

Appendix A

Guidance on the timing of UK Parliamentary election counts

1. This guidance supplements the Commission's guidance to (Acting) Returning Officers on preparing for and conducting the count at a UK Parliamentary general election contained in "Section 16: Planning the count" of *Essentials of effective election management: Planning for a UK Parliamentary general election*, which was published in September 2009, and "Part E: Verification and count" of *Managing a UK Parliamentary general election in Great Britain: Guidance for (Acting) Returning Officers*, which was published in December 2009.

Provisions of the Constitutional Reform and Governance Act 2010

2. (Acting) Returning Officers have an existing duty under Rule 44(1) of the Parliamentary Election Rules to make arrangements for counting the votes 'as soon as practicable after the close of poll'. The new duty imposed by the Constitutional Reform and Governance Act 2010 sits alongside this existing duty and:
 - Places (Acting) Returning Officers, in making arrangements under Rule 44(1), under a further duty to take reasonable steps to begin counting the votes on ballot papers for UK Parliamentary elections as soon as practicable within four hours of the close of poll. (Note – the duty relates to the actual counting of the votes and not to the verification process. (Acting) Returning Officers with combined polls should note that the verification for both elections must be completed before the counting of the votes at the UK Parliamentary election can be commenced).
 - Requires the Electoral Commission to issue guidance for (Acting) Returning Officers on the new duty.
 - Requires any (Acting) Returning Officer who did not commence the counting of the votes within four hours of the close of the poll to publish and deliver to the Commission a statement setting out the time at which counting did begin, the steps which had been taken to comply with the new duty and the reasons why the counting of votes had not commenced by 2am.
 - Requires the Commission to include in its report on the administration of any UK Parliamentary election a list of the constituencies in respect of which such a statement has been submitted.

Guidance

3. (Acting) Returning Officers will already be well-advanced in their planning for the election. Those who do not currently intend to start the count process immediately following the close of poll will now need actively to re-consider what steps it is reasonable to take in order to be able to commence counting the votes before 2am.
4. The extent to which steps taken by (Acting) Returning Officers are 'reasonable' will depend on the particular circumstances in each constituency – for example, what is considered reasonable for a compact borough/burgh constituency may not be for a more geographically disparate county constituency; what is considered reasonable for a constituency where there are no local government elections may not be for a constituency where the poll at the parliamentary election is combined with the poll at a local government election.
5. In each case, it is for the (Acting) Returning Officer to decide what steps it is reasonable to take given the particular circumstances of their constituency.
6. (Acting) Returning Officers should consider the following steps. This list is not exhaustive and there may be additional steps that (Acting) Returning Officers will also need to consider depending on their local circumstances.
 - **Venue:** (Acting) Returning Officers should secure a suitable venue for the counting of votes, and ensure that this venue is available at the required time to enable the counting of votes to commence within four hours of the close of poll. If the (Acting) Returning Officer is responsible for more than one constituency, it may be appropriate to find and use more than one venue to enable the counting of the votes in both (or all) constituencies to be commenced by 2am.
 - **Staffing:** (Acting) Returning Officers will need to ensure the availability of an adequate number of well-briefed staff who are able to work immediately following the close of poll. This will include having sufficient numbers of trained, senior staff in place, such as the appointment of any Deputy (Acting) Returning Officers with the necessary powers.
 - **Geography:** (Acting) Returning Officers will need to ensure that they can get ballot boxes securely and efficiently to the count venue in order that the verification and counting processes can be commenced promptly taking into account the geography and transport links of their constituency.

