that councils will appoint a less senior officer as Returning Officer with a resulting reduction of influence to command the necessary resources.

Recommendations:

The UK Government and the Electoral Commission in consultation with key stakeholders should undertake **a thorough and systemic review of the electoral process** in the UK that integrates with the development and implementation of the new individual electoral registration system.

This review should specifically include consultation to identify **a model for the structure and delivery of electoral administration in the UK in the 21st century** – with the aim of achieving agreed key outcomes and founded on agreed principles. This will need to reflect the diversity of the four nations of the UK. This should deliver measurable outcomes before the date fixed for the next UK Parliamentary General Election.

The AEA will initiate a wide and inclusive debate amongst its membership and with a range of stakeholders as to what form a new model for electoral administration might take and will seek innovative solutions to this complex question.

Legislation

"...the United Kingdom presents a challenging environment for those who need to find their way around electoral law. This is becoming more difficult as almost yearly changes to electoral legislation must be implemented. Changes are also implemented in an asymmetrical way, some implemented across the UK, some only in Great Britain and some in England and Wales but not in Scotland. ... The fragmented approach can obviously lead to confusion among those working with the legislation, and also leaves more opportunity for drafting or compatibility errors."³

Ron Gould

Over 25 separate pieces of primary and secondary legislation (some of which have been amended on several occasions) governed the administration of the elections that took place across the UK in May 2010 (with specific legislation applying in respect of particular provisions for Scotland, Wales and Northern Ireland).

These acts, regulations, rules, and orders are intended to cover everything including who is responsible for electoral registration and conduct of the elections; the franchise and registration process; the detailed requirements for electoral processes contained in rules and regulations; combination of polls; the responsibilities of parties, candidates and agents; fees and charges for funding the elections; Welsh language provisions; the means for challenging results; and arrangements for polling districts, polling places and polling stations.

The statutory officers and electoral administrators are, understandably, expected to have a working knowledge of the relevant provisions of all of the legislation relevant to the elections they are delivering. This is becoming increasingly challenging in such a complex legislative environment.

Further, the legislative provisions for the conduct of an election can be changed even after the Prime Minister has called the General Election, in the period known as 'wash-up', if there is an appropriate bill in the UK Parliament at that time. In the context of the UK Parliamentary General

³ *Independent Review of Scottish Parliamentary and Local Government Elections*, Ron Gould, 2007.

Election in 2010, a change to the arrangements for the timing of the count was brought into effect in law the week before the statutory timetable for the election commenced. The Constitutional Reform and Governance (CRAG) Act came into effect on 8 April 2010 and the statutory election timetable for the UK Parliamentary General Election commenced with the issue of the writs on 12 April 2010.

The complexity of election law is exacerbated when elections are held on the same day, and where polls are combined, particularly where the rules and timetables for the elections are not compatible. This is covered in some detail later in this report.

Elections during the annual canvass

A UK Parliamentary General Election can be called at any time, including during an annual canvass. The rules relating to elections during the annual canvass are currently not fit for purpose and work is ongoing by UK Government Officials, with input from the Electoral Commission and the AEA, to try and arrive at a solution. This is probably one of the most pertinent examples of how a 'bolt-on' approach to changing electoral administration legislation has resulted in an unworkable arrangement that poses potential risks to the integrity of an election.

In 2006, the *Electoral Administration Act* brought in a change to registration to enable people to register up to 11 days before polling day. It was subsequently realised that the legislation was flawed in respect of an election held during the annual canvass in that it did not allow changes made via the annual canvass form to be used to update the register for that election.

In an attempt to 'fix' the problem, further changes to the legislation were brought in by the *Political Parties and Elections Act 2009*. However, these changes only partially addressed the problem in that names added to the canvass form can now be added to the register to be used at the election, but the ERO is not allowed to delete the names of people crossed off the canvass form because they are no longer resident at the property. The ERO can act on a notification directly from the elector that they have moved and can delete the names of deceased people (notified by the Registrar of Births, Deaths and Marriages).

At the Glasgow North East UK Parliamentary by-election in November 2009, the Electoral Commission estimates that 1,898 electors remained on the register used at the by-election even though their names had been

crossed off the annual canvass form. These electors were then deleted from the revised version of the register published by 1 December.

An inaccurate electoral register containing the names of people no longer resident at addresses within an electoral area at the time of an election increases the opportunity for electoral fraud.

Recommendations:

The UK Government should bring forward **a single Electoral Administration Act** in accessible language setting out the high-level framework governing electoral registration, elections and referendums in the UK, with the operational detail of registration, absent voting, and elections contained in secondary legislation, all with the key aim of achieving the simplification and consistency of rules across all elections.

Except in cases of unforeseen emergencies, changes to election law should not be applicable to any elections within a six-month period from the date the legislation comes into effect.

The role of guidance and advice in supporting the effective conduct of the elections

The role of guidance in the electoral context is formally recognised by the Political Parties, Elections and Referendums Act 2000 (PPERA). Section 10 of that Act makes provision for the Electoral Commission to provide 'advice and assistance' to specific individuals and bodies.

As the professional body representing electoral administrators, the AEA was primarily established with the aim of supporting and assisting in the delivery of high quality, consistent and professional electoral services. A primary objective remains that of delivering training, education (through guidance and qualifications), and advice for Returning Officers and electoral administrators. To support the elections in 2010, the AEA offered courses covering all aspects of electoral registration and elections management, including training specifically designed for Acting Returning Officers. These were attended by over 1200 people.

In order to be effective, guidance must be designed to support the reader in understanding the application of the legislation and their role in this; it must be accurate and delivered in sufficient time for the reader to implement the advice or recommendations contained within the guidance. Within the context of Performance Standards, the guidance should support Returning Officers in meeting the standards.

The complexity and, frequently, the lateness of the legislation governing electoral administration across the UK do not support the effective delivery of accurate and timely guidance and advice. On some occasions, it leads to late guidance which contradicts or changes previous guidance and which cannot be taken into account in delivering training.

Feedback from administrators was generally positive about the range and content of guidance documents and resources provided by the Commission to support the elections in 2010. In particular, the nominations and associated forms were welcomed, and it has become standard practice to use the *Guidance for candidates and agents* and *Handbook for polling station staff*. The AEA has received comments from members on matters of detail with regard to the timeliness and content of specific guidance materials and consistency of advice provided by the Commission via its offices, and the AEA will collate these and pass them to the Commission for consideration and action.

The AEA continues to support the role of the Elections and Registration Working Group in providing experienced administrator input into the drafting of guidance and resources. It is important that the group is given sufficient time to review draft documents and that clarity is provided on the nature and status of any such consultation.

Guidance on joint descriptions and emblems

The guidance issue that attracted the most comment was that of the advice contained in Circular EC14/2010 which was published on 16 April, after the close of nominations for local government elections in England (on 8 April).

Election law provides for a candidate standing for two political parties to use a registered joint description on the ballot paper but does not currently entitle such a candidate to request an emblem to appear on the ballot paper. One can only assume that this is an error in drafting at the time joint descriptions were provided for in the legislation as there does not seem to be a principled reason for the difference.

The practical implications for those Returning Officers who had already printed ballot papers for the local government elections in England was that, in order to comply with the legislation as explained in the circular, they had to destroy any affected ballot papers and reprint them without the emblems, incurring additional unforeseen costs.

“This resulted in our having to re-print around 6000 postal votes and from what I can gather we got off lightly. Even so we are now faced with additional costs for this which I doubt we will be able to claim back.”

Electoral Administrator – North West

The practical implications for candidates at the UK Parliamentary General Election and the local government elections in England was that, at the former, candidates chose to stand under a single description in order to have an emblem on the ballot paper, and, at the latter, candidates with a joint description did not have an emblem and did not have the choice of standing under a single description.

For voters, and particularly for voters with low literacy levels, the lack of pictorial information on the ballot paper regarding candidates standing on behalf of two parties does not meet with the Electoral Commission’s guidance on ballot paper design which states:

“Keeping the logo and voting box close to candidate or party information maintains the link between them. This helps the voter to find the voting box for the candidate or party of their choice and to put their mark in the correct place.”

Making your mark – the Electoral Commission

Funding and resources

In its report *Funding electoral services*⁴ published in 2003, the Electoral Commission made the following statement:

“The Commission concluded, in the wake of the 2001 General Election, that there was a need to review the present system of funding elections. We cited the ‘dangerous dependency on goodwill’ at the heart of the system, the lack of investment in the future and the overly bureaucratic arrangements for reimbursing Returning Officers for the costs of running major elections. Our subsequent research and consultation have confirmed our initial impression that the present arrangements are not ‘fit for purpose’ and provided further evidence of the structural weaknesses of the present arrangements.”

4

http://www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0019/16048/Finalversion_8139-7175_ENSW.pdf

Little progress has been made since this assessment was published to address the structural weaknesses of the arrangements for funding both core electoral services and specific elections in the UK.

Funding for core electoral services teams and for electoral registration is provided by local authorities in England and Wales. In Scotland, electoral registration is delivered separately from elections in most areas through Joint Boards comprising a number of local authorities. In Northern Ireland, all electoral services functions are delivered by the Chief Electoral Officer funded by the Northern Ireland Office.

The fees and charges for the UK Parliamentary General Election do not include funding for the core electoral services team or for registration and absent vote application processes, both of which are an integral and critical part of the overall electoral service.

There has been considerable progress in improving the framework within the current system of fees and charges at the European Parliamentary Elections in 2009 and at the UK Parliamentary General Election in 2010. The new approach specifies an overall maximum recoverable amount for each Returning Officer and allows them greater flexibility to make decisions as to how the money is spent.

“You are free to disburse funds on the different functions specified in the Charges Order as you see fit, provided you account for the expenditure properly and only spend on what is necessary for the efficient and effective conduct of the election. ”

Additional work was done to try and establish the baseline costs for the UK Parliamentary General Election with input from the Elections Coordination Group, and assumptions were included in *the Returning Officers' Expenses Guidance Notes Parliamentary Elections (Great Britain)*.⁵

However, the fees and charges for the UK Parliamentary General Election are paid on an election-by-election basis therefore precluding any opportunity for achieving efficiencies or investment over time.

