



Report on the administration
of the 12 November 2009
UK Parliamentary by-election
in Glasgow North East

February 2010

Translations and other formats

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Tel: 020 7271 0500

Email: publications@electoralcommission.org.uk

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Summary and recommendations

Key facts

- The Glasgow North East by-election took place on 12 November 2009 following the resignation of the Speaker of the House of Commons and sitting Member of Parliament (MP), the Rt. Hon. Michael Martin, on 22 June 2009.
- The turnout in the 2009 Glasgow North East by-election was 33.02% compared to 46.14% at the 2005 UK Parliamentary general election.
- Thirteen candidates contested the Glasgow North East by-election. Eleven candidates stood on behalf of registered political parties; one candidate stood as an independent; and another chose not to have a description on the ballot paper.
- 4,028 entries were added to the electoral register between 1 September and 28 October 2008. 385 entries were deleted.
- 9.7% of electors (a total of 6,065 people) were registered to vote by post. 67.4% of postal ballot packs issued (4,085) were completed and returned to the Returning Officer (RO) prior to the close of poll.
- 1,780 postal vote applications were received in the three days before the deadline.
- The RO verified the personal identifiers on all postal voting statements that were received by the close of poll. In total, 217 postal votes were rejected by the RO, representing 5.3% of those returned by the close of poll.

Recommendations and conclusions

Ensuring a robust and responsive electoral system that puts the voter first

A complex set of rules governs how a UK Parliamentary by-election is called. This can lead, as it did in Glasgow North East, to a constituency being without Parliamentary representation for more than four and a half months.

In the Scottish Parliament and the National Assembly for Wales, by-elections must be held within three months of a constituency becoming vacant unless the vacancy occurs less than six months from the date of the next general election to those legislatures.

The last time consideration was given to this issue by the UK Parliament was as part of a Speaker's Conference on Electoral Law in 1973.

The UK Parliament should reconsider the procedures for calling a UK Parliamentary by-election to ensure that electors have an opportunity to elect a new MP promptly.

Ensuring effective planning and management of an election

Elections require the large-scale deployment of resources and people that can take place within very short timescales; strong management skills are needed to ensure a well-run election, and the ability to respond effectively to external factors. Each election is different and poses a unique set of circumstances.

For Glasgow North East, these included threatened strike action by Royal Mail staff, as well as a number of candidates who had never stood for election before and did not have a clear understanding of the processes involved.

ROs should continually review the risks to an election and the mitigating actions due to industrial action in any relevant sector.

ROs should review the information that they provide to candidates to ensure it is as easy to understand as possible. This will help to avoid problems and minimise individual queries later in the election timetable.

ROs and their staff should adhere to the starting times and places for election proceedings they give to candidates, agents, accredited observers and Commission representatives and only change these where they can give 48 hours written notice, as required by election regulations.

ROs must give election agents the opportunity to scrutinise the statement of the result of the verification as soon as practicable after completion of the verification of ballot papers.

Ensuring complete and accurate electoral registers

The foundation of a modern and secure electoral administration system is a complete and accurate electoral register. Despite changes in legislation and practice in recent years, more work remains to be done in order to achieve this. While 4,028 electors were added to the register, we believe that the current system allowed almost 1,900 electors to remain on the register even though a registration form had been returned which showed that those electors were no longer resident at an address in the constituency.

We welcome the UK government's commitment to introduce individual electoral registration by 2014 as part of this modernisation process but more work needs to be done now to improve completeness and accuracy under the current system.

Ensuring effective participation by candidates and political parties

Candidates, their agents and political parties have an important role in our electoral process and should therefore ensure that they fully understand their

role and obligations. Our priority is to ensure that candidates, agents and political parties have the information they need in order to contest elections.

A number of candidates and political parties contested the by-election who had little or no previous experience of standing for elected office. Some minor mistakes were made which may have been avoided if they had taken advantage of the support available to them.

Equally, an established political party did not comply with the agreed code of conduct for handling postal vote applications, which could have had a detrimental impact on some voters.

Political party Nominating Officers and election agents should be aware of the descriptions and emblems that their party has registered with the Commission. This is particularly important in the run-up to the next UK Parliamentary general election when there may be a very short period of time to obtain and submit nomination papers.

Candidates at any election should take advantage of the services provided by the RO for their benefit. Attendance at pre-election briefing events ensures that all candidates and their agents are aware of any change in the law or local practice for the election.

Political parties must ensure that they have systems in place to deliver electors' applications to register or apply for an absent vote to the Electoral Registration Officer as soon as possible, and within the agreed two working days under the Code of conduct.

