

Management of a referendum on the UK's membership of the European Union

Consultation on the timing of the counting of votes at the referendum

August 2015

Translations and other formats

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We are an independent body set up by the UK Parliament. We regulate party and election finance and set standards for well-run elections. We work to support a healthy democracy, where elections and referendums are based on our principles of trust, participation, and no undue influence.

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1 Summary

Background

1.1 The European Union Referendum Bill 2015 provides for a referendum to be held on the UK's membership of the EU by the end of 2017. At the time of this consultation, the Bill is being considered by the UK Parliament and the date of the referendum is not known.

1.2 The Chair of the Electoral Commission, Jenny Watson, will be the Chief Counting Officer (CCO) for the referendum. Votes will be counted by local Counting Officers (COs) and local totals reported to the CCO. The CCO will be responsible for certifying the total number of ballot papers counted and the total number of votes cast for each answer. The declaration of the referendum result will be made by the CCO after all the local totals from across the UK and Gibraltar have been received and verified.

1.3 The CCO will be able to direct COs on when to begin counting the votes at the referendum.

1.4 Regardless of when counting commences, there will be a number of factors that affect when the local totals and, in turn, the final result can be declared. These include: voter turnout; count planning and process; geography, weather and logistics across the UK; and the availability of venues and resources.

The Chief Counting Officer's proposed approach

1.5 Based on the Commission's experience of administering and regulating referendums in the UK since 2004, we have identified two key principles that we believe should inform the way referendums are run:

- Our focus is on voters and on putting their interests first, and that underpins everything we do.
- Referendums should be administered in a way that engenders confidence, is credible, transparent, and open to scrutiny.

1.6 Underpinning the CCO's approach to the counting of votes is the principle that the referendum should be well run and produce an accurate result that is accepted by voters and campaigners.

1.7 The CCO is also aware there will be national and international interest in knowing the result of the referendum as soon as possible after voting closes.

1.8 The CCO intends to approach the management of the referendum in a similar way to that followed by the CCO for the Scottish independence referendum in September 2014.

1.9 At the Scottish independence referendum, the CCO undertook a consultation on the timing of the count. Following this process, COs were directed to make arrangements to commence the count as soon as reasonably practicable after the close of the poll. The direction was clear that this meant an overnight count, commencing at the close of poll.

Purpose and scope of consultation

1.10 When the date of the referendum is known, there will be keen national and international interest in knowing when the result will be available.

1.11 Early clarity as to the approach to the counting of votes at the referendum will also help those with responsibility for delivering the referendum and campaigners to put plans in place as early as possible. Additionally, when the date of the referendum is known, national and international media will need to plan their coverage of the event in detail, and their scheduling and resource planning will be affected by anticipated timings of the declarations of local totals and the referendum result. Broadcasters would therefore also be likely to benefit from a clear understanding of plans for the timing of the count at an early stage.

1.12 The CCO therefore wants to consult now on her proposed approach to the timing of the count at the referendum, with a view to confirming her intention in November 2015.

1.13 The CCO intends to direct COs to commence the verification and counting of votes at the referendum as soon as reasonably practicable after the close of the poll. For the avoidance of doubt, this would mean that the count processes must be carried out overnight, commencing at the close of poll.

1.14 The CCO's proposed approach is based on the draft legislation as it currently stands and therefore may be subject to change as the Bill and subsequent Regulations complete the Parliamentary process. It has also been developed on the assumption that the referendum will be held as a stand-alone event and not combined with other elections.

1.15 This paper summarises the process of counting votes locally and explains the factors that influence how long that may take and so impact on when the result may be known.

How to respond

1.16 The CCO would like to hear views from people with an interest in the timing of the referendum count. The CCO would particularly welcome views from:

- People who will take part as voters in the referendum
- Those who may campaign in the referendum, including elected representatives, political parties and campaign organisations
- Broadcasters and media organisations who may cover the referendum result

1.17 The CCO is also consulting COs and their staff on the timing of the count as part of a wider consultation on her proposed approach to managing the referendum and in particular on the proposed scope of her directions which will underpin the administration of the poll. The proposed directions - which are focussed on those areas where consistency is essential in order to achieve the overall objective of ensuring confidence in the result, based on an accessible, consistent and efficient electoral process operated to the highest standards of integrity – cover aspects of the process including the issuing of poll cards and postal votes and the management of polling stations. This consultation paper can be found [here](#).

1.18 Comments can be provided by email to:
ReferendumDirections@electoralcommission.org.uk

or by post to:

EU Referendum count timing consultation
The Electoral Commission
3 Bunhill Row
London EC1Y 8YZ

1.19 Both consultations will close on **Wednesday 30 September 2015**. The CCO then intends to review the responses with the EU Referendum Management Board in October, before confirming her proposed approach in November 2015.