Funding for the elections in May 2010

Funding for the UK Parliamentary General Election in England, Scotland and Wales was set out in a Fees and Charges Order that was made on 15 March 2010, and came into force the next day. The guidance giving the

⁵ <http://www.justice.gov.uk/guidance/docs/ro-expense-guidance1.pdf>

assumptions on which the figures were based, and how Returning Officers should account for the costs incurred, was published in March 2010. The election was called on 6 April and advances to Returning Officers were paid from 9 April.

Whilst there was helpful consultation on these arrangements through the Elections Coordination Group chaired by the Ministry of Justice, confirmation of actual amounts, and payment of advances to Returning Officers came some considerable time after Returning Officers needed to be able to commit funds in order to enter into printing contracts, venue hire and staffing arrangements.

The proposed introduction of fixed terms for the UK Parliament offers an opportunity to put in place a planned approach to funding with early confirmation of the fees and charges for the election, and timely guidance.

Administrators have expressed concern about the amount of the advances paid to Returning Officers based on previous submission of accounts within the deadline of 12 months after the election (resulting in advances of 75% in England and Wales, and 80% in Scotland⁶), or late submission of accounts (resulting in advances of 60%), and how and when this was communicated.

As a professional body, the AEA supports the return of complete and accurate election accounts within the statutory deadline of 12 months after the election. We will continue to work with the Cabinet Office and the Election Claims Unit (and Scotland Office) and with AEA members to understand the barriers to meeting this deadline and continue to offer elections accounts training to support good practice.

In May 2010, there were also local government elections in England, funded by local authorities. However, this has an impact on how much can be claimed for the conduct of the General Election and adds to the accounting complexity with amounts being split between the elections.

Funding to meet new responsibilities

In previous years, the AEA has highlighted the difficulties caused by the fragmented funding arrangements for electoral services. In 2006 - 07, additional money was provided by the UK Government to support the introduction of new duties arising from the Electoral Administration Act

⁶ Paragraph 4.5, <http://www.justice.gov.uk/guidance/docs/ro-expense-guidance1.pdf>

2006. This money was not ring-fenced but provided to local authorities via grants resulting in 'wide disparities in allocation to electoral services'.

"An exercise undertaken by the AEA in 2006 revealed that out of 187 Councils researched, only 35% made the grant solely available for electoral services, around 30% allocated a partial amount and 35% none at all."

The AEA – Official Post Election Report, May 2007 Elections

The new Coalition UK Government has put forward an ambitious programme for political and electoral reform which, if implemented, will have a significant impact on the profession of electoral administration. This includes a commitment to speeding up the implementation of individual electoral registration.

In order for this programme of change to be implemented effectively and to a high standard of service, core electoral services teams will need to have sufficient capacity and resilience to respond to significant changes in working practices. It will require sustained investment to ensure that the electoral administrators responsible for providing the services at the heart of our democracy are properly trained and resourced to respond to these challenges.

It is vital that funding for any new or additional responsibilities reaches those tasked with delivering them. There is, for example, uncertainty and anxiety amongst administrators regarding the availability of funding needed to refresh the absent voting personal identifier data in 2012.

A significant number of administrators continue to highlight the reliance of the electoral system on goodwill in order to ensure that elections are delivered, as evidenced elsewhere in this report.

"Electoral expertise in this context is spread too thinly, resulting in electoral services staff working long hours to complete the job – 70 hour weeks for the duration of the timetable were common. Many authorities offer excellent levels of corporate support but by definition this is not specialist and the very small Core Teams cannot be expanded at will."

AEA London Branch

There are, relative to other professions, a very small number of experienced electoral administrators and each year approximately 10.5%⁷ of these people leave the profession taking with them vital skills and

⁷ Figure based on AEA membership rates from 2007, 2008 and 2009; turnover rates ranged from 9% to 12.1%.

experience. Given that core electoral services are generally delivered by very small teams, or even an individual member of staff, any loss of experienced staff can have a significant impact on service delivery.

There is an urgent need to establish baseline data regarding staff resources currently involved in delivering electoral registration and elections, including staffing levels and experience, turnover, succession planning and hours worked during the election timetable.

The AEA will undertake a staffing survey to inform the wider debate on the funding and resourcing of any new structure of electoral administration.

Recommendations:

The UK Government should undertake a thorough and UK-wide review of the funding and resources required to deliver core professional electoral services with the aim of delivering a coherent and efficient structure across the UK, cost effectiveness over time, and ensuring that funding for new responsibilities reaches electoral services.

As with other election law, if Fees and Charges Orders remain the mechanism for funding specific elections, these should be in place six months before the relevant election is due to take place. The proposed introduction of fixed terms for the UK Parliament offers an opportunity to achieve this.

Accountability and challenge

“Legal elections depend on legal corrections of any mistake or unlawful electoral action. Therefore, the system’s aim is to ensure a real protection for and an effective enforcement of the political rights to elect or to be elected. To do so, the system ensures to all participants (political parties, citizens and candidates) that the voter’s decision will prevail.”⁸

ACE Electoral Knowledge Network

Returning Officers and Electoral Registration Officers are accountable to the courts for their conduct of the election. Candidates and agents are accountable to the courts for their conduct in standing for election.

Parties, candidates and agents also have responsibilities as regards election finance and are regulated by the Electoral Commission in this

⁸ Electoral Dispute Resolution, ACE Electoral Knowledge Network, <http://aceproject.org/topics/lfb/lfb12>

respect. The comments here do not intend to address any of the election finance requirements currently regulated by the Commission.

The only provision within the law for addressing grievances and complaints about elections is by presenting an election petition to the Royal Courts of Justice (England and Wales), the Court of Session (Scotland), or the High Court (Northern Ireland). In such a case, the petition is simply aimed at challenging the result of the election. Other than this, there is little provision within the law to deal with the situation of complaints made during the election campaign or about the voting process.

What this means in practice is that a person eligible to vote or a candidate at the election in question must lodge a petition within 21 days of the writ being returned for a UK parliamentary election or of the declaration of result for a local government election and stand surety for costs of £5,000 or £2,500 respectively. In order to be successful in petitioning the petitioner must be able to argue that the outcome of the election was affected. In cases of alleged maladministration the petitioner must be able to argue that (a) the election was not conducted in accordance with the law, and (b) that the outcome of the election was affected. Once a petition has been properly submitted an election court is convened and proceedings (depending on the complexity of the case) can take several months to resolve before a judgment is delivered.

For example, a Petition was brought alleging electoral fraud at the elections in Birmingham on 10 June 2004. The Judgment was delivered on 4 April 2005, with the subsequent appeal to the High Court taking place almost one year after the elections. The outcome was that a new election had to be held for the Bordesley Green ward.

A petition brought in respect of the local elections in Bradford held in May 2008, was dismissed on the second day of the hearing in May 2009.

This is unsatisfactory from several viewpoints, e.g. the length of time that this process takes, the cost of taking a case via the election petition route, the unfair advantage provided to those who can afford these costs, the lack of proportionality in either the process or the remedy for dealing with the potential range of complaints some of which may not have affected/ or wish to question the outcome of an election.

For all of these reasons, the petitions process does not offer an appropriate or proportionate mechanism to assist an elector who has a genuine complaint or has suffered maladministration or a candidate who

has a concern about a campaigning issue or a technical breach of the complex rules.

The Association is aware that at the current time there are 4 petitions arising out of the elections held in May 2010 – two relating to the UK Parliamentary General Election and two relating to local government elections in England. One of the parliamentary petitions relates to the conduct of candidates and the other three relate to complaints regarding the administration of the elections by the relevant Returning Officers.

In most areas of public administration, it is common for first level complaints systems to be in place, for there to be a referral procedure to an independent body (e.g. an ombudsman) with an opportunity for action through the legal system for more serious complaints or complaints that cannot be resolved through the first level complaints system.

A formal complaints system should be put in place which is well understood, publicised and capable of being implemented speedily. It needs to have the following characteristics:

- time limited to the nature of the complaint
- penalties for vexatious or frivolous complaints
- a proportionate and appropriate range of outcomes and penalties arising from decisions
- an appeals process
- a mechanism for referral to the appropriate level of court
- suitable powers for the court, including the possibility of disqualification from contesting the election in question and/or from holding public office for a specified term.

In terms of the present arrangements for election petitions and the difficulties highlighted above, consideration should be given to the establishment of a lower level court to act as a court of first resort with a simplified process for raising cases to this court. The court would also deal with penalties to be applied arising from the complaints system outlined above. Appeals from decisions of this court could be to the Election Court as part of the existing elections petitions process dealt with by the High Court.

A vehicle for achieving this could be to utilise the county court involvement provided in Rule 56 of the Parliamentary Election Rules (with equivalent provision in other election rules) with suitable amendments to

accommodate the new system introduced as a result of these recommendations.

It would be essential to ensure clarity for all involved about any outcomes that could be sought and delivered through this process.

Recommendations:

The UK Government should design and implement **a clearer and local system of accountability and challenge** through the introduction in election law of a formal complaints system. This should establish a court of first resort to deal with complaints arising from the conduct of elections.

Timing of elections and statutory timetables

Elections are all about timing. All elections except the UK Parliamentary General Election are scheduled for a specific date which allows Returning Officers to plan in advance with that date as the fixed point; to book venues, enter into contracts, and to hire staff with certainty about when they will be required.

Electoral legislation is extremely prescriptive (as it needs to be) regarding the statutory deadlines for electoral processes and regarding the length and calculation of the statutory timetable.

These two aspects of the elections in May 2010 attracted by far the most comment from Returning Officers and electoral administrators.

Timing of the UK Parliamentary General Election

The date of the UK Parliamentary General Election is not fixed and the election can be called at any time. This has a significant impact on the planning and contingency arrangements that Returning Officers must have in place to deal with the uncertainty around timing.

The AEA welcomes the new UK Government's proposal for fixed-term UK Parliaments in that it will bring certainty for planning purposes.