1 Introduction

About the Electoral Commission

1.1 We are an independent body set up by the UK Parliament under the Political Parties, Elections and Referendums Act 2000 (PPERA). Our aim is integrity and public confidence in the UK's democratic process. We regulate party and election finance and set standards for well-run elections.

1.2 We were given the discretion to report on the administration of by-elections to the UK Parliament by the Electoral Administration Act 2006 (EAA).¹ We have published a report on every UK Parliamentary by-election since 2007.²

About this report

1.3 This report aims to provide detailed information on the administration of the Glasgow North East by-election particularly for the electors of the constituency, the candidates who contested the by-election and their agents, the Returning Officer (RO) and his staff, the Electoral Registration Officer (ERO) and his staff, and others with an interest in improving electoral administration.

1.4 This report highlights specific issues observed at the by-election. Information for this report has been obtained from the observation of the election by Commission representatives and information provided by the candidates and their election agents, political parties, the RO and their staff, and the ERO and their staff. We are grateful for their help and assistance during and after the by-election.

¹ Section 28 of the EAA, which amended Section 5 of PERA.

² Our reports on UK Parliamentary by-elections can be found on our website at www.electoralcommission.org.uk/publications-and-research/election-reports.

2 Context

2.1 The Glasgow North East by-election took place on 12 November 2009 following the resignation of the Speaker of the House of Commons and sitting Member of Parliament, the Rt. Hon. Michael Martin, on 22 June 2009.

2.2 The Returning Officer (RO) for a UK Parliamentary general election and by-election in Scotland is the same person who has been appointed as RO for the election of councillors in the local authority area in which the constituency is situated. Where a constituency covers more than one local authority area, it is for the Secretary of State to direct which local authority RO will be responsible for an election in that constituency. ROs may appoint Depute Returning Officers (Depute ROs) to discharge any or all of their functions at an election.

2.3 As the Glasgow North East constituency falls wholly within the Glasgow City Council area, the Chief Executive of Glasgow City Council, George Black, was the RO. He appointed two Depute ROs with full powers to assist in the administration of the by-election. The election team was also made up of the Elections Co-ordinator and other existing employees of Glasgow City Council who undertook specific tasks to deliver the election.

3 Preparations

The procedure for UK Parliamentary by-elections

Issuing the writ

3.1 When a seat in the House of Commons becomes vacant, a motion is moved, customarily by the Chief Whip of the party to which the member belonged when they were elected, for the Speaker to make out their warrant for the issue of a writ for the election of a new Member to fill the vacancy. There was some debate in this instance as the Speaker contested the 2005 UK general election as 'The Speaker seeking re-election' and therefore did not belong to a political party at that time.

3.2 There is no fixed period within which a by-election must be held to fill a vacancy in the House of Commons. By convention, the writ is normally issued within three months of the seat becoming vacant. The writ cannot be issued while Parliament is in recess unless there are specific circumstances.³ Parliament did not sit again until Monday 12 October.

3.3 As Mr Martin had accepted an office of profit under the Crown in order to disqualify himself from being an MP, there was time for the writ to have been issued as Parliament rose for summer recess on 21 July. This would have meant the by-election taking place on Thursday 16 July at the earliest if the writ had been issued the day after the vacancy was created, or on Thursday 13 August if the writ had been issued on the last day of the session.

3.4 Both of these dates would normally fall within the Scottish schools' summer holidays. By-elections during school holidays are normally avoided. During the 2008 Glasgow East by-election that was held on 23 July, ICM undertook public opinion research to see whether the date of the election affected people's intention and ability to vote. They found that 89% of respondents said that the timing would make no difference to them, 7% said they were more likely to vote and 4% said they were less likely to vote.⁴

3.5 The constituency of Norwich North became vacant just before Glasgow North East but the resulting by-election was held much earlier. Dr Ian Gibson MP resigned his seat on 5 June and the writ was moved 25 days later on 30 June. The by-election was then held on Thursday 24 July.

3.6 Stewart Hosie MP attempted to move the writ on 21 July but his motion was defeated. If he had been successful, a by-election would have been held on 13 August. However, as the writ could not be moved until Parliament returned from summer recess, the earliest possible date for a by-election was Tuesday 3 November. It is unusual for there to be debate and a vote on a motion to issue the writ for a by-election.

³ Those circumstances are described in the Recess Elections Act 1975.

⁴ The Electoral Commission (October 2008), *The Crewe & Nantwich, Henley, Haltemprice & Howden and Glasgow East by-elections*.

3.7 The writ was issued on Friday 16 October, 116 days after Mr Martin resigned, which made the vacancy in Glasgow North East the longest in at least 35 years.⁵ It is not uncommon for seats to lie vacant for more than 90 days. This was the case for 13 of the 162 by-elections held between 1974 and 2008. It does however mean that the electorate in those constituencies has been unrepresented in the House of Commons for four months or more by the time the election campaign has taken place and the poll has been concluded.

