



2010 UK Parliamentary general election

Interim report: review of problems at polling
stations at close of poll on 6 May 2010

20 May 2010

Translations and other formats

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1 Introduction and summary

1.1 The UK held a Parliamentary general election on Thursday 6 May 2010, and in many areas of England local government elections were also held at the same time. During the final hours of polling, there were reports of queues forming outside some polling stations, and it was later reported that some people in those queues had been unable to vote when polls closed at 10pm.

1.2 These problems were not widespread, but some voters were badly let down on 6 May. Everyone involved in running elections must make sure that it never happens again.

1.3 The responsibility for running Parliamentary and other elections in the United Kingdom lies with independent local Returning Officers appointed for each of the 650 constituencies of the UK Parliament.

1.4 The UK Electoral Commission does not run elections but we do provide advice and guidance to those who run elections, and we set standards for how they do their jobs, and monitor their performance. Some of those running the elections on 6 May failed to follow our guidance, and their performance fell short of the expected standard. We also have a duty to report on the administration of UK Parliamentary general elections, and to keep electoral law under review.

1.5 We made a commitment to carry out a swift review and publish an interim report in advance of publishing our scheduled election report in July 2010, to establish more clearly the scale and nature of the particular problems with queues at the close of polling, and to identify what the next steps should be towards addressing the causes of the problems.

Summary of the main problems and the changes needed

1.6 As part of this interim review we have identified a total of 27 polling stations in 16 constituencies where we have been able to confirm that there were problems with queues at the close of poll on 6 May 2010. In total, more than 40,000 polling stations were used at the May 2010 elections. Just over 1,200 people appear to have been affected, although there are some areas where the (Acting) Returning Officer has not yet been able to provide an estimate of the number of people affected.

1.7 The main factors that we have identified as having contributed to these problems were:

- Evidence of poor planning assumptions in some areas.
- Use of unsuitable buildings and inadequate staffing arrangements at some polling stations.
- Contingency arrangements that were not properly triggered or were unable to cope with demand at the close of poll.

- Restrictive legislation which meant that those present in queues at polling stations at the close of poll were not able to be issued with a ballot paper.

1.8 Urgent action is required to make sure these problems do not happen again – major elections are scheduled to take place in all parts of the UK in May 2011, and at the time of publishing this report it remains the case that a Parliamentary general election could be called at any time. This report sets out the urgent changes which we believe are necessary:

The restrictive rules which prevented participation should be changed

- Legislation should be introduced to amend the relevant rules for all elections in the UK to make clear that any elector who is entitled to vote at a polling station and who is in the queue to enter the polling station at the close of poll will be allowed to vote.
- As part of a comprehensive electoral modernisation strategy, the UK Government should consider what role advance polling might play in helping to provide more flexible options for people wanting to vote and reducing the potential for queues to build up on polling day; (Acting) Returning Officers should be given statutory powers to use any public building as a polling station.

Local authorities and (Acting) Returning Officers should review their approach to planning for adequate polling station and staffing provision for all future elections – the Electoral Commission will give more prescriptive guidance

- (Acting) Returning Officers for any future elections in the UK should – as a matter of urgency – review their planning assumptions for the provision and staffing of polling stations, reflecting on the problems at the May 2010 elections.
- Local authorities in Great Britain should take steps immediately to begin the process of conducting reviews of polling districts and polling places, reflecting on the problems identified at the May 2010 elections.
- The Electoral Commission will review our guidance for (Acting) Returning Officers to set out in more detail key factors they should consider in planning for the provision and staffing of polling stations. We will also consider whether, although we have no formal powers to require (Acting) Returning Officers to co-operate, we can put informal monitoring arrangements in place to ensure that these recommended actions are taken.
- The Electoral Commission will publish our assessment and analysis of the performance of (Acting) Returning Officers at the 2010 UK Parliamentary general election as part of our scheduled election reporting in July. We will use the results of this interim review, and the performance standards assessment, to identify particular areas where we will need to follow up and challenge poor performance.

The unnecessary and inappropriate structural complexity in electoral administration should be addressed

- The UK Government should bring forward a comprehensive plan for modernising and ensuring professional electoral administration in Great Britain, including responding to the recommendations made in the Commission's August 2008 review of electoral administration in the UK.

The scope of this review

1.9 This interim review focused on the problems experienced by people in queues at polling stations who were unable to vote when polls closed at 10pm. There were a number of other problems which may have affected voters on polling day, including incorrect information printed on poll cards and ballot papers, and we will reflect these issues when we produce our main election report in July this year.

1.10 We have taken as the starting point for this interim review the 23 constituencies where queues were reported outside polling stations at the close of poll on 6 May. For seven of these constituencies we have received no complaints directly from members of the public that they were unable to vote as a result of queues at polling stations at the close of poll, and having debriefed polling station staff the (Acting) Returning Officer has confirmed to us that they believe there were no queues at the close of poll.

1.11 We have also taken into account direct feedback from people who said they were affected by problems with queues at polling stations. Most of these responses corroborate the initial reports of which areas were affected, but up to five other areas with possible problems have also been identified following comments from electors. In the short time available we have not been able to include these additional areas in this analysis, but we will nevertheless fully investigate all complaints made to us and conclude this analysis in time for our scheduled election report in July.

Our approach to this review

1.12 During the week after the election, 10–14 May, we conducted a series of interviews with the (Acting) Returning Officers for the 23 constituencies where problems were initially reported to have occurred.

1.13 We also reviewed comments submitted directly to the Commission by people who may have been affected by problems, and we received comments on the areas included in this review from approximately 500 people since Friday 7 May. We also invited feedback from political parties and Members of Parliament for the constituencies affected. We will continue to monitor and respond to any comments or feedback received after we have published this interim report.

1.14 This report sets out the Commission's conclusions from this interim review. Section 2 sets out the complex legal and procedural framework which

underpins the administration of elections, and in particular the provision and staffing of polling stations. Section 3 sets out an initial analysis of the information that we have so far been able to gather from the people who experienced problems on 6 May and from the (Acting) Returning Officers responsible for the constituencies involved. Finally, section 4 explains the conclusions we have drawn from this review, and the key changes which we think are needed to ensure these problems are not repeated at future elections.

2 The statutory framework for providing and managing polling stations

2.1 This section explains what UK electoral law says about responsibilities for planning and managing elections and on procedures at the close of poll including the rules for issuing ballot papers and closing polling stations. It also sets out the relevant Electoral Commission guidance for (Acting) Returning Officers and local authorities, including the performance standards for (Acting) Returning Officers which relate to planning and organisation issues.

Roles and responsibilities

2.2 The structure of electoral administration is highly complex and varies between the different parts of the United Kingdom. The following paragraphs set out the structures of electoral administration across the UK and the roles of those responsible for the conduct of the 6 May 2010 elections in more detail.

Legislation and funding arrangements

2.3 The legal framework for the conduct of **UK Parliamentary general elections** is set out in primary legislation, specifically in the Representation of The People Acts of 1983 and 2000, as amended by a number of additional statutes.

2.4 Funding for the conduct of UK Parliamentary general elections is provided by the UK Government. The maximum amount of money which can be claimed per constituency for the conduct of the election is set by a Fees and Charges Order made by the UK Government. The Order for the 2010 UK Parliamentary general election was made on 15 March 2010, and guidance notes were also published in March 2010.¹

2.5 The Order for the 2010 UK Parliamentary general election allowed discretion for individual (Acting) Returning Officers to allocate different levels of funding (within the overall maximum amount) to different parts of the process as they saw fit, rather than a prescriptive schedule of amounts which could be claimed.