"The move towards fixed-term Parliaments has to be a welcome move. A lot of time is lost in preparing abortive project plans / timetables. Since last summer, I have prepared project plans linked to five dates, expecting that we would get only the shortest notification of the date. "

Returning Officer – Yorkshire & The Humber

The move to fixed-term UK Parliaments presents the opportunity of lengthening the timetable for the conduct of UK parliamentary elections to bring it more into line with most other elections held in the country. If that is done, it will bring significant benefits to electors in terms of being able to register to vote in the election and to make applications for and then receive absent votes.

However, the UK Government's coalition agreement states that the "next General Election will be held on the first Thursday of May 2015". This is also the date fixed for the Scottish Parliament elections in 2015. Given the different electoral systems that will be used for the two elections (First past the post (FPTP) or Alternative Vote (AV) and Additional

Member System (AMS) respectively), the proposition does not take account of the recommendations made by Gould in 2007 that elections with different systems should not be held on the same day. In addition, in 2015 there are scheduled elections to the National Assembly for Wales (AMS), Northern Ireland Assembly (Single Transferable Vote (STV)) and local government elections in Northern Ireland (STV). The same issue could apply to the large number of local government elections in England scheduled for that date if the UK Parliamentary General Election is held on an AV system. It will also raise the question of the postponement of parish council elections in England from the date when the vast majority of parish councils are due to have elections.

Equally, it is proposed that a referendum on the voting system is to be held on 5 May 2011 to coincide with elections to the National Assembly for Wales, Northern Ireland Assembly, Scottish Parliament and local government elections in England and Northern Ireland, in addition to a possible referendum in Wales.

“The continuing trend for holding electoral events on the same day regardless of whether the systems being used are the same or not is of significant concern both in terms of the administrative implications but also in terms of the potential for voter confusion and error leading to rejected votes.”

AEA Southern Branch

Recommendation:

The Electoral Commission should review and report on the implications for voters and for the administration of polls of holding different elections, and elections and referendums on the same day. This should particularly consider the scenarios arising from the proposals for a UK referendum on 5 May 2011, and a UK Parliamentary General Election in May 2015.

Combination of polls

When elections are held on the same day three potential scenarios unfold depending on which elections are being held. Legislation sets out the circumstances where the polls **must** be combined, where they **may** be combined (by agreement between the Returning Officers) and circumstances where the polls **may not** be combined. The Electoral Commission’s guidance lists 42 possible combination scenarios.

In May 2010 the UK Parliamentary General Election was held on the same day as the local government elections in England and therefore legislation

required that the polls be combined. Parish council elections in England scheduled for 6 May were, by law, postponed by three weeks to 27 May.

The implications of combination for the administration of the respective elections affect the roles and responsibilities of the Returning Officers, the official notices informing the public of key electoral information, poll cards, postal votes, ballot boxes, polling stations, the conduct of the poll, and the verification and count.

In addition to requiring effective liaison between the relevant Returning Officers and their staff, there is a significant training impact to ensure that the thousands of temporary staff employed to undertake the various processes including, crucially, opening postal votes, staffing the polling stations and assisting at the count are properly briefed to undertake their duties effectively.

In 2010, because the General Election was held on the same day as the local government elections in England, this meant that the timetable for the local government elections had already commenced when the General Election was called. The statutory timetable for local government elections is 25 working days, whereas that for the General Election is 17 working days.

It is important to recognise that the day on which the Prime Minister announces the General Election is not the day on which the statutory timetable commences. In order for the timetable to commence, the writ must be issued. Although preparatory work has to be undertaken in advance of the statutory timetable commencing in order to be able to deliver the elections effectively, the uncertainty regarding whether the General Election would be on the same day as local government elections in England had consequences for planning and for delivery of the election processes once the timetable had commenced:

“... we were required to produce 3 different election plans. Local government only/ combined/ Parliamentary only. At times you weren't sure which plan you should be working to!”

Electoral Administrator – North East

“.. although a lot of planning goes in ahead of the election and this could still be done despite not knowing the date, there are lots of aspects that cannot be done until a date is known.”

Electoral Administrator – North West

One consequence of the differing timetables in operation at these elections was that decisions had to be made as to whether to send separate or combined poll cards. Poll cards must be sent out as soon as practicable after the notice of election is published for that election.

Given that the writ for the General Election was issued on 12 April and the Notice of Election published on 13 April, the result of combining the poll cards at the elections in England on 6 May 2010 would be that electors would not receive this vital election communication until sometime after 13 April with less than a week to registration and postal vote application deadlines. This is not a desirable situation when the Notice of Election for the local elections had been published by 29 March. Not surprisingly many Returning Officers decided not to combine the poll cards for the two elections which then attracted criticism.

“The uncertainty of the election date meant the unnecessary sending out of individual poll cards (which members of the public have commented on being a waste of money and confusing)...”

Electoral Administrator –North West

Similarly, Returning Officers had to decide whether to issue combined or separate postal ballot packs, with the potential for voter confusion.

“With having combined elections, we had many people who were confused with receiving two ballot packs. Indeed, some people sent one back unopened with a note saying that they had already had one!”

Electoral Administrator – East Midlands

Another key decision was that of using one ballot box for ballot papers for both elections, or two separate ballot boxes. The decision on ballot boxes not only impacts on the management of the polling station and arrangements for voters, but also has a direct impact on the verification and count.

Combination rules require that the ballot paper account must be verified for both elections before any counting of votes at the primary election can commence. If one box is used, the ballot papers must be separated out for each election before the ballot paper accounts can be verified. This process invariably takes longer than if separate boxes are used. There is, however, a cost involved in having separate ballot boxes at combined polls.

It has also been widely noted by administrators that the current combination rules are largely unworkable and should be completely re-written. The AEA will be happy to work with the UK Government on achieving workable combination rules.

Recommendation:

The UK Government should review and re-write the rules for the combination of polls.

Election timetables

The statutory timetable for the UK Parliamentary General Election is 17 working days.

“This is the nub. There is simply too little time to conduct the election process efficiently; as a result electors miss out on voting.”

Electoral Administrator – South East

This timetable allows virtually no time for any kind of contingency in terms of delivering the statutory processes required for an effective election. The overwhelming majority of feedback the AEA received from Returning Officers and electoral administrators about the administration of the elections in May 2010 centred on the unrealistic timescales within the current UK Parliamentary General Election timetable.

Despite this, the elections were delivered and results declared. Electoral administrators are clear as to the reason this was achieved and the inherent risks to the process and to the people involved in relying on a few core elections staff to deliver to such exacting timescales:

“Amount of pressure staff were put under in order to run the election within 17-day timetable. Elections Manager worked 146 hours over core time within 1 month period.”

Electoral Administrator – North West

“Super Tuesday”

Within the timetable a number of key election deadlines all coincide on the same day – 11 days before polling day, in this case, Tuesday 20 April 2010. On this day nominations closed at 4pm with the statement of persons nominated to be published at 5pm. The deadline for postal vote applications closed at 5pm, and new applications for registration closed at midnight.

Ballot papers of any description cannot be printed until nominations have closed, and the data for the postal ballot papers needs to be sent to printers as soon as possible in order to ensure that printers have sufficient time to print the postal vote packs and despatch them to voters in time for voters to receive and return them before close of poll.

In many cases, administrators were receiving thousands of last minute applications to register accompanied by postal vote applications, in addition to postal vote applications from existing electors, all of which had to be entered into computer systems, including in the case of postal vote applications, scanning and capturing the personal identifiers.

The postal vote applications received from electors already on the register could then be determined and the data sent straight to printers to produce the postal vote packs. However, there were cases that caused a considerable amount of abortive work and that related to dealing with postal vote applications from electors who had already applied for and been granted postal votes.

Late applications to register cannot be determined immediately as there is a 5-day objection period for registration with a notice of alteration to the register published five days before polling day. At that point, any postal votes for newly registered electors can be sent out which leaves very little time for these voters to return their postal votes to reach the Returning Officer by close of poll. This was particularly the case at these elections given that the Monday before polling day was a bank holiday with no postal service on that day.

A number of consequences arise from this convergence of deadlines in the timetable, for voters and prospective voters, for candidates and agents, contractors, and for electoral administrators.

Impact of the timetable on service delivery

Whilst an increase in the numbers of people wishing to register to vote at an election is to be welcomed, the timetable does not assist in providing voters with a professional service. Equally, it is essential that electors can access a method of voting that enables them to cast their vote. Within the options currently available to electors, many chose to apply for postal votes at the recent elections.

The cascade of tasks outlined above create significant pressure on contractors to deliver and on administrators who need to ensure

appropriate quality checks on the postal vote stationery being sent to voters.

“Having staff work late into the evening and early morning to meet printer deadlines for absent votes is not consistent with our aspirations for complete accuracy. This is, given the extremely tight deadlines involved, unavoidable even where there are no unexpected hardware or software problems.”

The Scottish Assessors Association

“The timetable for all elections should be standardised to allow electoral staff enough time to do their work without having to work ludicrously long hours. We know how important our work is and take pride in doing it carefully and professionally but the worry that mistakes could be made in the registration and postal vote application processes leading up to the election affected all the staff in our office.”

Electoral Administrator – Yorkshire & The Humber

“The inadequacies of the election timetable are particularly acute in relation to postal voting. With regard to postal vote stationery you are dealing with a product that requires complex variable data printing and a high standard of quality control. Inevitably, such processes can potentially degrade when working within the constraints of the current Parliamentary election timetable, coupled with a substantial and ever increasing postal vote electorate. Artificial pressures of this kind simply should not be allowed to occur in a modern democracy and have indeed caused significant problems for some Acting Returning Officers during this current election period.”

Electoral Administrator - Wales

“With the rolling process, while an excellent way to help ensure that there is less disenfranchisement, Councils appeared to be overstretched as a result of the late deadline and there was not a long enough period for them to process all the applications. This was also the case for postal ballots.”

Commonwealth Observer Team to the UK General Election 2010, Final Report

At the elections in May 2010 there were, as at previous elections, media stories of errors in the election stationery sent to voters. Whilst the AEA strongly advocates the robust application of a project management approach and quality assurance through the checking of election materials, given the volumes of applications received near to the deadline

in many areas, the timetable does not allow sufficient time for these checks to be properly undertaken. This is also a weakness in terms of the overall integrity of the election process.