3.8 In the current Parliament, the longest vacancy before Glasgow North East was 62 days in Glenrothes following the death of John McDougall MP in August 2008. The writs for four by-elections were moved one day after the occurrence of the vacancy. Those were Sedgefield (2007), Henley (2008), Haltemprice & Howden (2008) and Glasgow East (2008).

The procedure in the devolved legislatures

3.9 In contrast to UK Parliamentary procedure, the procedures for fixing the date of constituency by-elections to the Scottish Parliament and the National Assembly for Wales operate within a fixed maximum timescale.

3.10 Vacancies in the Northern Ireland Assembly, where the elections are held using the single transferable vote, are filled by the relevant party's Nominating Officer nominating a new member. Members of the Legislative Assembly elected as Independents provide a list of substitutes when they stand for election.

3.11 In both the Scottish Parliament and the Welsh Assembly, the Presiding Officer determines the date of the by-election which must be within three months of the seat becoming vacant. In the event that the Presiding Officer is not informed of the vacancy within one month of it arising, the Presiding Officer will set the date for the by-election within three months of being notified of the vacancy.⁶

3.12 There is no legal requirement on the Presiding Officer to involve other elected members of those legislatures or political parties, although in practice the Presiding Officer does consult representatives of each political group.

3.13 There have been six by-elections to the Scottish Parliament and two to the National Assembly for Wales since they were established in 1999. The average length of time from the vacancy occurring to the day of the poll is 46 calendar days. Vacancies due to the death of a Member are normally longer to allow a period of mourning to be observed before arrangements are made for the by-election.

The procedure in local government

3.14 Where a vacancy arises in Scottish local government, a by-election must be held within three months and the date is fixed by the Returning Officer

⁵ *Election timetables*, Research Paper 09/44, (House of Commons Library, 13 May 2009).

⁶ Section 9, Scotland Act 1998; Section 10, Government of Wales Act 2006.

(RO).⁷ Where a by-election is to take place for an English or Welsh council, it must be held within 35 working days.⁸

3.15 In local government in Scotland, England and Wales, the law states that a by-election shall not be held if the vacancy occurred less than six months before the next scheduled election for that seat.

The Speaker's Conference on Electoral Law

3.16 In November 1973, the Speaker's Conference on Electoral Law wrote to the Prime Minister to summarise their conclusions on the timing of by-elections. These included the following recommendations:⁹

- the motion for the writ for a by-election should normally be moved within three months of a vacancy arising
- that by-elections should not be held in August due to summer holidays or April/May when there are normally local elections being held¹⁰
- if holding the by-election three months later would mean it was to be held during one of the periods above, it should be held earlier where practical, or if it is impractical, as soon as possible thereafter
- the rules should provide a discretion for a by-election not to be held in the fifth year of a Parliament so that a by-election is not held immediately before a general election
- the writ should be able to be issued during a Parliamentary recess, regardless of the reason for the vacancy
- if a UK Parliamentary general election is called after the writ for a by-election has been issued but before polling has taken place, the UK Parliamentary general election writ should manifestly cancel the by-election writ

Observations

3.17 The length of the vacancy in the Glasgow North East constituency meant that people in the constituency were not represented in the UK Parliament for more than four and a half months. It would have been possible to identify a much earlier date for the by-election to be held which would have been convenient for electors, and it would also have been possible to plan and administer an election within a shorter period of time.

3.18 The procedure for holding a UK Parliamentary by-election also means that there is no certainty about the date for a by-election until the writ is issued. The delay in setting the date caused administrative difficulties in that the RO and his team were making plans for every possible date from July through to November.

⁷ Section 37, Local Government (Scotland) Act 1973.

⁸ Section 89, Local Government Act 1972.

⁹ *Conference on Electoral Law: Letter dated 26th November 1973 from Mr Speaker to the Prime Minister*, Command Paper 5500 (HMSO, 1973).

¹⁰ The Conference also recommended that mid-December to mid-February should be avoided due to the electoral register being updated. However, different rules now apply.

3.19 We recommend that the rules governing vacancies in seats in the House of Commons should be reviewed to ensure that electors have an opportunity to elect a new MP promptly.

The UK Parliament should reconsider the procedures for calling a UK Parliamentary by-election to ensure that electors have an opportunity to elect a new MP promptly.

Election planning

3.20 The delay meant that the RO and his team were unable to put many of the key elements of the election in place, such as booking venues for an unconfirmed date, as this could have resulted in cancellation charges if a different date was set. A number of schools and nursery buildings were used as polling places. It was not possible to give them much advance warning of when their premises would be required and to allow the schools and parents to make alternative arrangements for the children.