2.6 The legal framework for **local government elections** in England is set out principally in regulations made under the Representation of the People Act 1983. Funding for the administration of local government elections in England is provided directly by the local authorities concerned: each local authority fixes a maximum amount, and all expenditure properly incurred by a local government Returning Officer must be paid by the relevant local authority as long as it is within the maximum.²

¹ The Parliamentary Elections (Returning Officers' Charges) Order 2010, see <http://www.justice.gov.uk/guidance/general-election-2010.htm> for the guidance notes.

² Section 36(4), RPA 1983.

Conduct of elections

2.7 In broad terms, Returning Officers are responsible for the administration of elections in accordance with the rules set out in legislation. Where the term (Acting) Returning Officer is used in this report, it is used to refer to both the Returning Officer in England and Wales and the Returning Officer at UK Parliamentary general elections in Scotland.

Returning Officers for UK Parliamentary general elections – England and Wales

2.8 In England and Wales, the Representation of the People Act 1983 specifies that the Returning Officer for the election of a member of the UK Parliament is the Sheriff of the County – an unpaid, partly ceremonial post appointed by the Crown – for a county constituency, and the mayor or chairman of the district council for a borough constituency in England or of a county borough in Wales.³ The formal rights of the Returning Officer are only to receive and return the writ for the election, and to announce the result at the end of the count if they wish to do so.

2.9 The responsibility for actually discharging the duties of the Returning Officer for the administration of the election lies with an (Acting) Returning Officer for each constituency, who is the person appointed as the Electoral Registration Officer for the local authority area.⁴ In most instances this is the Chief Executive of the local authority, but may be another senior officer. The individual appointed as (Acting) Returning Officer may claim a fee for the services provided, in accordance with amounts specified in the Fees and Charges Order for the election.

2.10 (Acting) Returning Officers can appoint Deputies with full or specific duties to assist them, but they remain personally responsible for the conduct of the election. The detailed planning and administration of the election is usually carried out by members of the local authority's permanent staff.

Returning Officers for UK Parliamentary general elections – Scotland

2.11 In Scotland, the Returning Officer for the election of a member of the UK Parliament is the same person who has been appointed by the local authority as the Returning Officer for local government elections.⁵ As in England, in most instances this is the Chief Executive of the local authority. The role of (Acting) Returning Officer is not used in Scotland. The individual appointed as Returning Officer may claim a fee for the services provided, in accordance with amounts specified in the Fees and Charges Order for the election.

2.12 As in England and Wales, Returning Officers in Scotland can also appoint deputies, known as Deputes; and the detailed planning and administration of the election is usually carried out by members of the local authority's permanent staff.

³ Section 24, RPA 1983.

⁴ Section 28, RPA 1983.

⁵ Section 25, RPA 1983.

Returning Officer for UK Parliamentary general elections – Northern Ireland

2.13 The Chief Electoral Officer for Northern Ireland is the Returning Officer for all elections in Northern Ireland, including UK Parliamentary general elections.⁶ The Chief Electoral Officer is appointed by the Secretary of State for Northern Ireland, and is supported by permanent staff in the Electoral Office for Northern Ireland (EONI).

2.14 The EONI consists of seven Area Electoral Offices located across Northern Ireland. Each office is headed by an area electoral officer whose role is primarily to manage the compilation of the electoral register, and each area electoral officer is also appointed as a Deputy Returning Officer.

Returning Officers for local government elections in England

2.15 A number of local authorities in England also held elections on the same day as the UK Parliamentary general election on 6 May 2010.

2.16 Every district, unitary, metropolitan and London borough council is required to appoint an officer of the council to be the Returning Officer for the election of councillors to the local authority.⁷ This person is generally the same person who has been appointed as the Electoral Registration Officer, but they do not have to be.

2.17 As is the case for UK Parliamentary general elections, Returning Officers for local government elections can appoint deputies to carry out all or some of their functions, but they remain personally responsible for the conduct of the election.

2.18 Where the poll at a UK Parliamentary general election is combined with the poll at a local government election, the (Acting) Returning Officer takes on some of the functions of the local government Returning Officer.⁸ The law sets out which functions in that case become the responsibility of the (Acting) Returning Officer.⁹ These functions include the provision and equipment of polling stations and the appointment of Presiding Officers and Poll Clerks.

Guidance, performance monitoring and review

2.19 The Electoral Commission provides advice and assistance on electoral matters to all those involved in elections, including (Acting) Returning Officers at UK Parliamentary general elections in Great Britain and Returning Officers at local government elections in England.¹⁰ We publish a range of manuals, circulars, templates and online resources. We also provide briefings and seminars, and an enquiries service, for those who run elections.

⁶ Section 26, RPA 1983.

⁷ Section 35, RPA 1983.

⁸ Regulation 4, Representation of the People (Combination of Polls) (England and Wales) Regulations 2004.

⁹ Regulation 5(2), Representation of the People (Combination of Polls) (England and Wales) Regulations 2004.

¹⁰ Section 10, Political Parties, Elections and Referendums Act 2000.

2.20 Guidance provided by the Commission is, however, advisory, not binding, and there is no requirement on (Acting) Returning Officers to follow it.

2.21 We also have powers to set and monitor performance standards for (Acting) Returning Officers in Great Britain.¹¹ The performance standards for (Acting) Returning Officers are published on our website at www.electoralcommission.org.uk/performance-standards, and they include standards relating to the key areas of planning and management, electoral integrity and public awareness. They are not intended to replicate or monitor the detailed rules governing the conduct of elections.

2.22 We can formally direct (Acting) Returning Officers to report, after a UK Parliamentary general election, to us on how they have performed against these standards – on the basis of their view of the assessment of the evidence, which we may audit.

2.23 We published performance standards for Returning Officers in March 2009 and on 16 March 2010 we directed (Acting) Returning Officers for all Parliamentary constituencies in Great Britain to report against the standards by 28 May 2010. We will report our analysis of the performance of (Acting) Returning Officers at the May 2010 elections in our July statutory election report, although this interim report includes some initial information about the performance of (Acting) Returning Officers in the areas covered by our review.

2.24 Although we publish our assessment of how (Acting) Returning Officers have performed against the standards, neither the Commission nor any other body has any powers to compel (Acting) Returning Officers to improve their performance where they fall short of the standards. We do, however, use the results of our assessments to identify particular areas which they may need support and more detailed monitoring to improve performance.

The law and guidance on providing polling stations and conducting the poll

General principles

2.25 The law governing the conduct of a UK Parliamentary general election is set out principally in the Representation of the People Act 1983 (the RPA),¹² which sets out the legislative basis for the appointment and duties of (Acting) Returning Officers (as statutory appointees charged with the running of elections) as well as prescribing the Parliamentary Elections Rules¹³ (the

¹¹ This power does not apply in Northern Ireland or to local government elections in Scotland.

¹² The law governing the conduct of a local government election is set out in secondary legislation that derives from the RPA 1983. It is similar, if not identical, in many respects to the parliamentary elections rules. References to the local government elections are therefore included only where the law differs to that for a parliamentary election.

¹³ Schedule 1, RPA 1983.

Rules), the detailed rules for the conduct of the UK Parliamentary general election.¹⁴

2.26 An (Acting) Returning Officer has a duty to conduct a parliamentary election; and any such election must be conducted in accordance with the Rules.¹⁵ The Rules contain provision for the setting up and resourcing of polling stations, as well as the procedure throughout polling day, the close of poll and the count.