Impact of the timetable on voters

Administrators reported that once the UK Parliamentary General Election had been announced, they received large numbers of calls from electors who would be away on holiday, or who were registered as overseas electors, expressing concern that they would not be able to vote, and that the timetable did not allow sufficient time for a postal vote to be printed, despatched to them and returned by the close of poll.

In many cases, they were able to appoint proxies but in some cases the elector either did not wish to or were unable to use this option. Many electors wanted to be sent a postal vote straight away and could not understand why Returning Officers could not do this, because the nomination period had not closed and so ballot papers could not yet be printed.

“The tightness of the timetable does not help voters who are going away as very often we could not have got postal votes to them before they left and an increasing number of customers do not seem to have anyone who they feel they could appoint as a proxy.”

Electoral Administrator – West Midlands

This demonstrates the kinds of problems for voters with the current UK Parliamentary General Election timetable, both in terms of its length but also the relationship between the deadlines within the timetable.

In addition, the difference in deadlines for registration and postal votes applications on the same day also has the effect that a late applicant for registration (after 5pm on the 11th day but before midnight) would be too late to apply for a postal vote and therefore may be effectively disenfranchised if they were relying on that as the only means by which they could vote.

Impact of the timetable on integrity

Whilst the current deadline for registration at 11 days before the poll is beneficial in terms of enabling people to register to vote who might not otherwise register in advance of an election, it leaves Electoral Registration Officers and their staff very little time to undertake any checks relating to applications to register to vote and to vote by post. This

is exacerbated when large numbers of last minute applications are being received, even where sufficient resources and planning have been put in place as contingency in the event of suspicious applications being received.

“The 11-day registration deadline is too close to polling day and does not allow time for even rudimentary checks to be done about people applying to register.”

Electoral Administrator – Yorkshire & The Humber

In the two weeks before polling day on 6 May, a small number of Electoral Registration Officers received what appeared to be suspicious applications to register and to vote by post. To be able to determine those applications within the timescales remaining (to meet the deadline of five days before the poll for publication of the notice of alteration to the register) in order to ensure that any eligible electors were able to vote at the election and that ineligible applicants were not allowed to vote at the election, Electoral Registration Officers had to take a variety of urgent actions working closely with the police.

One of the few options open to an Electoral Registration Officer in such circumstances is to write to the applicant for further information or call them to a hearing which, given the timescales, does not give the applicant much time to respond. In some cases Electoral Registration Officers mobilised local authority audit inspection teams to undertake visits to properties and to cross-check other data held by the local authority. This is a considerable resource commitment and should not be underestimated.

Impact of the timetable on candidates and agents

The differences in the two timetables in operation in those areas where the UK Parliamentary General Election and local government elections were taking place on the same day were not universally understood by candidates and agents. As one might expect, it has been noted that independent candidates needed considerably more support generally than candidates standing for registered political parties.

The current timescale from Notice of Election to close of nominations is less than one week, and although it had become fairly clear some time before the issue of the writ that the General Election was almost certain to be on 6 May this would not necessarily be the case at future General Elections if a ‘snap’ election is called.

Appointment of polling and counting agents

Candidates are entitled to appoint polling agents and counting agents to observe proceedings during the poll and at the count. The deadline for notifying the Returning Officer in writing of these appointments was the second working day before the poll. This left very little time for Returning Officers to act on that information, include it in the paperwork for polling stations and to provide counting agents with details of the arrangements for the count and their entry pass or ticket, including the secrecy provisions. These issues are important for the integrity of the process and for ensuring compliance with the secrecy provisions.

What should the timetable look like?

From the feedback received by the AEA there is overwhelming consensus that the UK Parliamentary General Election timetable at 17 working days is too short and urgently needs lengthening. However, there isn't a consensus about how long it should be. The suggestions received range from 25 working days (in line with the timetable for local government elections), to 30 working days (in line with elections to the GLA and London Mayor), and some have suggested 35 working days.

This range arises from and points to considerations of the relationships between the deadlines within the timetable and their impact on the administration of the associated elections processes, and the impact on electors, candidates and agents together with those responsible for the proper conduct of the elections.

Recommendations:

The Electoral Commission should review the statutory election timetable for UK Parliamentary elections (General Elections and by-elections) in the context of a wider review of election timetables, with the aim of achieving consistency across all elections and lengthening the current UK Parliamentary General Election timetable. The UK Government should then bring forward appropriate enabling legislation as soon as possible.

Specifically, the period between close of nominations and polling day should be increased by a minimum of five working days. The AEA strongly supports a standard timetable of 30 working days across all elections.

The 11-day registration and postal vote application deadlines should be reviewed as part of the implementation of individual electoral registration, including the alignment of the deadlines for registration and postal vote

applications. Similarly, the deadline for proxy applications should be reviewed.

The deadline for the appointment of polling and counting agents at a UK Parliamentary General Election should be moved to five working days before polling day (in line with the timetable for local government elections).

Planning and management

This report has covered in some detail the impact of uncertainty about the election date for the UK Parliamentary General Election, the shortness of the statutory timetable, and elections held on the same day on planning, resources and management of the elections.

The AEA advocates a project management approach to running elections, and many of the comments we received from members highlighted the benefits of this approach.

“We undertook considerable pre-planning for this election and completed all the tasks we could ahead of the election being called - as a consequence our arrangements worked well during the election timetable. Our project planning approach had built on the experience of previous elections and will be repeated for all future elections.”

Electoral Administrator –South East

The amount of time and resource committed to planning was a consistent feature with administrators noting that this process had begun a year or more before the election was actually called.

Working across local authority boundaries

Another key factor that added to the complexity of these elections in some areas and impacted on all aspects of the planning and management of resources and processes through to customer service was that of coordinating across local authority boundaries in UK parliamentary constituencies comprising more than one local authority area or part thereof. There are 183⁹ cross-boundary constituencies.

There were very mixed experiences of this coordination, ranging from the very positive to the extremely negative with the common denominators being the quality of working relationships, planning and compatibility of data.

“...required a lot of management and hampered by different working practices between authorities. The ARO has to take a lot of info from the ERO on trust as there is no real method of validating it. We relied a lot on the good personal relationships we have built up over many years.”

Electoral Administrator – South East

⁹ Figure calculated from data contained in the *Guidance Notes*.

“We in East Sussex work closely together and have been working on a cross boundary plan for nearly two years. I think it worked extremely well. It was also useful that we all use the same printing contractors. ... We have a document setting out all the issues and what is expected from ARO/ERO. This was first drawn up in 2007 and has been continually under review since that time.”

Electoral Administrator – East Sussex

Although the transfer, compatibility, timeliness and quality of data featured in a number of responses, it would appear that, with support from software companies and/or from local authority IT staff, solutions were found to the problems that arose. It is difficult from the evidence provided to the AEA to assess the resilience and sustainability of these solutions for the future.

Impact on voters of cross-boundary constituencies

“Cross boundary working made this election the most difficult one I have done to date. ... Voters were confused by the cross boundary system whereby they had to make changes to their registration with one authority but another authority was running their election. We were trying to help customers when we did not have access to their registration records which was unsatisfactory for my staff and our customers alike.”

Electoral Administrator – North West

Administrative issues impacting on voters ranged from consideration of which contact number or numbers to give on poll cards where different processes were being handled by different authorities, to the distribution of postal votes at different times by different authorities within the same constituency, and authorities receiving calls from members of the public regarding errors in stationery produced by another authority.

What is clear is that a variety of different approaches were taken to managing public enquiries from the provision of specific and separate contact numbers, to one number being provided with queries then being forwarded on to the relevant authority. Neither is an ideal solution for administrators or for voters.

Cross-boundary working needs to be considered further in the light of the experiences of its operation in 2010, both where it worked well and where it didn't and the reasons in each case. The emphasis should be on seeking legal or guidance solutions to ensure that a more joined-up customer

focused delivery is achievable. The AEA will use its National Seminar in September 2010 to initiate this debate and will report on that discussion.

The proposed review of UK parliamentary constituency boundaries will undoubtedly bring the two issues of coordination and coterminosity into sharp focus leading to a definite need to have solutions in place well before the next General Election.

The AEA will draw on the experience of its membership to review the arrangements for coordination in constituencies comprising more than one local authority area (or part thereof) including the impact of combination of polls. We will produce case studies and guidance to support good practice.

Procurement

Returning Officers are independent in law, but are based within local authorities. In delivering their functions, Returning Officers draw on the resources of the local authority. As a result, the distinction between the independence of the Returning Officer in conducting the election and the procedures and requirements of local authority policies and practice can become unclear.

This is particularly so in the case of procuring services and goods. Administrators report that they are increasingly being required to adhere to local authority procurement processes with, in some cases, the costs of procurement administration being recharged to the Returning Officer. These processes do not always result in a positive outcome in terms of securing value-for-money, identifying suppliers with relevant experience of delivering election stationery or other services, or that can deliver effectively within the timescales.

Outsourcing and managing contractors

Over recent years there has been an increasing reliance on outsourcing parts of the electoral process to private contractors, mainly to produce the increasing numbers of postal vote packs. In addition, printers are contracted to produce poll cards and ballot papers for polling stations. However, some authorities continue to produce these central election materials in-house both because they have the capacity to do it and/or because they prefer to retain greater control of these processes.

Administrators reported a mixed picture regarding the success or otherwise of outsourcing at the elections in May, from, "major problems

with contractors keeping to delivery schedules” to, “I am thankful we have a 4-year contract with a printer. All deadlines were met.”

There were variable reports as to the level of control administrators achieved regarding outsourced processes, with one commenting, “Worked well but needs tight control.” Of concern is that in, some circumstances, outsourcing is being viewed as a means of taking pressure away from the core elections team, whereas effective outsourcing still requires the right amount of sufficient capacity to ensure that the contract and work is robustly managed and that quality checks are in place.

“Difficult to get contractors to enter into agreements that fully protect the ARO's interests.”