3.21 Postal strikes were taking place while preparations were being made for the by-election. The RO identified that industrial action by Royal Mail staff could affect the good conduct of the by-election. The election team considered the risks to the safe delivery of poll cards and postal votes and identified a number of mitigating actions.

3.22 Firstly, depending on the extent of the strike, council staff would have been used to deliver poll cards to electors. This would be followed up by additional information in the media informing electors that it is not a legal requirement to have your poll card to vote and where they could get more information on where their local polling station was.

3.23 Postal votes would also be hand-delivered by council staff if strike action continued. As post offices were not part of the industrial action, they would still be able to collect mail for delivery, the election staff identified this as the most secure and convenient alternative method for electors to return their postal votes. The RO would organise staff to collect the postal votes from the post offices. A second alternative was to use selected council buildings in the constituency as delivery points. Also, in any election, postal voters can hand their completed postal vote in to any polling station in the constituency on polling day.

3.24 In either case, the RO would have undertaken a public information campaign to ensure every postal voter knew how to get their vote back in time. The postal voting instructions would have contained additional instructions to advise postal voters of the arrangements the RO had in place for the return of postal votes. This message would have been repeated through local media.

3.25 Negotiations between the two sides involved in the postal strike resulted in a suspension of strike action during the course of the election period. Poll

cards were successfully delivered between strikes and strike action had been suspended by the time the postal votes were ready to be sent.

ROs should continually review the risks to an election and the mitigating actions due to industrial action in any relevant sector.

4 Electoral registration

4.1 There are two, equally important strands to electoral registration in Great Britain. These are the registration of electors within households which is undertaken annually in the autumn (known as the 'annual canvass'), and rolling registration which allows individuals to either register or amend their existing details throughout the year. This is usually as a result of moving home or having missed registering during the annual canvass.

4.2 The Representation of the People Act 1983 was amended by the Electoral Administration Act 2006 (EAA) to allow people to register up to 11 working days before a particular election. Previously, applications to register had to be received at least six weeks in advance of an election.

4.3 During preparations for a potential UK Parliamentary general election in the autumn of 2007, problems were identified with the changes made by the EAA. The new legislation did not allow changes made on the annual canvass form to be used to update the register for an election held between 1 September and 1 December.

4.4 The Political Parties and Elections Act 2009 partially resolved this anomaly. It did allow names that were added to the canvass form to be added to the register used for the by-election but it did not allow the Electoral Registration Officer (ERO) to delete the names of people who had been crossed off the annual canvass form because they were no longer resident. The ERO could only delete the names of people who had been in direct contact to say they had moved, or where the Registrar of Births, Deaths and Marriages notified the ERO of a death.

4.5 Staff at the electoral registration office believe that the changes in the law had made registration for the by-election much easier to administer than the local government by-elections they had during the 2008 annual canvass period. The changes also meant that electors did not have to fill in an additional form which could have been received by the ERO after the deadline for applications.

4.6 Statistics from the ERO show that 4,028 electors were added to the register between 1 September and 28 October, the closing date for applications, and 385 deletions were made either due to notification of deaths by the Registrar or by electors writing directly to the ERO. A further 2,538 electors were deleted when the electoral register was republished on 1 December 2009. Of those, 640 electors were deleted because they had not responded to the annual canvass for two years in a row and it could not be confirmed from other sources that they were still resident at the given address.

4.7 This leads us to conclude that the overwhelming majority of the remaining 1,898 electors deleted on 1 December were registered to vote in the by-election even though the ERO had received a canvass form that showed they were no longer resident at an address in the constituency.

4.8 The current legal framework increases the potential for electoral fraud by not permitting EROs to delete the names of electors who are no longer resident in the constituency at the time of an election held between 1 September and 1 December. Offences, such as personation or fraudulent applications for a postal vote, are less likely to occur if the register is as accurate and complete as possible at any given time.

The Glasgow North East by-election highlighted that there remain anomalies within the electoral registration system in Great Britain. The UK Government should consider appropriate legislative changes within the current framework and as part of the development of individual electoral registration.

5 Candidates, agents and political parties

5.1 Political parties are required to be registered with the Electoral Commission if they wish their candidates to use the registered party name or one of their 12 registered descriptions on the ballot paper when contesting any statutory election in the UK. Thirteen candidates contested the Glasgow North East by-election. Eleven candidates stood on behalf of registered political parties, one candidate stood as an independent and another chose not to have a description on the ballot paper.

Nominations

5.2 Thirteen candidates submitted nomination papers and they all remained validly nominated.

5.3 One candidate submitted nomination papers that contained an emblem and a party description that were not registered with the Electoral Commission. The election staff had the Commission's register of political parties available and the election agent was able to make the minor corrections necessary so that the nomination could be accepted.