- **Volume and management of postal votes returned across the constituency:** (Acting) Returning Officers will need to establish appropriate collection, verification and, where necessary, transportation arrangements for any ballot papers handed in at polling stations to ensure that the verification and count processes are not delayed awaiting the arrival and processing of the last postal votes. This may include putting in place arrangements with a view to limiting the number of postal votes to be processed at the count, such as by the collection from polling stations throughout polling day of any completed postal votes that have been handed in. Arrangements will need to be made to enable the verification of the signatures and dates of birth on postal voting statements against the original specimens provided on absent vote applications to be carried out, which will require venues and staffing to be identified and the necessary equipment to be put in place. Particular arrangements will need to be made where UK Parliamentary constituency boundaries are not coterminous with local authority boundaries given that the specimen signatures and dates of birth for electors who do not reside within the (Acting) Returning Officer's local authority area will be held by the Electoral Registration Officer for a different local authority.
 - **Processes:** All (Acting) Returning Officers will need to ensure that their verification and count processes are structured in such a way as to enable their efficient and effective conduct. For those (Acting) Returning Officers with combined polls, given that the verification for all elections must be completed before the counting of votes for the parliamentary election can be commenced, count processes will need to be structured in order to be able to ensure that accurate verifications can be concluded and the counting of votes commenced within the prescribed timescales. Any (Acting) Returning Officers with responsibility for more than one parliamentary constituency will need to ensure that the verification and count for each area is organised in such a way that enables the counting of votes for each constituency to be commenced within four hours of the close of poll.
7. In determining whether it is reasonable to take particular steps, (Acting) Returning Officers should have regard to the impact that taking such steps would have on their existing election plans, bearing in mind the proximity of the forthcoming UK Parliamentary general election. (Acting) Returning Officers should assess the impact of any changes to their plans and ensure that they do not increase the level of risk to the principal objective of achieving an accurate count and a result in which voters can have confidence.
 8. In deciding what steps can be considered to be reasonable, the cost of taking the steps needs to be taken into account. As the UK Government have responsibility for the funding of UK Parliamentary elections, any questions regarding costs to be incurred in ensuring that the counting of votes begins within four hours of close of poll should be directed to the Ministry of Justice or, in Scotland, to the Scotland

Office. The Election Claims Unit can be contacted on 020 7944 0108 or at ecu@communities.gsi.gov.uk, and the Scotland Office can be contacted on 0131 244 9037.

9. (Acting) Returning Officers for any constituencies who do not commence the counting of votes by 2am for whatever reason must prepare a statement specifying when the counting of votes commenced, and setting out what steps were taken and why the counting of votes did not commence within four hours of the close of poll, and must provide this to the Electoral Commission. The (Acting) Returning Officer must also publish the statement, which should include making it available on the local authority's website.
10. Therefore, (Acting) Returning Officers should ensure that they keep a record of all steps taken in order to be able to provide an audit trail demonstrating their decision making process. If an (Acting) Returning Officer considers that all reasonable steps have been taken and that a further step is not reasonable, they should keep a record of their consideration and why they have decided it would not be reasonable. (Acting) Returning Officers should be able to explain their decisions, and they should be prepared to do so in response to enquiries.
11. (Acting) Returning Officers should note that if they do not take reasonable steps, a court may find them to be in breach of their official duty under Section 63 of the Representation of the People Act 1983 (as amended).
12. The statement required to be submitted to the Commission by any (Acting) Returning Officers who do not commence counting within four hours of the close of poll should contain the following:
 - Name of constituency
 - Name of (Acting) Returning Officer
 - The date and time (in 24 hour format, e.g. 03:45) at which the counting of the votes given on the ballot papers began.
 - A description of the steps taken under Rule 45(3A). The record of steps described at paragraph 10 above could be provided for this purpose.
 - The (Acting) Returning Officer's explanation for why the counting of the votes given on the ballot papers did not commence by 2am.
13. Statements should be sent to the relevant Commission devolved or regional office, preferably by e-mail, and must be delivered by not later than Friday 4 June 2010. Contact details for the offices can be found in Circular EC13/2010.

14. The Commission must publish a list of all constituencies in respect of which such a statement has been received as part of its statutory report on the UK Parliamentary election.

The Electoral Commission
April 2010