Electoral Administrator South East

“We issued contracts and spelt out quite clearly exactly what we wanted and when based on previous election experience and I had no problems whatsoever!”

Electoral Administrator – West Midlands

As with managing cross-boundary issues, communication and the strength of working relationships were cited as being essential to successful outsourcing and management of contractors.

Working with Royal Mail

There were extremely different experiences regarding the performance of Royal Mail, with feedback ranging from “excellent” and “good communication” to, “This election was the worst I have known with regard to the service from Royal Mail.”

The performance issues attracting most concern were the loss of poll cards and postal votes by Royal Mail, late delivery of the same, failures in relation to ‘pre-sortation’ and multiple contact points for issues resolution.

“Royal Mail took up to 5 working days to deliver first class postal votes and the packs they returned were not always sorted by authority. On one occasion I received 21 boxes of postal votes, 10 of these which turned out to belong to other authorities across the North West of England.”

Electoral Administrator – North West

“With regard to the performance of Royal Mail, we received no major difficulties with the delivery of postal votes and only a limited number of calls from electors who had not received their postal

packs following the initial and secondary issues. Improved co-operation and early communication with Royal Mail's national 'Elections/Postal Voting Unit' also helped resolve specific licence, address and design issues in relation to our postal stationery."

Electoral Administrator – Wales

Securing the system

International observers have commented that the electoral system in Great Britain is based on trust and is therefore vulnerable to electoral fraud.

“Many interlocutors of the OSCE/ODIHR NAM opined that the conduct of elections in the United Kingdom is based on trust and does not contain sufficient safeguards to prevent possible malpractices.” ...

OSCE / ODIHR Needs Assessment Mission, 2010

“... concerns are regularly expressed with regard to the lack of safeguards against possible fraud resultant from a weak system of voter registration and postal voting, compounded by the absence of a requirement to produce identification at any stage of the process. Interlocutors of the OSCE/ODIHR EAM concurred that urgent measures were necessary with regard to the above concerns in order to maintain the trust of the electorate and the integrity of the process.”

OSCE/ ODIHR Election Assessment Mission Report, 2010

Registration

In order to vote at the elections in May 2010 eligible electors were required to register. There are currently three different registration systems operating within the UK.

In Northern Ireland there is full individual electoral registration.

In Great Britain, there is an annual canvass process based on household registration, and an individual rolling registration process that enables registration up to 11 days before polling day. Neither of the systems for registration in Great Britain provide for the collection and verification of personal identifiers. Applications are largely taken on trust unless the Electoral Registration Officer has doubts about any application.

The Electoral Registration Officer has powers to make enquiries, to ask for evidence of age or nationality, and to call the applicant to a hearing.

The AEA welcomes the proposed introduction of individual electoral registration in Great Britain and is keen to see this developed and implemented as part of a holistic reform of the electoral process. Registration is the foundation which supports the rest of the electoral process, from nominations to absent voting and in-person voting. This

report has given examples of the risks of error and anomaly when changes to specific parts of the electoral process are introduced as discrete elements without proper consideration of the impacts on the rest of the system.

Whilst we recognise that it is important to secure the system through introducing IER as soon as possible, it is also important that sufficient time and resource are given to this consideration and to a managed implementation of these profound changes to the electoral process in Great Britain.

Registration in more than one electoral area

AEA members have expressed concern about the current provision within the law for some people to be registered in more than one place. The law regarding 'residency' is not clear and leaves Electoral Registration Officers to exercise their judgement in any particular case, with reference to general guidance in section 5 of The Representation of the People Act (RPA) 1983 and to case law.

Two scenarios attract concern, namely:

- the ability for people to register at a 'second home' and the lack of a firm definition for what constitutes a 'second home'; and
- the provision for students to register at both a term-time address and at their family home.

Although people can register in more than one electoral area, they should not vote more than once at a UK Parliamentary General Election. To do so is an offence. However, there is no way of knowing how many people, unwittingly or otherwise, have voted more than once at the General Election.

"There is a need for further clarification in legislation on registration related to second homes.

The entitlement of students to register twice should also be looked at – there is a perception that many voted twice."

AEA South West Branch

In reforming the electoral registration process, these concerns and issues will need to be addressed.

Identifying voters

“Apart from names and addresses of voters, voter lists currently do not contain any personal identifiers which could help distinguish voters. In addition, voters are not obliged to present any identification to be able to vote.”

OSCE / ODIHR Needs Assessment Mission, 2010

International observers continue to question the lack of any requirement to produce identification at the point of voting in-person at a polling station. It remains a potential vulnerability in the electoral process in Great Britain. In Northern Ireland, voters are required to produce pictorial identification at the polling station.

In one London borough where allegations and concerns about integrity were expressed about the recent elections, the question of whether voters could be asked to produce ID at polling stations was considered and legal advice taken as it would have provided a safeguard and confidence in the electoral process in that environment.

The AEA remains open to debating this issue further.

Working with the police

As has already been noted in commenting on the impact of the timetable on integrity, close working relationships with the police are vital in dealing with suspicious applications.

In some areas, there was praise for the excellent working relationships with the police, and improvements on previous experience highlighted, with a general sense that, “The police were far more actively involved this year.” In other areas, a lack of engagement by the police and slow response times were noted.

“Police give it different importance in different areas – some resourcing issues for police support at the count / police escorts. Police asked if RO had money to pay for the police presence at the count.”

AEA North East and Yorkshire Branch

Whilst there was support for the intent of the template letter by the Association of Chief Police Officers (ACPO) for police and Returning Officers to send to candidates and agents to highlight the national *Code of conduct on handling applications to vote by post and postal ballots* and asking them to commit to it locally, earlier communication with Returning

Officers about this initiative would have been beneficial. In some areas, it was felt to be too late to use this letter and in others there was a poor response.

The AEA is keen to continue its support for building positive working relationships between the police and electoral administrators. We will seek regular bi-lateral meetings with ACPO and continue to attend the Integrity Roundtable chaired by the Electoral Commission.

Activity by candidates, agents and political party workers

There were reports of political parties not adhering to the postal voting code of conduct in respect of ensuring that postal vote applications reach the relevant Electoral Registration Officer as quickly as possible, and there were cases of last minute bulk delivery of applications.

The issue of tellers continues to cause difficulties with administrators expressing concern about the potential for and actual intimidation of voters.

In both cases, the formalising of roles and responsibilities in legislation is seen as likely to be more effective in ensuring integrity than the current reliance on voluntary codes. This would provide certainty as to what is and is not acceptable behaviour and practice for all stakeholders including Electoral Registration Officers, Returning Officers, party workers and voters.

Postal vote identifiers

A key measure designed to make the postal voting process more secure from potential fraud was the introduction of personal identifiers collected at application, and re-supplied and checked when the postal vote is returned. However, administrators continue to be concerned about the levels of postal vote identifier rejection rates due to voter error or confusion (e.g. couples getting the paperwork mixed up). Anecdotally, it would appear that the rejection rates are particularly high in areas where there are nursing or residential care homes, and that this security measure is more likely to disenfranchise elderly voters.

Currently, legislation does not allow Electoral Registration Officers and Returning Officers to access and act on the data relating to those people whose postal vote was rejected because the personal identifiers provided on the postal voting statement did not match those held on record.

In order to be able to help voters to get the process right and to prevent disenfranchising the same voters at the next election, it is essential that the legislation is amended to enable these statutory officers to use the postal vote rejection data and to contact voters to explain the correct process and the penalties for malpractice; to invite the re-submission of their identifiers; and to make corrections to and update the record at any time.

Waivers

Where an applicant for an absent vote is unable to provide a signature, they may request that the Electoral Registration Officer waive the requirement for a signature to be provided. The regulations do not set out how Electoral Registration Officers may satisfy themselves that the applicant's request is genuine and that they are 'unable to provide a signature or a consistent signature due to any disability or inability to read or write'.

Guidance issued by the Electoral Commission offers as a practical solution a declaration by the person assisting the applicant that the elector in question meets the above criteria.

Whilst it is absolutely right that people with a genuine disability are supported to apply for the means of voting which suits them best within the current provisions, the lack of a statutory declaration means that the waiver continues to present a potential risk to the integrity of the process.

Recommendations:

The UK Government should amend the legislation to provide Electoral Registration Officers and Returning Officers with the necessary powers to access and act on voters' postal vote rejection data as described above.

The UK Government should amend the legislation to require that applicants requesting a waiver must have their application attested in line with current arrangements for proxy applications.

Access and participation

In order for eligible people to vote at an election they must register. There are choices in how they then exercise their right to vote.

In order to stand for election prospective candidates need to submit a nomination and comply with the legal requirements governing their responsibilities as a candidate.

In all cases, to engage effectively with the electoral process people need to understand how and what to do, and when to do it.

The Electoral Commission has a statutory duty to “promote public awareness” of current electoral systems in the UK by “carrying out programmes of education or information”. In addition, local electoral officers (Electoral Registration Officers and Returning Officers) have a statutory duty “to encourage the participation by electors in the electoral process in the area for which [he/she] acts”.

General public lack of awareness of the electoral process

The AEA has not undertaken any public information research to inform this report, and we are aware that other bodies such as the Electoral Commission and academic institutions do undertake this kind of research.

However, administrators are well placed to comment on many aspects of public lack of understanding of the process as they respond to public enquiries on a daily basis. The comments received by the AEA indicating a lack of awareness include the following processes and information:

- That registration is required in order to vote (and to apply for absent voting facilities) and that this cannot be done online;
- The registration and absent voting deadlines;
- The arrangements in place to support people who need assistance if their circumstances change, or if they have a disability;
- That more than one election may be taking place in their area and their eligibility to vote in the respective elections;
- That postal ballots cannot be printed and supplied until after the close of nominations; and
- That voters cannot vote for ‘national figures’ at the General Election unless they happen to live in the constituency in which a national figure, such as the leader of a political party, is standing.

This lack of awareness of how to effectively access the electoral system can result in disenfranchisement,

“When an elector has a postal vote and develops a need for a signature waiver (e.g. they have a stroke) they do not always know the implications for their vote and apply for a postal vote and consequently their vote gets rejected.”