5.4 The Electoral Administration Act 2006 amended the election rules so that candidates can pay their deposit by electronic transfer of funds if the Returning Officer (RO) agrees. The RO offered to accept payment of the deposit by electronic means for the by-election but none of the candidates chose to do so.

Political party Nominating Officers and election agents should be aware of the descriptions and emblems that their party has registered with the Electoral Commission. This is particularly important in the run-up to the next UK Parliamentary general election when there may be a very short period of time to obtain and submit nomination papers.

Briefing meetings

5.5 The RO organised a briefing meeting to be held with validly nominated candidates and their election agents shortly after the deadline for nominations. This was delayed by a few days to ensure that all candidates had received information posted to them that might have been caught up in the postal strike.

5.6 This session covered the key aspects of the election, including the arrangements for postal vote openings, the count, campaigning in the vicinity of polling stations and contingency plans for the postal strike disrupting the normal arrangements for the by-election. It also provided candidates and their agents with an opportunity to ask questions of the election team.

5.7 The election team noted that a number of candidates at the by-election required additional assistance to help with their understanding of an election.

More time was spent answering questions and explaining the process than would normally be the case. It is possible that there will be a large number of first-time candidates contesting the next UK Parliamentary general election across the UK who will require the support of ROs to understand the various electoral processes.

ROs should review the information that they provide to candidates to ensure it is as easy to understand as possible. This will help to avoid problems and minimise individual queries later in the election timetable.

Candidates at any election should take advantage of the services provided by the RO for their benefit. Attendance at pre-election briefing events ensures that all candidates and their agents are aware of any change in the law or local practice for the election.

Publication of candidates' home addresses

5.8 The Political Parties and Elections Act 2009 changed the law on the publication of candidates' home addresses at UK Parliamentary elections. Previously, a candidate's home address was printed on the Statement of Persons Nominated and on the ballot paper itself.

5.9 The new rules allow candidates the option of whether to have their home address published or restrict it so that it can only be seen for certain legal processes. The name of the constituency, or country if they live outside the UK, would be published instead. The Act changed the nomination forms so that a separate home address form had to be completed by each candidate. This form was developed by the Commission in conjunction with a working group of electoral officers from across Great Britain. We understand from the RO that his staff and the candidates found the new forms easy to complete.

5.10 Three candidates decided not to have their home address published. We asked the RO's staff at the election office and in polling stations if this had prompted any comment from voters but none had been made. We also wrote to the election agent for each candidate asking for their views on this point in particular but we received no comments.

5.11 We will continue to monitor the implementation and effect of this change in the law on voters, candidates and ROs at the next UK Parliamentary general election and make recommendations if necessary.

6 Absent voting

6.1 The proportion of electors choosing to vote by post in Glasgow North East has increased since postal voting on demand first became available in 2001 but at a much slower rate than in other parts of Great Britain. At the 2005 UK Parliamentary general election, 3.9% electors in Glasgow North East (a total of 2,423 people) had registered to vote by post. By the deadline of 10pm on polling day, 67.7% of those had returned their postal vote to the Returning Officer (RO).

6.2 At the 2009 Glasgow North East UK Parliamentary by-election, 9.7% of electors (a total of 6,065 people) were registered to vote by post. The percentage of electors registered to vote by post in this constituency is now much closer to the average across Scotland of 11.7%, based on the figures from the June 2009 European Parliamentary elections.¹¹

6.3 A total of 4,085 postal ballot packs, 67.4% of those issued, were completed and returned to the RO prior to the close of poll. Postal votes accounted for 19.8% of all votes cast in the by-election.

Absent voting applications

6.4 In our report on the four UK Parliamentary by-elections held in 2008¹² we discussed the impact that tight timetables for by-elections has on the ability for electors to apply for a postal vote and for Electoral Registration Officers (EROs) to process these applications. As electors were aware for several months that there would be a by-election in Glasgow North East, there was sufficient time for them to enquire about absent voting and complete and return the necessary application forms to the ERO, despite there being no certainty about the date until 16 October. More than 1,400 additional electors were granted postal votes between 1 September 2009 and the deadline for postal vote applications.

6.5 A political party raised concerns with the Commission over the high number of applications delivered to the ERO in the three days before the deadline for applying for a postal vote. They believed that another party had collected the applications from voters and then unduly delayed delivery of them to the ERO until the final days before the deadline for postal vote applications.

6.6 The Commission and the main political parties drew up a voluntary Code of conduct to deal with the handling of postal vote applications and postal ballot packs in 2006. The Code states that political parties agree to deliver any postal vote application form they receive to the ERO within two working days.

¹¹ C Rallings and M Thrasher (September 2009), *Postal vote verification and rejections in Great Britain; European and local elections 2009*.