2 Referendum framework

Date of referendum

2.1 The European Union Referendum Bill 2015 provides for a referendum to be held on the UK's membership of the EU. The referendum must be held no later than 31 December 2017, on a date which will be specified in secondary legislation. This means that the date of the referendum may not be known until after the Bill receives Royal Assent, and will not be confirmed until the relevant legislation has been approved by the UK Parliament.

2.2 In our report on the 2014 Scottish independence referendum, we set out our assessment that holding a poll on such an important constitutional issue on a separate day from other elections gave voters space to engage fully with the referendum issues, and helped both campaigners and electoral administrators plan their activities more effectively. We recommended that for other high-profile issues likely to attract cross-party campaigning, such as the UK's membership of the EU, any referendum should be held on a separate day to other polls. We have welcomed the UK Government's decision that the EU referendum will not be held on the same day as elections already scheduled for May 2016.

2.3 Although there remains the potential for combination with other polls, this consultation about the timing of the referendum count is based on the assumption that the referendum will be held as a stand-alone event, and that the poll at the referendum will not be combined with the poll at other scheduled elections. If the poll at the referendum is combined with the May 2017 scheduled polls, the approach outlined in this paper would need to be reviewed to reflect the implications of combination on the timing and length of the verification and count processes.

Framework for the referendum

2.4 The referendum will be held under the framework of the Political Parties, Elections and Referendums Act 2000 (PPERA). The Electoral Commission's responsibilities in a PERA referendum include:

- Commenting on the intelligibility of the referendum question.
- Registering organisations or individuals who want to campaign in the referendum.
- Considering and approving applications for designation as the lead campaign group for each referendum outcome.
- Making grant payments to the approved designated organisations.
- Monitoring spending on referendum campaigning, in line with the referendum spending limits imposed by PERA.
- Providing advice and guidance on the rules to campaigners.

- Monitoring and securing compliance with campaign donation, loan and spending controls.
- Reporting on the administration of the referendum and referendum campaign spending.

2.5 The Chair of the Commission, or a person the Chair appoints, is the Chief Counting Officer (CCO) for the referendum and responsible for certifying the outcome of the referendum.

2.6 Since the first referendum held under PPERA in 2004, the Commission has published a number of reports recommending legislative changes intended to improve the administration of referendums and the regulation of referendum campaigners, drawing on our practical experience. Our most recent report was published in December 2014 following the Scottish independence referendum. We are pleased that the UK Government has incorporated into the EU Referendum Bill many of our previous recommendations for changes to the legislative framework for referendums.

2.7 We will continue to brief MPs as the European Union Referendum Bill progresses through Parliament. Copies of all our briefings can be found on our website [here](#).

2.8 Rules for the conduct of the referendum will be contained in secondary legislation. The Commission has been consulted on draft rules which again reflect lessons learnt from previous referendums. The draft rules require that local Counting Officers (COs) make arrangements for the counting of votes as soon as practicable after the close of poll.

Chief Counting Officer role and approach

2.9 The Chair of the Commission, Jenny Watson, will be CCO for the EU referendum. She will be supported by Andrew Scallan, the Commission's Director of Electoral Administration, as Deputy Chief Counting Officer (DCCO).

2.10 The CCO will also appoint a Regional Counting Officer (RCO) for each electoral region in Great Britain. The CCO intends to appoint existing Regional Returning Officers (RROs) as RCOs. There will be a recruitment process in electoral regions where there is no experienced RRO currently in place. Local Counting Officers (COs) will be appointed automatically by virtue of their role as local government Returning Officer for their local authority area. The CCO and RCOs have a power of direction over COs relating to the discharge of their functions and preparations for the referendum.

2.11 The CCO has established an EU Referendum Management Board (EURMB) to support her in managing the effective delivery of the EU referendum. The Board is chaired by the CCO and its current membership includes the DCCO, the RCO designates for each of the electoral regions in Great Britain and the CO for Northern Ireland.

2.12 The CCO intends to approach the management of the referendum in a similar way to that followed by the CCO for the Scottish independence referendum in September 2014.

2.13 At the Scottish independence referendum, the CCO sought to deliver by consensus where possible, by guidance where needed and by directions where appropriate and following consultation. The CCO chose to limit the use of directions to matters in which she considered consistency was essential in order to achieve the overall objective of ensuring confidence in the result, based on an accessible, consistent and efficient electoral process operated to the highest standards of integrity.

2.14 All RCO designates have expressed support for this as the starting point for the approach to managing the EU referendum. In August 2015, the EURMB discussed the CCO's proposed approach to managing the referendum, including the issuing of directions and provision of guidance. In relation to the timing of the count, there has been a clear consensus emerging in discussions between the CCO and RCOs that there will be an expectation among campaigners, parties and the media that the result will be declared as soon as possible after the close of poll. While recognising that they are not without their particular challenges, RCOs have indicated to the CCO that they believe it is possible for arrangements to be put in place to enable overnight counts to be delivered effectively.