Electoral Administrator – East Midlands

It can also result in confusion and inaccurate expectations,

“A substantial percentage of electors did not understand the difference between the elections despite our best efforts to provide them with sufficient information.”

Electoral Administrator – North West

“Many postal voters believed that they had not received their Parliamentary paper, as it did not read ‘Gordon Brown’, ‘David Cameron’ et al. Electors are genuinely starting to believe that they are voting for the Prime Minister and not their local MP.”

Electoral Administrator – South East

Public awareness activity by the Electoral Commission

“The campaign aimed to encourage all eligible people to register to vote in time for the elections and included advertising on TV, radio, press and online. The central theme of the campaign was ‘Make sure nothing stops you voting’ and an invisible barrier concept was used to show how not being registered prevents people from voting”

The Electoral Commission website

Feedback from administrators suggests that in one respect the campaign by the Electoral Commission was successful – it generated significant volumes of last minute applications to register and to vote by post.

However, in a number of aspects it appears that voters were also confused as a result of the campaign, and online information and forms.

Administrators experienced complaints by members of the public who had submitted postal vote application forms not realising that they needed to be registered and that a registration form should also be completed. This was particularly noted in relation to absent voting arrangements for people living overseas.

“We've had a lot of people who live overseas completing and return application forms to vote by post or proxy for British citizens living overseas. Unfortunately, they aren't registered as such so the forms aren't valid. Better guidance should be given to these people about the fact that they should register first then apply for the absent vote. Not to mention the extra unnecessary work it gives us to do.”

Electoral Administrator – North West

Some members of the public thought that they had submitted their registration online, not realising that they needed to print it off and send it to the Electoral Registration Officer.

“We found many issues whereby voters had assumed they had registered online with the EC's About My Vote website, simply due to the layout of the site and form. These voters were extremely disappointed and felt they had been misled in some way by EC.”

Electoral Administrator – South East

Whilst it is recognised that certain media allows only a short message to be communicated in an effort to encourage take-up of registration, administrators felt that the message was over-simplified as it raised public expectations that the system cannot currently deliver.

“The Commission TV ad “it only takes 3 minutes” was still being shown on television on 20 April – the timeframe was misunderstood by members of the public who thought the whole process from beginning to end would take minutes.”

AEA South West Branch

Administrators also reported a range of issues in relation to the quality of forms produced by other bodies such as political parties and the Electoral Commission both in terms of the public understanding them and in terms of the formatting and layout of the forms and the impact on scanning the forms. In addition, there was duplication of applications from these campaigns, and public misunderstanding about what they are signing on the doorstep.

The 'home-movers' campaign

The AEA received many expressions of concern and dismay from administrators who experienced significant volumes of public enquiries from upset and angry people about this campaign. The AEA understands that this was as a result of the use of inaccurate and out-of-date data

relating to individuals and addresses for the 'home-movers' mailing by the Electoral Commission. The AEA is aware that the Electoral Commission has taken up the issue with its contractor and has committed to ensuring that these problems do not recur.

"There were a number of issues, not least the EC Home Movers Campaign which resulted in a high number of calls to our office because the EC used a set of incorrect data from a source which local elections offices know not to trust. Wives and husbands of people who had died some years ago were particularly distressed, as were people who had not moved for 30 years but were being told they had moved recently."

Electoral Administrator – Yorkshire & the Humber

Recommendation:

The Electoral Commission should review its public awareness work in light of the feedback provided in this report to support the public in accessing the electoral process.

The Electoral Commission should seek the advice and input of Electoral Registration Officers, Returning Officers and electoral administrators well in advance of any future arrangements for a 'home movers' and other registration and election campaigns.

Activity by Electoral Registration Officers and Returning Officers to encourage participation

"The volume of enquiries was unprecedented from any previous election we have managed - we dealt with over 6300 calls in the team over the election timetable; this was in addition to the 800 we had managed in the preceding 2 weeks as part of the registration public awareness campaign we had undertaken. We processed over 3,700 applications of various types in the period from the publication of the Register on 1 April and the -6 day deadline. 168 people tried to register to vote between 21 April and 6 May; and we did not find we had a huge number of people turning up at polling stations or contacting the Election Control team on polling stations who had found themselves unable to vote. We believe our public awareness campaign had helped to limit this..."

Electoral Administrator – South East

A number of administrators, some joining together with other authorities, undertook poster and radio campaigns in order to raise awareness by the public of the need to register to vote.

The mini-canvass early in the calendar year is also cited by administrators as achieving positive results both in terms of improving the accuracy of the register but also in raising awareness of the need to register and of the forthcoming elections.

Access to the electoral process for people with disabilities

The issue of access to the electoral process for people with disabilities has long been championed by Scope. The AEA has been pleased to work with Scope in the efforts that have been made to continue to bring improvements to the process and the systems which support it. Scope's recent report on the elections on 6 May serves to highlight that it is not always easy to achieve these improvements, but that there are examples of good practice as well as areas for further improvement.

Polling stations

One of the most challenging areas is that which relates to the provision of polling stations which allows easy access to premises and which are fully compliant with the application of DDA principles.

More could and should be done to assist Returning Officers by allowing them to use by right a wider range of public buildings than that which currently exists, particularly given that many such buildings will have been improved at public expense to meet accessibility standards.

Administrators continue to experience difficulties in gaining agreement to use school premises as polling stations. The reasons for this are understandable given that the safety of children is paramount. However, this is unfortunate as schools are usually at the heart of communities and are required to have accessibility plans. There is concern that with the new proposals from the UK Government to allow parents, teachers and charities to set up new schools, access to school premises as polling stations may be further reduced.

Recommendation:

The Electoral Commission should consult on what types of buildings should be made available for Returning Officers to use *by right* as polling stations. This should include examining the barriers to using school premises and identifying solutions.

This recommendation would have financial consequences that will need to be considered and addressed in implementing any changes to the legislation. In addition, a clear definition will need to be agreed and

included in legislation specifying the kinds of buildings designated as 'public buildings' for the purpose of this right of use.

Accessibility of information and voter materials

The electoral process is largely a paper-based system and therefore can create barriers for people with disabilities – throughout the process there is a need for accessible information, official communications, and published material. Most election stationery and notices are prescribed and they are often not user-friendly or in Plain English. The importance of user-testing proposed materials as an integral part of policy development and implementation cannot be overstated.

Although there have been improvements to afford better access to the voting process for people with vision, literacy and learning disabilities, more needs to be done to ensure that existing barriers can be removed, particularly by the use of strategies and technology that are already employed to assist people in their everyday lives.

Recommendation:

Equal access should be fundamental to any further changes to the electoral process and in particular should be addressed by the systemic review proposed earlier in this report. All voter materials should undergo appropriate usability analysis, and relevant representative groups consulted as part of their development.

Emergency proxy applications

Many administrators received enquiries from electors who, for unforeseen circumstances arising in the few days before polling day and after the deadline for proxy vote applications (six days before polling day), would not be in the electoral area and would not be able to vote at the polling station.

The AEA East Midland Branch reported that, "All authorities received a number of calls re people being called away at the last minute and not being able to vote." Examples given include having to travel away from home for work purposes, or because of hospital appointments, for example, where an elector accompanies a child to hospital. The current emergency proxy provisions are limited to people who become ill or disabled after 5pm on the sixth day before polling day.

Recommendation:

The Electoral Commission should review the effectiveness of proxy voting, in particular around extending the current emergency proxy arrangements to include other 'emergencies' or circumstances that might prevent an elector from voting in person, with a view to recommending that the UK Government brings forward appropriate legislation as soon as possible.

Standing for election

Administrators have commented that there were many more first-time candidates at this election and that there was a general lack of understanding amongst candidates and agents of the process of standing for election.

"We have 5 independent Candidates 4 of whom had little idea how to complete nomination papers..."

Electoral Administrator – Eastern

Administrators have emphasised the need for training to help candidates, agents and parties correctly complete nomination forms, and that examples of completed nominations might usefully be included in guidance.

"Although we hold nomination workshops, the overall quality is poor and there still remains a lack of understanding of 'Description' and the need to produce certificate from nominating officers."

Electoral Administrator – North West

Subscribers

Some administrators are questioning the need for candidates to have ten people subscribe their nomination. Removing the requirement for subscribers would make the nomination process much simpler and more efficient both for candidates and agents and for Returning Officers, and remove the need for checks on subscriber details.

This was recommended by the Electoral Commission in two options put forward in the review, *Standing for election*, published in 2003. *Option B* suggested that deposits should be retained for 'higher tier' elections.

To stand as a candidate at elections to the Scottish Parliament requires the nomination form to be signed by the candidate and a witness to the candidate's signature. To stand as a candidate at elections to the National

Assembly for Wales requires only one subscriber to sign the nomination form, and this can be the candidate.

“There were no problems. Could the nomination process be standardised for all elections (except where the deposit is required)? Do we need the signatures of a proposer, seconder and 8 assenters at a UK Parliamentary election when none is required for a Scottish Parliament election?”

Depute Returning Officer - Scotland

Recommendation:

The UK Government should bring forward legislation to remove the requirement for subscribers on nominations.

Polling day

“On discussing polling day activity with a variety of staff including Presiding Officers, Poll Clerks and Polling Station Inspectors this election may well be distinguished ... by the high level of interest amongst electors wishing to take part in the democratic process particularly from first time voters encouraged by a high level of intense media interest and the introduction of the leader debates, as well as the significant use of social media during the election campaign by numerous stakeholders... In comparison to other parts of the country we experienced no particular difficulties in relation to queues at polling stations prior to the close of poll at 10pm or with regard to insufficient supply of ballot papers. Nevertheless, the majority of polling stations remained consistently busy throughout the 15 hours of the poll.”

Electoral Administrator - Wales

“Calls from electors on Polling day started at 6:26am and were continuous until 21:47. Queuing was modest, and rarely reached the door of the station, electors seemed quite happy with this.”