¹² The Electoral Commission (October 2008), *The Crewe & Nantwich, Henley, Haltemprice & Howden and Glasgow East by-elections*.

6.7 The ERO identified that, of almost 1,800 postal vote applications he received in the three days before the deadline, 47% were forms produced by one of the main political parties. When the Commission reported the concerns that the party had unduly delayed the return of applications for postal votes to the ERO, his staff undertook a spot-check of those applications and discovered that more than 100 forms had been signed and dated by the elector more than a week earlier, and in some cases, more than one month earlier.

6.8 If there had been an error on the postal vote application form, there would have been very little time for the elector to correct this before the deadline. It is essential that all applications are returned to the ERO in accordance with the Code of conduct to ensure that no elector is inadvertently denied their right to vote, or to vote using their preferred method.

6.9 We have had further discussions with the political party concerned to reiterate these points and we have been assured that they will have appropriate procedures in place for future elections.

Political parties must ensure that they have systems in place to deliver voters' applications to register or apply for an absent vote to the ERO as soon as possible, and within the agreed two working days under the Code of conduct.

Returned and rejected postal voting statements

6.10 Upon receipt of the returned postal ballot packs, ROs must check that both the signature and date of birth of the postal voter have been entered on the postal voting statement (unless a signature waiver has been previously granted) and that the personal identifiers supplied match those supplied at the time of application. The law also requires that ROs check at least 20% of returned postal voting statements; however, we strongly believe that 100% personal identifier verification is preferred and represents good practice.

6.11 Postal voting statements that are subject to the verification of personal identifiers can be rejected for a number of reasons. These include either the signature, the date of birth or both being missing from the postal voting statement, or where the RO cannot be satisfied that either the signature, date of birth or both were completed by the elector to whom the postal ballot was issued.

6.12 Glasgow North East's RO verified the personal identifiers on all postal voting statements that were received by the close of poll. In total, 217 postal votes were rejected by the RO, representing 5.3% of those returned by the close of poll. A breakdown of the reasons for postal vote rejection is shown in Table 1.

Table 1: Reasons for postal vote rejection

Rejected for	Number of postal ballots rejected
Lack of the postal voter's signature	23
Lack of the postal voter's date of birth	9
Lack of the postal voter's signature and date of birth	19
Mismatched signature	101
Mismatched date of birth	48
Mismatched signature and date of birth	17

6.13 In addition, a further 95 postal votes could not be counted because either the ballot paper or the postal voting statement had not been received by the RO.

Timing of postal vote openings

6.14 An opening session had been arranged for the early evening of polling day to process postal votes received at polling stations. Commission representatives were given conflicting times as to when this session would begin and were ultimately told it would be 7.30pm. When Commission representatives arrived for the session at 7.30pm, a decision was made by staff not to start opening until 8.30pm.

ROs and their staff should adhere to the starting times and places for election proceedings they give to candidates, agents, accredited observers and Commission representatives and only change these where they can give 48 hours written notice, as required by election regulations.
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7 Voting in polling stations

7.1 Overall, our observations were that polling day ran smoothly. The vast majority of polling station staff had worked on previous elections and all had attended a briefing session organised by the elections team on how to fulfil their duties on polling day.

7.2 During observations of a selection of polling stations, Commission representatives noted that not all staff were clearly explaining how the ballot paper should be marked. We believe that providing clear instructions at the point of voting helps to educate voters and will become more important at elections where the ballot paper is to be marked differently. We encourage Returning Officers (ROs) to train their staff in giving instructions to voters and emphasise the importance of it at future elections. This is particularly important in Scotland where there are different voting systems in place for each type of election.

Electoral integrity

7.3 During the evening of polling day, two allegations were reported to police of people allegedly trying to vote in the names of persons who were marked as already having voted on the electoral register. This type of electoral malpractice is known as personation and is a criminal offence.

7.4 Polling station staff have no powers to investigate any suspicion of personation or deny voters a ballot paper. If someone is trying to vote in the name of someone who is already marked as having voted at that election, the polling station staff can only ask certain specific questions from the election rules.¹³ If satisfactory answers are given, the voter can only be given a coloured ballot paper (a tendered vote) which is not put in the ballot box but held in a separate envelope. If the election is challenged in an election court, the tendered vote may be used to alter the official result.

7.5 Strathclyde Police had taken an operational decision with the RO to have a police officer present in every polling place during polling day. As soon as it became apparent that there was doubt over the legitimacy of certain votes due to personation, the police officers present at both polling stations were able to take statements from the staff and identify any evidence that might be required for their investigation.

7.6 No further action was taken in one case involving one elector where it became apparent that polling station staff had accidentally put a mark against the wrong name. The second case, which involved two electors, is still under investigation by Strathclyde Police.