2.27 The Courts have made it plain that Parliament has conferred duties but not discretions on (Acting) Returning Officers – (Acting) Returning Officers have a duty to follow the rules, and no discretion to depart from them. This principle ensures that (Acting) Returning Officers do not act in any way that is (or appears to be) partial, judgmental between candidates, inconsistent or arbitrary.¹⁶

Provision of polling districts and polling places, polling stations and staff

2.28 Each **constituency** for a UK Parliamentary general election is divided into a number of **polling districts** – this enables the practical administration of the polling process to be carried out at a reasonably local level. Each polling district has a designated **polling place**, which is the building or area within which polling stations will be selected by (Acting) Returning Officers. Each polling place may contain one or more **polling stations**, each of which consists of a discrete set of staff, ballot boxes, polling booths and electoral register to allow those included on the register to be issued with and to cast a vote.

2.29 While individual (Acting) Returning Officers are responsible for the administration of the election, local authorities in Great Britain have a separate responsibility for determining and keeping under review a ‘scheme’ of polling districts for constituencies (which sets out the areas which make up each polling district) and for designating polling places within each district.¹⁷ This responsibility falls to the Chief Electoral Officer in Northern Ireland.

2.30 Local authorities in Great Britain were required to carry out a review of parliamentary polling districts and polling places in 2007 and should repeat the review at least once every four years after that, although authorities are able to undertake a review at any time.

2.31 In undertaking a review, authorities are required to seek the views of people who have particular expertise in relation to access to premises or facilities for people who have different forms of disability. They must always consult the (Acting) Returning Officer as part of any review. While the (Acting)

¹⁴ See the Local Elections (Principal Areas) (England and Wales) Rules 2006 for corresponding rules relating to a local government election.

¹⁵ Section 23, RPA1983.

¹⁶ R (Begum) v Tower Hamlets [2006] LGR 674; R (De Beer) v Balabanoff [2002] EWHC 670

¹⁷ Sections 18A to 18E, RPA 1983.

Returning Officer is required to make representations to the local authority as part of the review, the ultimate responsibility remains with the local authority.

2.32 Once a local authority has made a polling district scheme, specified interested parties – including any group of 30 or more electors – may make representations to the Electoral Commission to reconsider any polling district scheme.¹⁸ The Electoral Commission may direct the relevant authority to make any alterations to the polling places that the Commission think necessary in the circumstances and, if the alterations are not made within two months, may make the alterations itself.¹⁹

2.33 Within the framework of the local authority's polling district scheme, the Rules require the (Acting) Returning Officer to ensure adequate resources are available for the conduct of the poll. In particular the (Acting) Returning Officer must decide how many **polling stations** are required for each **polling place**, and must allocate electors to the polling stations in such manner as he or she thinks most convenient.²⁰

2.34 The (Acting) Returning Officer must also provide enough equipment, including ballot papers and ballot boxes, and members of staff necessary for the conduct of the election.²¹ The (Acting) Returning Officer must also provide copies of the register of electors, or such part of it as contains the names of the electors allotted to the polling station.²² A polling place containing three polling stations, for example, must be provided with three sets of staff, materials and the electoral register split into three separate parts.

Electoral Commission guidance on provision of polling districts, polling stations and resources

The Electoral Commission has issued the following guidance to local authorities and (Acting) Returning Officers on polling district reviews and planning for the provision and staffing of polling stations:

- June 2007, *Electoral Commission [Circular EC28/2007 Reviews of polling districts, polling places and polling stations](#)* – provided guidance to local authorities and Returning Officers on the new duty to keep polling districts, polling places and polling stations under review, setting out a range of factors which should be taken into account, including the possibility that turnout may be higher at UK Parliamentary general elections than at local government elections.
- March 2009, *[Performance standards for Returning Officers](#)* – set out the expected standard of planning required by (Acting) Returning Officers, in particular that formal, written plans are in place for any election which should include:
 - clearly defined objectives and success measures

¹⁸ Section 18D, RPA 1983 – does not apply in Northern Ireland.

¹⁹ Section 18D(4), RPA 1983.

²⁰ Rule 25 Schedule 1, RPA 1983.

²¹ Rule 25 (5), Rule 26 and Rule 29 Schedule 1, RPA 1983.

²² Rule 29(3) Schedule 1, RPA 1983.

- risks – identification and mitigation
 - recruitment of temporary/permanent staff where needed
 - business continuity arrangements
 - consideration of physical and communication accessibility, including a plan of the layout of the count premises
 - an outline of the roles and duties of all the staff present at the count
- September 2009, *Electoral Commission [Circular EC18/2009 – Checklist: actions to take now to ensure you are ready to deliver a well-run UK Parliamentary general election](#)* – provided a checklist of action points for (Acting) Returning Officers to complete as soon as possible in order to ensure that they and their team would be ready to deliver the election when Parliament was dissolved. The checklist asked (Acting) Returning Officers to identify what was new or different about the forthcoming UK Parliamentary general election, and consequently what issues they would need to pay particular attention in their planning. One example that was highlighted was turnout:

“Turnout at a UK Parliamentary election may be higher than for other types of election. Think about the impact this could have on all of the election processes, such as number of polling stations, numbers of enquiries from the public, supply of ballot papers to polling stations and the count.”
 - September 2009, *[Essentials of effective election management: Planning for a UK Parliamentary general election](#)* – highlighted the duties of local authorities in maintaining and reviewing polling district and polling places schemes, and provided guidance to (Acting) Returning Officers on planning for polling station staffing and equipment requirements. It also emphasised the importance of taking into account experience at previous elections, and noted the recommended staffing ratios included in the Fees and Charges guidance issued by the UK Government for the 2005 UK Parliamentary general election:

“The recommended ratios for staffing arrangements at the last UK Parliamentary general election were as follows:

 - In addition to a Presiding Officer, there should be one Poll Clerk for 1,000 voters or less.
 - One additional Poll Clerk may be appointed for the next 750 electors.
 - A third Poll Clerk may be appointed to a polling station with up to a maximum of 2,500 electors.
 - Wherever possible, a polling station should not have more than 2,500 electors allocated to it.”

Conduct of the poll

2.35 An election must be conducted in accordance with a strict timetable. Polling takes place between the hours of 7am and 10pm on the day of the election.²³

2.36 A ballot paper must be correctly issued to a voter who applies for one before 10pm. The law sets out the process which must be followed when issuing ballot papers.²⁴ This includes:

- calling out the number and name of the elector as stated in the copy of the electoral register
- marking the number of the elector on the corresponding number list of ballot papers issued
- placing a mark in the register against an elector's number to denote that a ballot paper has been received.

2.37 The steps that must be carried out when issuing a ballot paper and voting necessarily affect the speed at which a polling station can deal with voters.

2.38 A voter who is duly issued with a ballot paper is required forthwith to mark his paper and then, having shown the Presiding Officer the back of the paper, to put it in the Presiding Officer's presence in the ballot box without undue delay. It is the clear duty of the Presiding Officer to see the official mark after the voter has marked the paper.

2.39 There is no provision for extension of polling time, or for the issue of ballot papers, beyond 10pm (except in the case of riot or open violence, where polling would be adjourned to the following day²⁵). Consequently, there is no discretion for the (Acting) Returning Officer to extend the time for polling beyond 10pm.

2.40 The Presiding Officer (in the presence of any polling agents) must as soon as practicable after the close of the poll seal ballot boxes and take other closing down actions relating to election paperwork, and then deliver the boxes and election paperwork to the (Acting) Returning Officer.²⁶

2.41 The Courts have previously considered the position where electors have turned up to vote but have not been able to cast their ballot by the stipulated time for close of the poll. In such case the Courts have held²⁷ that where a ballot paper has been duly issued to an elector, that elector should be allowed to complete it and put it in the ballot box provided this is done without undue

²³ Rule 1 Schedule 1, RPA 1983.