Electoral Administrator – South East (combined polls)

“One of the least problematic polling days for a while. One PO was taken sick but a replacement found quickly. A couple of voting screens had been damaged in transit but these too were replaced quickly. Postal votes left at stations were collected during the day, minimising the number to be opened at the count. Queues built up at some stations at peak times but reports say that the wait was no more than 10 minutes. No problems with errant candidates or party workers. The turnout was higher than expected (70% compared to 62% last time) but this had been planned for.”

Electoral Administrator – Eastern, Parliamentary election only

“We did have queues but they were manageable and we did deploy staff when they were needed.”

Electoral Administrator – North West (combined polls)

Given the scenes on the television at close of poll on 6 May 2010 and subsequent outcry, the comments above may appear unrecognisable as describing events taking place on the same day. However, for the vast majority of the 42,200¹⁰ polling stations across the UK the arrangements

¹⁰ 40,688 – Great Britain (comprising 33,042 in England, 5,122 in Scotland, 2,524 in Wales) – Source: data provided to the MoJ, 2009; 1,512 in Northern Ireland – Source: EONI, 2010.

put in place by Returning Officers and their staff worked well and few issues have been reported.

Understanding and acting on the lessons from 6 May 2010

The situation that arose at 27 polling stations¹¹ whereby potential voters were unable to cast their vote is not acceptable and is not a situation any elections professional would wish to see repeated. The lessons need to be learned and addressed by the electoral community. This relies, of course, on the proper identification of those lessons through a considered and balanced review of the evidence relevant to establishing the issues that had a role in creating those events. Any lessons and recommendations need to bear in mind the different arrangements for polling that apply in Northern Ireland.

The rules governing the hours of poll require that polls close at 10pm in respect of all elections in the UK. There is no discretion for a Presiding Officer or Poll Clerk to continue issuing ballot papers beyond this time.

In its interim report the Electoral Commission has recommended any voter entitled to vote at a polling station and who is in the queue to enter a polling station at the close of poll should be allowed to vote. Whilst the AEA understands the reasoning behind this recommendation, we believe that any such move would need to be carefully considered in respect of the management of this process, any additional resourcing required for its effective delivery and its implications for the starting time for counts.

The UK Parliament legislated recently that the counting of votes at UK Parliamentary General Elections should commence "within the period of four hours starting with the close of poll".

Any consideration of changing the legislation in respect of the close of poll will need to have regard for the relationship between these two events in terms of the practical application of the legislation.

The AEA awaits the Electoral Commission's full report on the elections in 2010 and will be particularly interested to note any further evidence and consideration relating to queues at polling stations. We will continue our dialogue with the Electoral Commission on this matter.

¹¹ Source: *2010 UK Parliamentary General Election, Interim Report: review of problems at polling stations at close of poll on 6 May 2010*, The Electoral Commission, 20 May 2010.

Staffing levels

For each polling station there is a Presiding Officer and one or more Poll Clerks. The precise number of polling staff is arrived at by reference to the level of funding provided for the election and previous experience of turnout at that polling station. The assumptions for the funding available for polling staff are set out in the *F Y h i f b] b [' C Z Z] W E Y Guidance* *Notes to Parliamentary Elections (Great Britain)* issued by the Ministry of Justice,

“For the purposes of these calculations it has been assumed that all polling stations will be staffed with one Presiding Officer, but that two Poll Clerks will not be necessary everywhere. In rural constituencies in particular, where there are many polling stations serving small electorates, one Poll Clerk is the norm. It has therefore been assumed that approximately 20% of polling stations can cope with only one Poll Clerk, which produces an average of 1.8 Poll Clerks overall.”

There is an allocation of additional funding for areas with combined polls of an additional 20% on the rate of pay for polling staff. Administrators have commented that this does not reflect the additional work involved. Equally, there does not appear to be consideration of the need for additional staff in areas where polls are combined.

The recommended staffing arrangements at the UK Parliamentary General Election in 2005 were expressed in terms of a ratio of polling staff to electors on the register for that polling station. This connection seems to have been lost in the new funding assumptions. Consideration should be given to reinstating that connection.

A measure that would benefit from further examination both by Returning Officers and those providing the funding for elections, and specifically where polls are combined, is the provision of additional staffing capacity in order to provide an information and guidance service to voters and also to provide contingency in the event of queues or other exceptional circumstances.

“As many of these people were first time voters this lead to greater pressure at the polling stations as people didn't know what to do.”

Electoral Administrator – South East

Corresponding Number Lists

The Corresponding Number List (CNL) is without doubt imperfectly prescribed in legislation. In combined polls there is provision for only one CNL resulting in practical difficulties in administering the process of issuing ballot papers where the franchises for the respective elections are different and voters entitled to both ballot papers may choose to take only one of them.

Recommendation:

The UK Government should re-consider the rationale for Corresponding Number Lists and seek more viable solutions, with input from experienced electoral administrators.

Verification and Count

The primary objective of the administration of the verification and count at any election must be to ensure the quality of decision-making in order to achieve an accurate result. Timeliness of the result is one of a number of key principles that should underpin good practice in the conduct of the count, along with transparency, security, professionalism, accuracy, secrecy, accountability and equity¹².

“Two constituencies, two Local elections, postal vote electronic scanning and a higher than usual turn-out all contributed to a complicated exercise. Project planning, business continuity and risk management methods minimised any difficulties and the Counts went smoothly and successfully. Being legally obliged to start the count 4 hours after the close of poll put more pressure on the exercise than was really necessary and staff exhaustion following the event was visible.”

Electoral Administrator – South East

“I don't think that it is right to expect anybody to work for nearly twenty four hours without a break. I and several colleagues were up at 5.00 am on polling day and did not get home until 4.30 am on the Friday. As we had Borough Council Elections also I had to be back in the office before 8.00 am in order to get the Parliamentary result put on the website and then go over to the count venue. Because of a recount in a multiple vacancy ward our Borough Council Election count did not finish until 6.15 pm on Friday, 7th May. That means that I worked around 38 hours with only one hours sleep. This also applied to several of my colleagues. Working time directive?”

Electoral Administrator – South East

“As we had a single election, which is very unusual for us, counting overnight was not a problem for us and in fact we finished in record time. I think the decision on when to count should remain a local decision as it very much based on local needs and issues, combinations etc.”

Electoral Administrator – West Midlands

At the UK Parliamentary General Election in 2010 the UK Parliament decided in the week after the election had been called that counts should commence within four hours of the close of poll, which meant that actual

¹² ACE Electoral Knowledge Network

counting of votes had to commence by 2am on 7 May. Before this could take place all ballot boxes had to be verified and where there were combined polls the rules specify that the boxes for both elections had to be verified before any votes on any ballot papers could be counted.

In addition, in some areas there were significant numbers of postal votes returned to polling stations up to close of poll which had to be opened and checked to ensure all the paperwork had been correctly returned, scanned, and identifiers checked against the record held by the Electoral Registration Officer. In many cases this was in the context of parliamentary constituencies comprising more than one local authority (or part thereof) many of which were operating different software systems.

There is consistent feedback from administrators that the core elections staff delivering this vital and complex process worked in excess of 24 hours on polling day through to 7 May. This is in addition to several weeks of working high numbers of hours, including weekend and bank holiday working.

“Staff worked tremendous amounts of overtime. April is a wipeout as far as staff home life is concerned.”

Electoral Administrator – North East

“In the UK there is an expectation that results are delivered by the next day. This puts strain on staff who worked overly long hours. In other countries the count can take much longer.”

Commonwealth Observer Team to the UK General Election 2010, Final Report

The impact of the late legislation on planning for the election was not inconsiderable given that venues and staff had been secured and detailed count plans drawn up well in advance of the election. Many, of course, had already decided to count on the Thursday night, but others had to change plans very close to the election.

The AEA set out the aims, principles and practice that should underpin election counts in an issues paper¹³,

“The primary aims for the conduct of any election have to be its integrity and the assurance for everyone concerned that the result is reliable and accurate. To achieve the second aim, it is essential

¹³ The paper was prepared on the basis of the situation applying in Great Britain given that many of the issues raised in the paper are not applicable to the Northern Ireland situation.

that the count is conducted in as an efficient a manner as possible. It follows that the primary concern of ROs should be the efficient and effective conduct of the count to ensure an accurate result and that candidates and agents can be satisfied that the proper and required processes have been followed to deliver that result. ...

The Count should not be a race but a serious and accurate process.”

Counting Arrangements for the General Election – An AEA Issues Paper, October 2009

Regarding the impact on staff of a requirement to count overnight, the AEA highlighted a number of health and safety issues as well as the risk of error relating to tiredness. Good practice in complying with the Working Time Regulations would suggest that a risk assessment should be carried out on the issue of the amount of time that staff should be expected to work without proper breaks.

Returning Officers and local authorities will need to consider the implications of this new requirement to count overnight in terms of building additional capacity within elections teams by ensuring they have qualified and properly trained staff to manage the count process, with separate staff managing the postal vote openings on polling day, and separate staff managing polling day enquiries and issues. Given the lateness of the legislation in advance of the General Election, there was no time for implementing capacity building on this scale in advance of 6 May.

As part of a wider staffing survey, the AEA will collect data on the hours worked by staff throughout the election timetable and, with particular reference to hours worked on polling day and the following day.

This report calls for urgent research on the impact on electoral administration of elections being held on the same day. This should include the impact on election counts.

Training

Administrators emphasised the role and importance of effective training in delivering a successful count. This encompasses training for count staff and for Presiding Officers in terms of ensuring that the paperwork entering the count is accurate and complete. This level of good practice requires sufficient planning and resources to achieve.

“Training events went smoothly. I introduced a Back to Basics Counting Training module that helped the Count run quicker. Ballot Box receipt went well so this is a measure of the previous training, in that all Presiding Officers returned the correct documents and ballot boxes. I used a Table Controller method this year for the first time so that they could liaise between count tables and the Control Table. This required one training event and briefings on the night. Less staff were therefore running to and from the Control Table and progress was achieved in a more efficient manner. Feedback from all training indicates that it was successful.”