7.7 The RO will ensure that future training stresses the need for accuracy when checking who has come to vote and marking their name on the register.

¹³ Rule 35, Parliamentary Election Rules, Representation of the People Act 1983.

8 The count

8.1 The counting of the votes took place in the Scottish Exhibition and Conference Centre in Glasgow immediately following the close of poll at 10pm and was completed by 2am.

8.2 The turnout in the 2009 Glasgow North East by-election was 33.02% compared to 46.14% at the 2005 UK Parliamentary general election. The detailed result of the by-election can be found in Appendix B – Result of the Glasgow North East UK Parliamentary by-election.

Postal votes at the count

8.3 Postal votes can be handed in to any polling station in the constituency on polling day between 7am and 10pm and be included in the count. Most Returning Officers (ROs) will arrange for postal votes returned in this way to be collected during the day so that the personal identifiers can be verified and fewer postal votes have to be processed at the count.

8.4 Due to a problem at a previous local government by-election, the postal vote opening team at the count had decided not to begin processing the postal votes received after the close of poll until they had been given the envelopes from all 72 polling stations. This meant they did not begin opening the 79 postal votes they received until after 11pm.

8.5 The verification of votes cast at polling stations was completed by 11.50pm but the postal vote opening and verification was not completed until 12.15am. The count was therefore delayed by 25 minutes. If the postal vote opening had begun earlier, this delay may have been avoided.

8.6 We have spoken to the RO's staff and they will review this practice so that future election counts are not affected in this way.

Verification of ballot papers

8.7 The first stage of any election count is to verify that the number of ballot papers received in each ballot box is the same as the number of ballot papers each polling station has issued. The RO is required to produce a statement of the result of the verification which would show if there are any discrepancies between ballot papers issued at the polling station and ballot papers received at the count centre. The election rules allow the election agents to copy this statement.

8.8 We received a complaint from a political party that the verification statement was not made available during the count but only distributed to the election agents later on Friday.

8.9 The verification statement is central to ensuring that the correct number of ballot papers has been received at the count centre by the RO and that

ballot papers have not been unlawfully added to, or taken from the ballot boxes.

ROs must give election agents the opportunity to scrutinise the statement of the result of the verification as soon as practicable after completion of the verification of ballot papers.

Counting the votes

8.10 Previous elections have shown that counting votes is more difficult when there are large numbers of candidates or political parties contesting the election. This was a particular feature of the 2009 European Parliamentary elections which saw some very long ballot papers in some regions.¹⁴

8.11 It was our observation on the night that having three staff to a table was hindering the efficient counting of the votes as they often crossed over each other as they sorted the ballot papers. The count centre had sufficient space for some extra counting tables and this may have helped.

8.12 Commission representatives observed some other practices which could be changed in order to improve the efficiency of the count. We will make these points directly to the RO.

Information in the count centre

8.13 The Commission has issued advice to ROs on what information they might provide to candidates and agents about the count. We believe this to be important as the processes and terminology are likely to be unfamiliar to candidates or agents who have never been to a count before. The provision of information might include:¹⁵

- placing information posters and boards throughout the count venue which show the key members of staff and provide an overview of the procedures to be followed
- providing a layout plan of the venue, indicating the key areas of interest for candidates, agents and observers
- providing pictures of key staff to help candidates and agents identify them at the count
- appointing a staff member to respond to queries and act as liaison between candidates, agents, observers and key staff
- using a public address system to make simple announcements about what is happening, when and where
- providing a hand-out listing all ballot box numbers and the names of the polling stations they relate to

¹⁴ The Electoral Commission (October 2009), *The European Parliamentary and local government elections 2009*.

¹⁵ The Electoral Commission (October 2009), *Essentials of effective election management: Planning for a UK Parliamentary general election*.

8.14 While a public address system was used to make announcements and a large screen displayed the final result, we would like to have seen more information available at the point that those attending the count needed it.

8.15 ROs cannot know, and cannot be expected to know, the experience and knowledge that attendees have of an election count. Therefore, they should prepare to give information as if all attendees were new to the process in order to aid understanding and promote confidence that the count is being conducted fairly, transparently and in accordance with the law.