²⁴ In addition to these steps in Northern Ireland an elector is required to present a valid form of photographic identification before being issued with a ballot paper.

²⁵ Rule 42 Schedule 1, RPA 1983.

²⁶ Rule 43 Schedule 1, RPA 1983.

²⁷ The West Division of the Borough of Islington [1901] 5 O'M & H 120; Fermanagh and South Tyrone [2001] NIQB 36.

delay. However no ballot papers should be issued after the time of close of poll.

2.42 The Courts have stated:

'We are of the opinion that the true dividing line is the delivery of the ballot paper to the voter. If [a voter] has had a ballot paper delivered to him before [10pm] he is entitled in our judgment to mark that ballot paper and deposit it in the ballot box before the ballot box is closed and sealed. This interpretation of the enactment [.....] appears to us to give a simple, definite, and just rule of procedure.... As the polling commences at [7am] by the officials, and the machinery being ready then to supply ballot papers to voters who apply for them, so in our view the poll must be no longer 'kept open' beyond [10pm], the officials then ceasing to supply ballot papers to applicants.'²⁸

2.43 This position found expression most recently by an election court in Northern Ireland²⁹ which confirmed in 2001, one hundred years after the case referenced above, that:

'It was the duty of the presiding officer to close the poll at 10pm by ceasing to issue any more voting papers. So long as voting papers were issued by 10pm, however, if electors marked them and deposited them in the boxes without delay the votes were valid.'³⁰

Electoral Commission guidance on conduct of the poll

The Electoral Commission has issued the following guidance to (Acting) Returning Officers and their polling station staff on managing the conduct of the poll:

- December 2009, [Managing a UK Parliamentary general election: guidance for \(Acting\) Returning Officers - Part D](#) gives guidance to (Acting) Returning Officers on the poll, including managing polling stations and the procedure on the close of poll:

"All polling station staff should be required to attend a briefing session shortly before polling day. This session should give Presiding Officers and Poll Clerks all the information that they require to run the poll, including any relevant local information.

Presiding Officers should be briefed to close their polling stations punctually at 10pm."

- February 2010, [Handbook for polling station staff](#) – sets out the process that Presiding Officers should follow on close of poll:

²⁸ The West Division of the Borough of Islington [1901] 5 O'M & H 120 @ 129.

²⁹ Fermanagh and South Tyrone [2001] NIQB 36.

³⁰ Ibid, page 4.

- Make sure that the doors to the polling station are closed at exactly 10pm.
- Anyone who has been issued with a ballot paper by 10pm must be allowed to vote.
- No one may be issued with a ballot paper after 10pm even if they are inside the polling station and waiting to receive their ballot paper.

The following are permitted to be present at the close of poll:

- the (Acting) Returning Officer and staff
- candidates, election agents and polling agents
- police officers on duty in the polling station
- representatives of the Electoral Commission
- accredited observers

After the close of poll, the Presiding Officer must seal the slot of the ballot box(es), and any candidate, election agent or polling agent present may also affix their seal to it.”

Accountability for the administration of elections

Electoral petitions

2.44 The outcome of a **UK Parliamentary election** can only be questioned in the courts through a petition complaining of an undue election or undue return.³¹ Those grounds for complaint cover acts or omissions on the part of (Acting) Returning Officers or Presiding Officers, as well as actions by candidates such as corrupt practices. A **local government** election may only be questioned through a petition complaining that the person whose election is questioned was disqualified at the time of the election, was not duly elected or that the election was invalidated by corrupt or illegal practices.³²

2.45 The category of people entitled to present a petition about a **UK Parliamentary election** includes a person who voted as an elector at an election or who had a right so to vote,³³ as well as a candidate or alleged candidate. A petition questioning a **local government election** may be presented by four or more persons who voted or had a right to vote³⁴ (as well as a candidate or alleged candidate). A petition must be in a form prescribed by rules of court³⁵ and must be presented to the High Court, or the Court of Session in Scotland.³⁶ With certain limited exceptions where it relates to the election expenses return of a candidate, a petition must be presented within 21 days.³⁷

³¹ Section 120, RPA 1983.

³² Section 127, RPA 1983.

³³ Section 121, RPA 1983.

³⁴ Section 128, RPA 1983.

³⁵ Section 185, RPA 1983.

³⁶ Sections 121 and 128, RPA 1983.

³⁷ Sections 122 and 129, RPA 1983.

2.46 Thus the only remedy where a voter has been unable to cast his or her vote, in either the UK Parliamentary or local elections, is to lodge a petition. However the law provides that no election shall be declared invalid by reason of any act or omission by an official, if it appears to the relevant tribunal that the election was so conducted as to be substantially in accordance with the law and the act or omission did not affect the result.³⁸

Breach of official duty

2.47 The RPA 1983 also provides that (Acting) Returning Officers, Presiding Officers and their staff can be prosecuted on the grounds of breach of official duty. Such prosecutions are rarely considered by prosecutors to be in the public interest. Persons found guilty of such an offence would be liable to a fine and a criminal conviction.

³⁸ Sections 23 and 48, RPA 1983.

3 The scale and nature of problems at polling stations on 6 May 2010

The areas affected

3.1 On polling day, 6 May, and in the days immediately following, there were numerous reports of constituencies where people may have been unable to vote because of queues forming at polling stations. We took these areas as the starting point for our review, and carried out interviews with (Acting) Returning Officers and their staff to establish the potential extent of problems in those areas.

3.2 The constituencies which formed the focus of our initial review are listed below:

- **Birmingham** – Birmingham Ladywood constituency
- **Hackney** – Hackney North and Stoke Newington, and Hackney South and Shoreditch constituencies
- **Islington** – Islington North constituency
- **Lewisham** – Lewisham Deptford constituency
- **Liverpool** – Liverpool Wavertree, and Garston and Halewood constituencies
- **Manchester** – Manchester Withington constituency
- **Milton Keynes** – Milton Keynes North constituency
- **Newcastle-under-Lyme** – Newcastle-under-Lyme constituency
- **Newcastle upon Tyne** – Newcastle upon Tyne East and Newcastle upon Tyne North constituencies
- **Runnymede** – Runnymede and Weybridge constituency
- **Sheffield** – Sheffield Hallam, Sheffield Heeley, and Penistone and Stocksbridge constituencies

3.3 In several other areas where problems were reported on polling day and immediately after, our review has indicated that although voters may have faced other problems (which we will address in our scheduled report on the elections in July), the problems were not caused by queuing at the close of poll. In these areas, we have received no complaints directly from members of the public that they were unable to vote as a result of queues at polling stations at the close of poll, and having de-briefed polling station staff the (Acting) Returning Officer has confirmed to us that they believe there were no queues at the close of poll. These constituencies are:

- Battersea
- City of Chester
- Islington South and Finsbury
- Manchester Central
- Newcastle upon Tyne Central
- Sutton Coldfield
- Tyneside North

The scale of problems experienced

3.4 Having conducted detailed interviews with the (Acting) Returning Officer (or a senior staff member authorised to speak on behalf of the (Acting) Returning Officer) for each of the constituencies listed in paragraph 3.2, we set out below our current assessment of the scale of the problems at the close of poll on 6 May.

3.5 We are confident that the information we have obtained from (Acting) Returning Officers represents a realistic assessment of the problems as far as they are aware, although in some cases (Acting) Returning Officers were unable to provide an estimate of the numbers of electors affected. We will continue to monitor and investigate reports that we have received directly from people affected.