Electoral Administrator - South West

The ‘mini-count’ approach

A number of administrators commented that they had successfully switched to a ‘mini-count’ system this year, which is a model for counting that breaks the count down into smaller, more manageable parts.

This approach was highlighted in the AEA’s training courses designed to support electoral administrators in delivering the General Election and AEA trainers noted a marked increase in the number of attendees who were aware of or used the ‘mini-count’ system.

“We tried a revised count layout and process this time, based on the mini counts system, which worked very well and which everyone we've consulted was happy with.”

Electoral Administrator - Eastern

“We did a mini-count which worked very well. We started an hour later than in previous years and finished half an hour earlier.”

Electoral Administrator – Yorkshire & the Humber

“[We] used the Mini Count system for the first time at Parliamentary – brilliant.”

Electoral Administrator - Wales

The writ and post-election returns

Election processes do not end with the declaration of results. There is a considerable amount of post-election work including the return of the writ; retention and storage of election documentation; receiving expenses returns from candidates and posting the relevant notices; and returning information and data to the Electoral Commission.

Receipt and return of the writ

Current arrangements for the receipt and return of the writ to the Clerk of the Crown are paper-based and involve personal delivery.

Elections officers have to personally receive the writ at the start of the election and then fill out by hand the relevant sections of the writ and arrange to personally hand it to Royal Mail after the election.

There must surely be a more modern way of managing this process given the use of technology in delivering public and legal services today. There is already provision for serving court documents by 'fax or any other form of electronic communication'¹⁴ and both the Land Registry and Companies House use secure sites for certain types of transactions as do all the high street banks. Reforming the arrangements for delivery and return of the writ has the potential to produce a more cost-effective, efficient but secure process.

Recommendation:

The UK Government should introduce a system for the electronic delivery, receipt and return of the writ.

Return of election data

Whilst the importance of robust and timely data for electoral reporting is recognised, electoral administrators have expressed dissatisfaction with the volume of data being sought by the Electoral Commission and the complexity of returns and the timescales for returns given the other tasks required during the immediate post-election period.

¹⁴ Civil Procedure Rules, Rule 6.3 and Practice Direction 6A,
http://www.justice.gov.uk/civil/procrules_fin/contents/parts/part06.htm#IDAUNJAC

“The information demands from the EC were overly complex and took considerable time. Form K needs an overhaul...”

Electoral Administrator – West Midlands

Circular EC 04/2010 (issued on 4 March 2010) gave details of the data collection for the elections in May 2010 including the General Election. However, the forms for completion were not available at that point. In that circular there were 11 questions included in the ‘additional data’ for the General Election, whereas the subsequent form contained 16 questions). There was a separate request from the Electoral Commission for data from the home-movers campaign.

The data and performance standards returns were to be submitted by 28 May 2010, despite many authorities having parish elections on 27 May. There were multiple points for the return of data including University of Plymouth, devolved and regional offices of the Electoral Commission, and contacts in other Electoral Commission teams.

During the post-election period there was also a consultation (published on 17 May) by the Electoral Commission on Performance Standards for Counting Officers at a PPERA referendum.

In addition, administrators were required to send Form K to the Election Claims Unit by 7 May in respect of lost deposits, with forfeited deposits returned by 20 May. Given that counts were continuing into 7 May and authorities with local elections were counting the votes at those elections, this deadline was not realistic.

The AEA would be happy to work with the Electoral Commission and the UK Government to achieve a more effective and realistic arrangement for the collection of election-related data.

Candidates expenses returns

Candidates at UK Parliamentary elections are required to submit an election expenses return and declaration, including all invoices or receipts for items over £20, to the Returning Officer within 35 calendar days of the election result.

Returning Officers are required to publicise within ten days of that deadline (in two newspapers) the availability of these returns for inspection, and provide copies of all of these documents to the Electoral

Commission (although in practice not all are requested by the Electoral Commission). The returns are then held and made available for local inspection. In this way, the Returning Officer and his or her staff are acting as intermediaries in the regulation of election finance.

Recommendation:

The UK Government and the Electoral Commission should consider developing an online facility for submission of candidates' election expenses returns with provision for both candidate and agent to give secure approval of the final return.

It is recognised that this would involve scanning all the receipts relevant to the return. Such a system should also provide a means for inspecting the returns and declarations, and associated receipts.

Conclusions

This report sets out a profile of electoral administration in the United Kingdom in 2010 that is becoming increasingly complex and challenging for statutory officers, policy makers and legislators, those drafting guidance, electoral administrators, candidates and voters.

Despite the complexity and the significant logistical arrangements required including the mobilisation of large numbers of temporary staff, venues and equipment, and the immensely challenging timescales in which to deliver these arrangements, Returning Officers and electoral administrators are expected to deliver a perfect election every time. That is the presumption of the rules, and that is, quite rightly, the expectation of voters. However, under the current arrangements, this is becoming impossible to achieve.

There are provisions within the law to correct procedural errors, but those Returning Officers and electoral administrators who have had to invoke those provisions know that there is very little time in which to act and it is extremely difficult, in some circumstances, to ensure that no-one is disenfranchised as a result.

With the prospect of more elections and referendums, and a trend for holding these on the same day, there is also the likelihood of fewer resources with which to deliver them. The AEA is acutely concerned that, unless the issues identified in this report are properly considered and addressed, the structures, processes and people delivering electoral administration will not be able to cope with the additional burdens being placed upon them.

This report contains a number of recommendations for re-building the electoral process to ensure that it is fit for purpose in the 21st century and puts the voter at the heart of the process.

This will require urgent joint action by those with a role in shaping electoral policy and practice in electoral administration, and the AEA looks forward to actively working with Governments, the Electoral Commission and other key stakeholders.

Recommendations

1. The UK Government and the Electoral Commission in consultation with key stakeholders should undertake a thorough and systemic review of the electoral process in the UK that integrates with the development and implementation of the new individual electoral registration system.
 - This review should specifically include consultation to identify a model for the structure and delivery of electoral administration in the UK in the 21st century – with the aim of achieving agreed key outcomes and founded on agreed principles. This model will need to reflect the diversity of the four nations of the UK.
 - This review should deliver measurable outcomes before the date fixed for the next UK Parliamentary General Election.
2. The UK Government should take forward work to create a single Electoral Administration Act in accessible language setting out the high-level framework governing electoral registration and elections in the UK, with the operational detail of registration, absent voting, and elections contained in secondary legislation with the key aim of achieving the simplification and consistency of rules across all elections. Except in cases of unforeseen emergencies, changes to election law should not be applicable to any elections within a six-month period from the date the legislation comes into effect.
3. The UK Government should lead a thorough and UK-wide review of the funding and resources required to deliver core professional electoral services with the aim of delivering a coherent and efficient structure across the UK, cost effectiveness over time, and ensuring that funding for new responsibilities reaches electoral services. As with other election law, Fees and Charges Orders for specific elections should be in place six months before the election is due to take place.
4. The UK Government should design and implement a clearer and local system of accountability and challenge through the introduction in election law of a formal complaints system. This should establish a court of first resort to deal with complaints arising from the conduct of elections.

5. The Electoral Commission should review and report on the implications for voters and for the administration of polls of holding different elections, and elections and referendums on the same day. This should particularly consider the scenarios arising from the proposals for a UK referendum on 5 May 2011, and a UK Parliamentary General Election in May 2015.
6. The UK Government should review and re-write the rules for the combination of polls.
7. The Electoral Commission should review the statutory election timetable for UK Parliamentary elections (General Elections and by-elections) in the context of a wider review of election timetables, with the aim of achieving consistency across all elections and lengthening the current UK Parliamentary General Election timetable. The UK Government should then bring forward appropriate enabling legislation as soon as possible.
 - The period between close of nominations and polling day should be increased by a minimum of 5 working days.
 - The statutory timetable for all elections should be 30 working days.
 - The 11-day registration and postal vote application deadline should be reviewed as part of the implementation of Individual Electoral Registration, including the alignment of the deadlines for registration and postal vote applications. Similarly, the deadline for proxy applications should be reviewed.
 - The deadline for the appointment of polling and counting agents should be moved to 7 working days before polling day.
8. The UK Government should amend the legislation to provide Electoral Registration Officers and Returning Officers with the necessary powers to access and act on voters' postal vote rejection data to contact voters to explain the correct process and the penalties for malpractice; to invite the re-submission of their identifiers; and to make corrections to and update the record at any time.

9. The UK Government should amend the legislation to require that applicants requesting a waiver must have their application attested in line with current arrangements for proxy applications.
10. The Electoral Commission should review its public awareness work in light of the feedback provided in this report to support the public in accessing the electoral process, and should seek the advice and input of Electoral Registration Officers, Returning Officers and electoral administrators well in advance of any future arrangements for a 'home movers' and other registration and election campaigns.
11. The Electoral Commission should consult on what types of buildings should be made available for Returning Officers to use *by right* as polling stations. This recommendation would have financial consequences that will need to be considered and addressed in implementing any changes to the legislation. In addition, a clear definition will need to be agreed and included in legislation specifying the kinds of buildings designated as 'public buildings' for the purpose of this right of use.
12. Equal access should be fundamental to any further changes to the electoral process and in particular should be addressed by the systemic review proposed earlier in this report. All voter materials should undergo appropriate usability analysis, and relevant representative groups consulted as part of their development.
13. The Electoral Commission should review the effectiveness of proxy voting, in particular around extending the current emergency proxy arrangements to include other 'emergencies' or circumstances that might prevent an elector from voting in person, with a view to recommending that the UK Government brings forward appropriate legislation as soon as possible.
14. The UK Government should bring forward legislation to remove the requirement for subscribers on nominations.
15. The UK Government should re-consider the rationale for Corresponding Number Lists and seek more viable solutions, with input from experienced electoral administrators.

16. The UK Government should introduce a system for the electronic delivery, receipt and return of the writ.
17. The UK Government and the Electoral Commission should consider developing an online facility for submission of candidates' election expenses returns with provision for both candidate and agent to give secure approval of the final return. It is recognised that this would involve scanning all the receipts relevant to the return. Such a system should also provide a means for inspecting the returns and declarations, and associated receipts.