3 The count process

National result based on local totals

3.1 The referendum result is the total number of votes cast for each answer to the referendum question across the UK and Gibraltar. The CCO will be responsible for certifying the total number of ballot papers counted and the total number of votes cast for each answer.

3.2 Votes will be counted by local Counting Officers (COs) with local totals reported to the CCO. In Great Britain, this reporting of local totals will be managed through Regional Counting Officers (RCOs). The CCO will use a secure electronic results collation system to collate local totals. The declaration of the referendum result will be made by the CCO after all the local totals have been received, verified and collated.

3.3 The EU Referendum Bill provides that votes will be counted by local authority areas in England, Scotland and Wales, and for the whole of Northern Ireland and for the whole of Gibraltar. The referendum will be administered by local COs, who will be responsible for postal voting, polling stations and the verification and counting of votes, acting with the framework established by the legislation and the CCO's directions and guidance. Local COs will announce local totals once they have been authorised to do so by the RCO or CCO. Any request for a recount of votes will be at local count level.

3.4 As local counts are completed and totals announced, the outcome of the referendum across the UK and Gibraltar may well become clear before the result is declared, because the remaining local totals would not affect the overall outcome. Depending on how close the vote is, this point could be reached early on in the count process or near the end.

Process for verifying and counting votes

3.5 The process for verifying and counting votes which will be followed by local COs is summarised in the flowchart contained in Appendix 1.

Method of verifying and counting votes

3.6 At the Scottish independence referendum, the CCO directed that COs must adopt a mini-count method if they intend to proceed to count votes prior to the completion of the verification of all ballot boxes.

3.7 The CCO recognises the importance of local knowledge and experience and that there is no 'one size fits all' approach which can be applied to running the verification and count. Every counting area has its own set of local circumstances that will influence the decisions local COs need to make.

3.8 However, the CCO strongly believes that the breaking down of the verification and counting of votes into areas smaller than the whole of the

counting area is a particularly effective method of delivering an accurate and timely local total with a clear audit trail.

3.9 Consequently, **the CCO proposes to direct** that COs ensure that verification and counting arrangements are structured in such a way as to break down the verification and count into a number of self-contained 'areas' smaller than the counting area, with the totals for each of these 'areas' aggregated into a single total for the counting area.

3.10 The CCO does not intend to require any specific model to be followed. The CCO will, however, produce guidance and resources which COs can use if they wish to inform the development of the detail of their verification and count processes.

We welcome views on the CCO's proposal to direct that COs ensure that verification and counting arrangements are structured in such a way as to break down the verification and count into a number of self-contained 'areas' smaller than the counting area, with the totals for each of these 'areas' aggregated into a single total for the counting area.

4 Timing of results

4.1 While the processes outlined in the previous chapter will help to ensure that there is a consistent approach to the counting of votes at the referendum, there are a number of factors that can influence how long it takes to complete that process. The time taken to complete the process in each case will dictate when local totals are ready to be announced and, in turn, when the declaration of the result can be made.

Voter turnout

Count planning and resources

4.2 The number of votes to be counted will be a factor in the time taken to declare local totals and the result.

4.3 The CCO will ask COs to plan local counts based on estimates of how many ballot papers they expect they will have to process. Establishing such assumptions at an early stage in planning is of key importance as the scope for adjusting plans is limited at a later stage in the process. This is particularly relevant for this poll given the uncertainty not only as to the date but also as to how much notice there will be of the date of the poll.

4.4 There are always challenges with developing such planning assumptions, with it often being difficult to predict in advance of the election or referendum period what the levels of engagement in the particular poll are likely to be. Given the potential for significant levels of interest and engagement in the EU referendum, some of which may not emerge until close to the poll, the planning assumptions underpinning the CCO's proposed approach take account of the possibility of a high turnout, using the Scottish referendum as a basis.

4.5 COs will need to ensure they have a suitable count venue, sufficient count staff and appropriate material resources to complete the count efficiently, transparently and securely. The CCO will give guidance to COs on planning and modelling their local counts based on forecasts of turnout, lessons learnt from previous counts, count method, numbers of staff and resources.

Postal votes

4.6 Postal votes received prior to the day of the poll will be opened and the signatures and dates of birth on returned postal voting statements checked. On the conclusion of this process, these ballot papers will be put into ballot boxes which will be sealed. These ballot boxes are stored securely until they are taken to the local count venue ready for the start of the count.

4.7 Postal votes will also be handed into polling stations on the day of poll. The CCO will give guidance to local COs to minimise the number of such postal votes that need to be opened and checked after the close of poll, including by regular collections from polling stations during the day.