3.6 Some people may have tried to vote earlier during polling day and were either unable to wait in a queue to vote or unable to return before the close of poll. We have not been able to quantify reliably the number of people who may have been affected in this way.

3.7 Table 1 below summarises the information that we have received from (Acting) Returning Officers for each constituency. This information should be set in the context of the total of more than 40,000 polling stations which were used across the UK at the 2010 UK Parliamentary general election.

Table 1: Estimated number of electors unable to vote at 10pm as a result of polling station queues on 6 May 2010

| Constituency (relevant local authority areas) | Polling station | Estimated number of electors affected |
|--|--|--|
| Birmingham Ladywood (Birmingham) | St. Paul's Church | 100 |
| Hackney North and Stoke Newington (Hackney) | Clissold Leisure Centre | 30 |
| | Trinity Centre | 51 |
| Hackney South and Shoreditch (Hackney) | St John the Baptist Primary School | 2 |
| | Ann Taylor Children's Centre | 134 |
| | Comet Day Nursery | 50 |
| | Our Lady of St Josephs Primary School | 5 |
| Islington North (Islington) | St John Highbury Vale Primary School | 36 |
| Lewisham Deptford (Lewisham) | City Learning Centre | 0* |

| Constituency (relevant local authority areas) | Polling station | Estimated number of electors affected |
|--|---|--|
| Liverpool Wavertree (Liverpool) | Rudstone Junior School | Information not yet available from (A)RO |
| | East Wavertree and Childwell Community Centre | Information not yet available from (A)RO |
| | Dovedale Junior School | Information not yet available from (A)RO |
| | Booker Avenue Junior School | Information not yet available from (A)RO |
| Garston and Halewood (Liverpool) | Ambergate Guide Hut | Information not yet available from (A)RO |
| Manchester Withington (Manchester) | Ladybarn Community Centre | 200 |
| | Didsbury United Reformed Church | 100 |
| Milton Keynes North (Milton Keynes) | Wyvern School at Wolverton | 0* |
| Newcastle-under-Lyme (Newcastle-under-Lyme) | St Chad's Church | 0* |
| Newcastle upon Tyne East (Newcastle) | Jesmond Church Hall | 0* |
| | Heaton Community Centre | 0* |
| Newcastle upon Tyne North (Newcastle) | Gosforth (temporary polling station) | 7 |
| Runnymede and Weybridge (Runnymede and Elmbridge) | Oatlands County Infant School | 34 |
| Sheffield Hallam (Sheffield) | St John's Parish Church Ranmoor | 200 |
| | Ecclesall Parish Halls | 100 |
| | Millhouses Methodist Church | 40 |
| Sheffield Heeley (Sheffield) | Woodseats Library | 70 |
| Penistone and Stocksbridge (Sheffield) | St John's Church Hall | 70 |

* Note: The (Acting) Returning Officer for these constituencies have confirmed that all people queuing at 10pm were in fact able to cast a vote at this polling station. See the following section for a description of the actions taken at these polling stations.

The experience at the polling stations affected

3.8 The following section provides information about what appears to have happened at polling stations in each of the areas included in this interim review, based on our interviews with the (Acting) Returning Officers for the areas affected.

Birmingham

3.9 Concerns centred around the St Paul's Church polling station in the Birmingham Ladywood Constituency. For this polling station the total electorate was 2,981 of which 303 were postal voters. Therefore 2,678 electors were eligible to vote at the polling station. Turnout for this election increased to 40% compared with 12–18% in the last three years. The polling station had one Poll Clerk and a Presiding Officer. Each ward had a polling station inspector, compared with one inspector for every two wards in previous years.

3.10 Long queues had formed at this polling station prior to the close of polls. A reserve Presiding Officer was sent to the polling station to help with demand prior to the close of poll. Subsequently a polling station inspector went to the polling station to help the Presiding Officer deal with the situation and explain the position to the electors.

3.11 In order to allow as many people as possible to vote the Presiding Officer, just before 10.00 pm asked staff present in the polling station to confirm the time on their watches. One staff member's watch was about five minutes slower than the others. The Presiding Officer took this as the correct time and issued ballot papers until that particular watch said 10.00 pm at which point the Presiding Officer sealed the ballot boxes and closed the polling station. The police were eventually called to disperse the crowd. It is estimated that between 65 and 100 electors, some inside and some outside the polling station, were turned away without having been issued with ballot papers.

3.12 There were also reports of queues at Mere Green polling station in Sutton Coldfield and Canterbury Primary School in Aston. The (Acting) Returning Officer has spoken to the relevant Presiding Officers who have confirmed that while they had queues before the close of polls they closed promptly at 10pm and no voters were turned away.

London Borough of Hackney

3.13 Polling stations were busy throughout much of the day, with voters arriving at some polling stations before 7am. Extra polling booths were requested by Presiding Officers at some polling stations. In addition, the issuing and completion of three ballot papers (for the UK Parliamentary general election, the local government election and the Mayoral election) and the need to explain the three different voting systems to voters resulted in a slowing down of the polling station administration process.

3.14 Six polling stations were affected across the two Hackney constituencies (Hackney South and Shoreditch, and Hackney North and Stoke Newington). These were as follows (numbers in parentheses exclude postal voters): Ann Taylor Centre (2,174 electors), Clissold Leisure Centre (1,610 electors), Trinity Centre (2,324 electors), St John the Baptist Primary School (2,264 electors), Comet Day Nursery (2,428 electors) and Our Lady of St Josephs Primary School (1,806 electors). The (Acting) Returning Officer has indicated that other polling stations in both constituencies with the same resources and similar or larger electorates managed to process all voters before 10pm.

3.15 Of the six affected polling stations, five were assigned one Presiding Officer and two Poll Clerks. The exception was Clissold Leisure Centre, which had two extra staff allocated on account of it being a triple polling place, although only one of the polling stations located within the building had to turn away voters at 10pm.

3.16 At 7pm numbers at the six affected polling stations were gradually building. By 9.15 – 9.30pm it was clear that there was a problem, with significant numbers of people arriving to vote. One extra member of staff was deployed at approximately 9pm to the Ann Taylor Centre, but this was not sufficient to deal with the scale of the problems with queues.

3.17 Based on estimates from those who were present, the worst affected polling station was the Ann Taylor Centre, with 134 electors being turned away, followed by the Trinity Centre (51 electors), Comet Day Nursery (50 electors) and Clissold Leisure Centre (30 electors). In total, it has been estimated that 272 electors were affected at the six polling stations.

3.18 As 10pm approached some Presiding Officers contacted the elections office for advice on what to do at close of poll and then informed waiting electors. At approximately 10pm the (Acting) Returning Officer confirmed with the Electoral Commission that he was correct to close the polls at 10pm despite queuing voters still being present in six polling stations.

3.19 In some cases the police were called to deal with problems inside and outside polling stations and at the Ann Taylor Centre some electors staged a sit-in protest.

London Borough of Islington

3.20 One polling place in the Islington North Constituency (which contained two polling stations), St. John Highbury Vale Primary School, reportedly experienced high demand at the start and towards the end of the day. It is in one of the most highly populated wards in the borough, with a total of 10,700 electors; 3,900 of these electors were assigned to the polling place. The local authority carried out a polling district review in 2007, which sought to implement a consistent pattern of three polling districts per ward across the borough.

3.21 Excluding people who had been sent postal votes, a total of 1,635 electors were allocated to one polling station and 1,946 were allocated to the

other. The (Acting) Returning Officer allocated two Poll Clerks and a Presiding Officer for each polling station.