Appendix A – The electoral timetable

Event	Date
Writ moved in the House of Commons	16 October 2009
Writ received by the Returning Officer	19 October 2009
Notice of Election published	21 October 2009
First day for delivery of nomination papers (between 10am and 4pm on any day until last day for delivery of nominations)	22 October 2009
Last day for the delivery of nomination papers	Not later than 4pm on 27 October 2009
Last day for withdrawals of candidature	Not later than 4pm on 27 October 2009
Last day for appointment of election agents	Not later than 4pm on 27 October 2009
Publication of statement of persons nominated – if no objections made*	Not later than 5pm on 27 October 2009
Last day for requests for a new postal vote, or to change or cancel an existing postal vote or proxy appointment	Not later than 5pm on 28 October 2009
Last day for applications to be included on the register of electors in order to vote in the election	28 October 2009
Last day for new applications to vote by proxy (except for medical emergencies)	Not later than 5pm on 4 November 2009
Last day for appointment of counting agents and polling agents	10 November 2009
Last day to apply for new applications to vote by proxy on grounds of a medical emergency	Not later than 5pm on 12 November 2009
Polling day	7am–10pm on 12 November 2009

Note: * Had there been objections, this part of the process would have needed to have been completed the next working day by 4pm.

Appendix B – Result of the Glasgow North East UK Parliamentary by-election

Electorate	Number of votes cast	Percentage poll	Number of rejected ballot papers
62,057	20,638	33.02%	43

Candidate	Party	Votes received	Share of the vote*
Baillie, Charlie	British National Party	1,013	4.91%
Bain, Willie	Scottish Labour Party Candidate	12,231	59.26%
Baxendale, Eileen	Scottish Liberal Democrats	474	2.30%
Brown, Mev	Independent	32	0.16%
Campbell, Colin	The Individuals Labour and Tory (TILT)	13	0.06%
Davidson, Ruth	Scottish Conservative and Unionist	1,075	5.21%
David, Doherty	Scottish Green Party	332	1.61%
Hughes, Mikey		54	0.26%
Kerr, David	Scottish National Party (SNP)	4,120	19.96%
McDaid, Louise	Socialist Labour Party	47	0.23%
McVey, Kevin	Scottish Socialist Party – Make Greed History	152	0.74%
Sheridan, Tommy	Solidarity – Scotland’s Socialist Movement	794	3.85%
Smeaton, John David	Jury Team	258	1.25%

* A candidate forfeits their deposit of £500 if they do not obtain 5% or more of valid votes cast.

How to contact us

The Electoral Commission

Trevelyan House
Great Peter Street
London SW1P 2HW
Tel: 020 7271 0500
Fax: 020 7271 0505
Textphone: 18001 020 7271 0500
info@electoralcommission.org.uk
www.electoralcommission.org.uk

The Electoral Commission

Scotland Office
38 Thistle Street
Edinburgh EH2 1EN
Tel: 0131 225 0200
Fax: 0131 225 0205
Textphone: 18001 0131 225 0200
infoscotland@electoralcommission.org.uk

The Electoral Commission

Wales Office
Caradog House
1-6 Saint Andrews Place
Cardiff CF10 3BE
Tel: 029 2034 6800
Fax: 029 2034 6805
Textphone: 18001 029 2034 6800
infowales@electoralcommission.org.uk

The Electoral Commission

Northern Ireland Office
Seatem House
28-32 Alfred Street
Belfast BT2 8EN
Tel: 028 9089 4020
Fax: 028 9089 4026
Textphone: 18001 028 9089 4020
infonorthernireland@electoralcommission.org.uk

The Electoral Commission

Eastern and South East Office
Trevelyan House
Great Peter Street
London SW1P 2HW
Tel: 020 7271 0600
Fax: 020 7271 0505
Textphone: 18001 020 7271 0600
easternandsoutheastoffice@electoralcommission.org.uk

The Electoral Commission

London Office
Trevelyan House
Great Peter Street
London SW1P 2HW
Tel: 020 7271 0689
Fax: 020 7271 0505
Textphone: 18001 020 7271 0689
london@electoralcommission.org.uk

The Electoral Commission

Midlands Office, No 2 The Oaks
Westwood Way, Westwood Business Park
Coventry CV4 8JB
Tel: 02476 820086
Fax: 02476 820001
Textphone: 18001 02476 820086
midlands@electoralcommission.org.uk

The Electoral Commission

North of England Office
York Science Park
IT Centre
Innovation Way
Heslington
York YO10 5DG
Tel: 01904 567990
Fax: 01904 567719
Textphone: 18001 01904 567990
north@electoralcommission.org.uk

The Electoral Commission

South West Office
Regus, 1 Emperor Way
Exeter Business Park
Exeter EX1 3QS
Tel: 01392 314617
Fax: 01392 314001
Textphone: 18001 01392 314617
southwest@electoralcommission.org.uk

The Electoral Commission
Trevelyan House
Great Peter Street
London SW1P 2HW

Tel 020 7271 0500
Fax 020 7271 0505
info@electoralcommission.org.uk
www.electoralcommission.org.uk

To contact our offices in Scotland, Wales,
Northern Ireland and across the UK,
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public confidence in the democratic process.
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