4.8 Nevertheless, a large turnout may mean that there is a volume of postal votes handed in on polling day which will need to be opened and the postal voting statements checked after the close of poll. This process must be completed before the local turnout can be confirmed and declared. The CCO will give guidance to local COs to support them with managing this process in such a way as to avoid potential bottlenecks in the count process.

Time taken to transport ballot boxes

Geography

4.9 The geography of an area affects how long it will take to transport ballot boxes from polling stations to the local count venue. Ballot boxes from polling stations in compact urban areas with good transport links are likely to be able to be transported to local count venues more swiftly than those in large rural areas with more challenging road conditions. Transporting ballot boxes to count venues from island communities can include reliance on boats and aircraft.

4.10 The CCO will ask COs to have plans in place to facilitate an overnight count, where necessary using special transport arrangements or separate satellite counts. Local arrangements will be monitored by RCOs and the CCO.

Weather

4.11 Severe weather can affect the operation of polling stations and the transport of ballot boxes from polling stations to the local count venue. We do not yet know at what time of year the referendum will be held but severe weather events such as significant flooding are relatively unpredictable and could happen at any time. Heavy rain on the day of poll, for example, could affect local transport conditions.

4.12 The CCO will give guidance to local COs about contingency plans, but it is difficult to mitigate completely the possibility that severe weather conditions could cause some delays. The position will be monitored in the period leading up to the day of the poll by COs, RCOs and the CCO.

Recounts

4.13 Recounts add to the duration of counts. Any recounts will be at local level - local agents representing referendum campaigners or political parties may request a recount, for example if they have concerns about how the count process has been conducted. The CCO may also require a local CO to undertake a recount to resolve a discrepancy between the total number of votes for each answer, plus the total number of spoilt ballot papers, and the total number of ballot papers.

4.14 The referendum rules do not provide for a national recount to be carried out in any circumstances. The referendum result is only subject to challenge by way of judicial review.

We welcome your views on these factors and on whether there are any other issues that you consider might impact on the timing of local counts, the announcement of local totals and the declaration of the referendum result.

5 Conclusion

Estimating when results will be declared

5.1 While the CCO proposes to direct that the count be undertaken overnight, taking into account the processes to be followed and the logistical challenges outlined in the previous chapter, it is unlikely that the final result will be available in the early hours of the morning of the day after the poll, although local totals should certainly start to be available by then.

5.2 A starting point might be the timing of results in the UK Parliamentary general election in May 2015, with turnout being a key factor in how long it will take to count votes in all parts of the UK, along with Gibraltar.

5.3 The CCO will give guidance to local COs on count plans, count processes and contingency arrangements, and these will be monitored by RCOs, with a view to ensuring that the conclusion of the count will be as efficient and timely as possible.

5.4 The CCO will talk to broadcasters, the media and campaigners in the months leading up to the referendum to ensure that there is a clear mutual understanding of count processes and the sequencing of local totals and the referendum result.

5.5 The CCO will also encourage clear and transparent communications at local level, so that media and campaigners are aware of local plans, and at each stage of the count itself.

We welcome your views on the issues raised in this consultation, and any other matters that you feel are relevant to the timing of the referendum count and the declaration of the referendum result.

The CCO will review all comments received prior to directing local COs on the referendum count and engaging further on practical issues with the media, broadcasters and campaigners.

Appendix 1: Flowchart of local verification and count processes

Close of poll

Ballot boxes are sealed at polling stations

Ballot boxes are transported to the local count venue

The CO's staff check-in ballot boxes as they arrive at the local count venue

Any postal votes returned to polling stations are opened and the signatures and dates of birth on returned postal voting statements are checked

Verification

Ballot boxes are emptied onto tables and the empty boxes are shown to agents

Staff count the number of ballot papers from each polling station and the number of postal votes

Staff verify that the actual number of ballot papers matches the number of ballot papers they expect, as recorded on the ballot paper accounts

The CO determines the reasons for any discrepancies and produces a final verified total which shows the total number of ballot papers to be counted

The CO reports the final verified total to the RCO or CCO

The CO is authorised to announce the local turnout

Count

Staff sort the ballot papers by each answer to the referendum question

Staff count the number of votes cast for each answer to the referendum question

Doubtful ballot papers (i.e. those where the voter's intention is not clear) are adjudicated by the CO or an appointed deputy, with any spoilt ballot papers rejected

The CO reconciles the total number of votes for each answer, plus the total number of spoilt ballot papers, against the total number of ballot papers

The CO shares the provisional result with the referendum agents and counting agents, who may request a recount at that stage. The CO can refuse a request for a recount if they think the request is unreasonable

The CO reports the local totals to the RCO or CCO

The CO is authorised to announce the local totals