3.22 One polling station was much busier in the evening than the other. This appeared to cause concern from electors, who did not understand why there appeared to be unused polling station staff capacity. The problem was identified and flagged by a candidate's agent at about 9.45pm, and the Electoral Services Manager sent instructions to the Presiding Officer to confirm the correct advice and action which should be taken at close of poll. No ballot papers were issued after 10pm. It is estimated that 36 electors may have been unable to vote as they were still in the queue.

London Borough of Lewisham

3.23 One polling station in the Lewisham Deptford Constituency experienced a prolonged build up of voters – City Learning Centre on Manwood Road in Crofton Park Ward. By 9pm potential problems in being able to process electors in a few polling stations had emerged where demand appeared to be high. The flow of electors through the polling stations appeared to be slow and the queues were lengthening. However assignment of Visiting Officers (who acted as polling station inspectors) to these stations resolved the issues.

3.24 In Lewisham, one Presiding Officer and three Poll Clerks were assigned to each polling station. Also a Visiting Officer was assigned to each ward (previously one inspector had covered two wards). These officers visited each polling station a minimum of three times during the day. In the Manwood Road polling station there were 1,799 electors eligible to vote; however, as 187 of them voted by post, the potential total who could vote at the station was 1,612. The average number of (non-postal) voters in the Borough's 109 polling stations was 1,490 and so this polling station had eight per cent more than the average.

3.25 At about 9pm the senior police officer (a Detective Chief Inspector) in attendance at the station contacted the (Acting) Returning Officer, via the central police control that was at the count, to advise him that there was a real danger of a flashpoint at the polling station as the numbers queuing to vote were growing and that there was a potential public order problem. At 9.40 the (Acting) Returning Officer spoke personally to the Visiting Officer – who was at the station helping the Presiding Officer, alongside another Visiting Officer from another ward who had been redeployed to assist at this particular station – as well as to the DCI who was still on duty. Again, the advice was that a public order problem might occur. The (Acting) Returning Officer has indicated that prior to the close of poll at this polling station, all electors in the queue outside were invited into the polling station to be given their ballot papers. Voters with ballot papers then queued in the station to vote. The queue was supervised within the station by the police. The polling station was closed at 10pm.

Liverpool

3.26 Voting was steady through the day into the late afternoon. Electors were being dealt with swiftly. Queues began to form at a number of polling stations from 7:30pm. However, in most cases, they were only up to ten minutes long.

3.27 Five polling stations were affected: Rudstone Junior School (2,815 electors allocated, excluding postal voters); East Wavertree & Childwell Community Centre (1,285); Dovedale Junior School (2,384); Booker Avenue Junior School (960); and Ambergate Road Guide Hut (3,280). Polling stations with fewer than 2,500 electors had been each allocated one Presiding Officer and one Poll Clerk; those with greater than 2,500 electors had a second Poll Clerk. Additional Poll Clerks were sent to some polling stations in the city to deal with unanticipated demand, including Ambergate Road Guide Hut, at 7pm.

3.28 The polling stations were closed at 10pm and no further ballot papers were issued. The (Acting) Returning Officer has not, at this stage, been able to provide an estimate of the number of electors who may have been affected.

Manchester

3.29 Many polling stations reportedly experienced high demand throughout the day. As close of poll approached there were reports of staff struggling to cope with demand at approximately seven polling stations. The (Acting) Returning Officer reported that he was confident that the problems in these polling stations were managed by the deployment of additional resources during the day and queues at these polling stations were resolved by the close of poll.

3.30 Problems did, however, occur in two further polling places in the Manchester Withington constituencies – Ladybarn Community Centre and Didsbury United Reformed Church – each of which contained two polling stations. In both cases, queues had formed, but additional support was not requested until it was too late for any assistance to be effective.

3.31 The numbers of electors (excluding postal voters) allocated to the Ladybarn Community Centre polling stations were 3,132 and 2,761, while the Didsbury United Reformed Church polling stations had been allocated 2,661 electors and 1,604 electors. Each polling station had one Presiding Officer and one Poll Clerk.

3.32 It is estimated that 200 electors may have been affected at Ladybarn Community Centre and 100 electors at Didsbury United Reformed Church. Electors who were still queuing at 10pm were informed by staff that they were not permitted to issue any further ballot papers and no ballot papers were issued after the close of poll.

Milton Keynes

3.33 The pattern of voting in Milton Keynes North Constituency was steady throughout the day, though busier in the evening – this was expected and highlighted to polling station staff in their training.

3.34 Excluding postal voters, the Arts Centre had 2,320 electors allocated to it, Green Park had 2,707 electors (one station of 2,039 and one of 668) and 2,282 at the Wyvern School, Wolverton.

3.35 The Arts Centre and Wyvern School, Wolverton each had one Presiding Officer and two Poll Clerks, while the smaller polling station at Green Park had one Presiding Officer and one Poll Clerk and the larger one Presiding Officer and two Poll Clerks.

3.36 The (Acting) Returning Officer was made aware that the three polling stations had queues at approximately 8.30pm: the Arts Centre, Great Linford; Green Park Centre at Newport Pagnell (which contained two polling stations); and Wyvern School at Wolverton. In response to this, a senior officer was sent out to each of these polling stations for the last hour of polling. The (Acting) Returning Officer also went to Wolverton.

3.37 The (Acting) Returning Officer confirmed that by 10pm one of the polling stations – Wolverton – still had a queue consisting of approximately 100 electors. Following concerns about the safety of staff, the (Acting) Returning Officer stopped the queue outside and anyone ahead of that point was allowed to vote.

Newcastle-under-Lyme

3.38 At St Chad's Church polling station in Chesterton queues had built up during the evening of polling day, prompting the Presiding Officer to contact the (Acting) Returning Officer for advice on what action to take at the close of poll. Approximately 80 people were still queuing to enter the polling station by 10pm.

3.39 The (Acting) Returning Officer has reported that he considered the guidance issued by the Electoral Commission, but decided to allow those who had arrived at the polling station before 10pm to be issued with a ballot paper and allowed to vote.

Newcastle upon Tyne

3.40 Presiding Officers reported that polling had been consistently busy across the three constituencies: Newcastle upon Tyne Central, Newcastle upon Tyne East and Newcastle upon Tyne North. Some queues had formed during the day but it was expected that they would be cleared by 10pm. Reports came in after 9pm that there were long queues at a temporary polling station in Gosforth.

3.41 Three polling stations still had queues at 10pm - Heaton Community Centre, Jesmond Church Hall and Gosforth temporary polling station. The number of electors allocated to the Heaton Community Centre polling station was 2,749, while the Jesmond Church Hall polling stations had been allocated 3,815 electors. The Heaton polling station had one Presiding Officer and two Poll Clerks while the Jesmond station had one Presiding Officer and one Poll Clerk. The temporary polling station in Gosforth served 2,599 electors and had one Presiding Officer and two Poll Clerks.

3.42 Presiding Officers did not report the anticipated problems in dealing with the queues until after 9.00pm (in the case of Heaton, at 9.50pm). The doors of these three stations were closed at 10pm, the decision having been taken to admit as many queuing electors as was safe. Approximately 100 electors were admitted to the Jesmond polling station, 300 to Heaton Community Centre and, due to its size, three to the temporary station in Gosforth. An estimated seven people were turned away from the Gosforth station but no electors remained outside of the other two. Staff continued to issue ballot papers after 10pm to those electors inside the polling stations.

Runnymede

3.43 Presiding Officers in the Runnymede and Weybridge Constituency reported that polling had been busy throughout the day. A queue had formed at the Cherstey polling station at around 7:30pm but was no longer evident at 8:30pm; aside from that, no polling station had reported difficulties.

3.44 The only area affected at the close of polls was at Oatlands County Infant School in Weybridge. The polling place contained three polling stations with 1,800, 1,950 and 631 electors allocated respectively. The two larger polling stations were served by one Presiding Officer and two Poll clerks each, whilst the smallest had one Presiding Officer and one Poll Clerk. The polling place was also allocated a 'floating' Poll Clerk to assist as needed. At 10pm, one of the Presiding Officers reported that there was still a long queue and was advised to close the polling station and stop issuing ballot papers, in line with the guidance.

3.45 It is estimated that 34 electors may have been affected at Oatlands. Electors who were still queuing at 10pm were informed by staff that they were not permitted to issue any further ballot papers and no ballot papers were issued after the close of poll.

Sheffield

3.46 Five polling stations were affected across the City: three in Sheffield Hallam; one in Sheffield Heeley and one in Penistone and Stocksbridge Constituency. The (Acting) Returning Officer reported that there had been queues at various locations throughout polling day and in these cases assistance was provided by polling station inspectors.

3.47 The polling station where the largest queues were reported was at St John's Parish Church, Ranmoor, which had 4,469 electors (excluding postal

voters) allocated to it. The other affected polling stations had been allocated the following number of electors (excluding postal voters): Ecclesall Parish Rooms (2,904 electors), Millhouses (2,870 electors), Woodseats (2,772 electors), St John's Church Hall (2,795 electors).

3.48 St John's Ranmoor had one Presiding Officer and three Poll Clerks, with additional staff deployed during the evening. The other affected polling stations each had one Presiding Officer and two Poll Clerks.

3.49 It is estimated that 480 electors were affected across the five polling stations, with the most electors affected being at St John's Ranmoor. At this polling station, approximately 100 students staged a protest after 10pm.

3.50 Just before 10pm, clarification was sought from the Commission as to whether ballot papers could be issued to any electors after 10pm. Pending this, at two of the stations, all electors in the queue were permitted into the building in case there was some provision allowing those in the polling station at the close of poll to be issued with ballot papers. After the Commission confirmed that there was not, the polling station staff then had to remove these electors from the polling stations.

What caused the problems?

3.51 Queues built up at polling stations on 6 May for various reasons. But in most cases, the common factors were inadequate planning processes and systems – in particular unrealistic, inappropriate or unreliable assumptions; and inadequate risk management and contingency planning.

Availability and suitability of buildings for use as polling places

3.52 At present, the Rules only provide that (Acting) Returning Officers may use certain publicly-funded schools or "rooms funded out of any rate" free of charge as premises for polling stations. This means that although there may be other fully accessible premises which would make an ideal polling station, (Acting) Returning Officers have no legal right to ensure they are able to use these premises.

3.53 A number of reports received after 6 May suggested that some of the polling stations where voters experienced problems were small, cramped and unsuited to dealing with a steady stream of voters – this became particularly apparent as 10pm approached, when large queues of electors formed inside and outside affected buildings. While it is unlikely that the size or nature of any particular building was the primary cause of the problem, it is likely that in some cases a cramped environment and the consequent restrictions in the layout of polling equipment did impede the efficient throughput of voters, and limited the remedial actions that (Acting) Returning Officers were able to take in response to reports of queues building up.

Allocation of electors to polling stations

3.54 As outlined in section 2, guidance issued by the UK Government to support the Fees and Charges Order for the 2005 UK Parliamentary general election indicated that the number of electors allocated to one polling station should not exceed 2,500 if this can be avoided.³⁹ That guidance indicated that further polling stations should normally be allocated in these circumstances but, if there are exceptional circumstances which mean that this is not possible, suitable provision should be made bearing in mind the likely demand. Although these indicative ratios were not included in the Fees and Charges Order for the 2010 UK Parliamentary general election, they were directly referenced in the Commission's *Essentials of election management*, issued to (Acting) Returning Officers in 2009.

3.55 In several of the areas we have considered as part of this review, the allocation of electors to polling stations far exceeded this ratio, with some of the polling stations where voters experienced problems having well in excess of 3,000 electors allocated to them and as many as 4,500 electors. (Acting) Returning Officers had clearly not anticipated that these elector allocation levels would cause problems. It is likely that the problems with queues in some areas would have been less serious had fewer electors been allocated to certain polling stations.

Staffing of polling stations

3.56 The guidance on the staffing of polling stations issued by the UK Government for the 2005 UK Parliamentary general election (and referenced in guidance issued by the Electoral Commission) recommends that in addition to the Presiding Officer (or one senior Presiding Officer per polling place where there is more than one polling station), approximately one Poll Clerk for the first 1,000 electors and one further Poll Clerk for the next 750 electors at a particular polling station should be sufficient. A third Poll Clerk may be necessary up to the recommended maximum of 2,500 electors.⁴⁰

3.57 We found various patterns of staffing across the affected constituencies. Some (Acting) Returning Officers allocated one Presiding Officer and one Poll Clerk to all polling stations regardless of elector allocation. Some allocated one Presiding Officer and two Poll Clerks to each polling station. Some based their allocation of staff on a ratio of electors to staff as recommended in the guidance.

3.58 In some areas extra polling staff were brought in throughout the day and in the run up to close of poll in an effort to speed up the administration process and provide support and manage queues. In some cases this proved effective, although problems which did not arise until late in the evening in some areas could not be resolved by 10pm despite additional staff being deployed.

³⁹ Acting Returning Officers' Expenses: Guidance Notes, UK Parliamentary Elections, Department for Constitutional Affairs, Electoral Policy Division, February 2005.

⁴⁰ Ibid.

Electoral registration and turnout

3.59 Almost all (Acting) Returning Officers in the areas we identified as experiencing problems with queues reported to us that polling station turnout had been higher in the areas affected than they had anticipated. Some had based their assumptions on turnout at elections up to and including the previous UK Parliamentary general election in 2005, while others had taken into account only local government elections since 2006. (Acting) Returning Officers reported that there had been a steady flow of voters throughout the day at polling stations and significant surges in demand during the final hours before close of poll. In several cases, they told us that polling station staff were simply unable to cope with higher than anticipated demand at a relatively late stage on polling day. We have not been able, in the time available during this interim review, to carry out any detailed analysis of comparative turnout for the areas affected.

3.60 A number of (Acting) Returning Officers reported that the number of electors across constituencies increased as a result of registration applications received in the last weeks before the deadline for applications on 20 April, although the impact of this on individual polling stations appears to have been minimal.

3.61 Guidance issued to (Acting) Returning Officers in the year preceding the election had highlighted the need to plan on the basis of higher turnout than in recent elections, and quite possibly higher than in the last UK Parliamentary general election. It appears that some (Acting) Returning Officers' plans were not always based on robust, reasonable assumptions about the possible level of turnout. It also appears that contingency plans were not always robust enough to cope with demand on polling day itself which was higher than (Acting) Returning Officers had anticipated.

Combining different elections

3.62 A further factor which contributed to the problems experienced by people in queues arose from the fact that in many areas in England the poll at the UK Parliamentary general election was combined with the poll at the local elections on 6 May, including in London and the large metropolitan boroughs. In four areas – the London Boroughs of Hackney, Newham and Lewisham, and Watford – the two elections were also combined with an election for a directly elected Mayor. In all areas included in the scope of this initial review the poll at the UK Parliamentary general election was combined with the poll at the local elections. While most (Acting) Returning Officers with combined elections coped without difficulty, in some cases (Acting) Returning Officers and their staff did not cope so well with the requirement for two, and sometimes three, ballot papers to be issued to each voter, and the need – especially where there were three separate elections – to explain the different ballot papers to voters. This contributed to queues in polling stations.

3.63 Some (Acting) Returning Officers also reported to us that their staff had spent more time than they expected explaining to electors the rules on who can vote in which elections – for example, a European Union citizen was

eligible to vote in the local government elections but not in the UK Parliamentary general elections. However, the majority of areas in England where local government elections were held at the same time as the UK Parliamentary general election did not report having experienced similar problems.

Polling day: monitoring polling stations and dealing with problems

3.64 An essential element of planning for elections is putting in place effective procedures for monitoring the situation in polling stations as the day goes on, and mechanisms which enable problems to be escalated and resolved swiftly. Most of the (Acting) Returning Officers we interviewed used staff designated to act as polling station inspectors to visit polling stations at specified intervals throughout the day, e.g. to check that polling stations had been set up properly, collect postal votes and to check on how busy the stations were. In addition, polling staff generally had mobile phones and were given the telephone number of the relevant elections office and (Acting) Returning Officer.

3.65 This should have enabled problems to be escalated as soon as they occurred so that they could be dealt with quickly. However, despite extra staff being deployed in some cases to help deal with the long queues that developed at polling stations during the early and later evening, the problems were not always resolved by close of poll – even where several hours' notice had been given that problems were occurring. Other polling staff did not report problems until very late in the day – some as late as 9.45pm – by which point they proved impossible to resolve.

3.66 Our evidence suggests that while all the (Acting) Returning Officers we interviewed had a team of polling inspectors in place to visit polling stations in their area, and had ensured that all polling staff were contactable should problems need to be reported, in most cases these processes did not operate effectively. A common factor here seems to have been that staff in polling stations were not always clear enough about when they should have contacted the elections office or (Acting) Returning Officer urgently to ask for help. Even where polling staff reported to polling inspectors that polling was heavy throughout the day, this did not always result in prompt action being taken to increase resources in those polling stations.

Actions taken by Presiding Officers at the close of poll

3.67 We are also aware that in some areas Presiding Officers continued to issue ballot papers after the close of poll at 10pm to people who were in queues at polling stations. As outlined in section 2, legislation and case law has established clearly that no ballot papers should be issued after the close of poll at 10pm. Guidance issued to (Acting) Returning Officers and materials provided to support Presiding Officers explained the law and the procedure which should have been followed in detail.

4 Conclusions and areas for change

4.1 There were a number of reasons for the problems on polling day. Each of the areas that we have considered as part of this review appears to have experienced different problems, or combinations of problems.

4.2 But a number of clear conclusions can be drawn, and we need urgent changes to ensure these problems do not arise at future elections.

The restrictive rules which prevented participation should be changed

4.3 The rules governing the procedure at close of poll are summarised in section 2 of this report. While the overall amount of time provided for people to vote on polling day – 15 hours – is generous in comparison with many other mature democracies, the detailed rules for the close of poll in the UK are restrictive. They provide no leeway to allow people who have made an effort to attend a polling station to exercise their right to vote, if they are still waiting to be issued with a ballot paper at the close of poll.

4.4 The detail of electoral legislation in other countries varies, but in general the rules are more inclusive than in the UK. For example, at Federal elections in Australia and Parliamentary elections in New Zealand, all electors who are present inside the polling place at the close of poll are entitled to vote. At Parliamentary elections in Canada, electors who are in the polling station or in a queue at the door of the polling station at the close of poll are entitled to vote.⁴¹

4.5 We believe that there would be clear benefits for voters if the rules for all UK elections were revised to provide clarity that those who are present, or in a queue, at a polling station at the close of poll are entitled to vote. We first recommended a change to this rule following the November 2003 Assembly elections in Northern Ireland, but the recommendation has not been addressed.⁴²

4.6 This would not absolve (Acting) Returning Officers from the responsibility of properly resourcing and managing polling stations to avoid unnecessary queues, but would provide a backstop in the event of unexpected late demand.

⁴¹ [Australian] Commonwealth Electoral Act 1918 (No 27) s220; [New Zealand] Electoral Act 1993 (No 87) s161; Canada Elections Act 2000 (c.9) s153.

⁴² Electoral Commission [The Northern Ireland Assembly elections 2003](#) (2004).

Urgent actions for the UK Government and the Scottish Government

The UK Government should introduce legislation to amend the relevant rules for all elections in the UK to make clear that any elector who is entitled to vote at a polling station and who is in the queue to enter the polling station at the close of poll will be allowed to vote. **The Scottish Government** should introduce similar legislation for local government elections in Scotland, which is a devolved matter.

Actions required to make this change should be commenced immediately to ensure that this problem is not repeated at future elections, including the scheduled May 2011 elections to the Scottish Parliament, National Assembly for Wales and Northern Ireland Assembly and local government elections in England, as well as any future UK Parliamentary general election or by-elections.

The UK Government should ensure that the rules for any future referendums – including the proposed referendum in Wales on further law making powers for the National Assembly for Wales – are similarly amended. **The Scottish Government** should introduce similar legislation for any referendums held under its powers.

The UK Government should, as part of a comprehensive electoral modernisation strategy, consider what role advance polling might play in helping to provide more flexible options for people wanting to vote and reducing the potential for queues to build up on polling day. **The Scottish Government** should also consider the relevant implications for local government elections in Scotland. The UK and Scottish governments should also give Returning Officers statutory powers to use any public building as a polling station, as the Electoral Commission has recommended since 2004.

Local authorities and (Acting) Returning Officers should review their approach to planning for adequate polling station and staffing provision for all future elections – the Electoral Commission will give more prescriptive guidance

4.7 It is clear that some polling stations were unable to cope with demand from people wanting to vote on 6 May. While not all constituencies experienced the same problems, the key contributory factors which we have identified during this initial review are:

- inadequate or inappropriate planning assumptions
- inadequate levels of staffing at polling stations
- inappropriate premises used for polling places
- failure of polling station monitoring and support arrangements to respond effectively to problems as they arose on polling day

4.8 (Acting) Returning Officers used different assumptions on which to base their plans for polling station provision and staffing levels. While (Acting) Returning Officers drew on data and information from previous elections in drawing up their plans for polling station provision and staffing, it appears that despite frequent warnings and reminders, some areas drew only on the more recent experience of local government elections and did not fully consider the possible impact of combined UK Parliamentary general and local government elections held on the same day.

4.9 The number of polling station staff varied between the polling stations affected, and the ratio of staff to electors also varied dramatically. In some cases it is clear that there were simply not enough staff to deal with all the electors who wished to vote.

4.10 In other areas it appears that while the number of staff may have been sufficient, the size and layout of the premises used as a polling station were unable to cope with the number of people who wanted to vote. It also appears that some (Acting) Returning Officers were not able to identify satisfactory polling station venues because of decisions taken as part of the polling district review process by local authorities.

4.11 (Acting) Returning Officers had put in place arrangements to monitor and support polling station staff during polling day itself, and had made contingency arrangements to provide additional staff for polling stations if needed. It appears, however, that these contingency arrangements were not triggered in all cases, and in some cases were triggered too late on polling day to ensure fresh staff could be sent to relieve pressure.

4.12 Better planning and management of polling station arrangements could have prevented many of the identified problems occurring, and we have recommended improvements above. The unprecedented late surge in demand in some cases, however, suggests that additional staffing capacity alone may not have helped, and we have made separate recommendations on changing the law on close of polls.

Urgent actions for all (Acting) Returning Officers, local authorities and the Electoral Commission

(Acting) Returning Officers for any future elections in the UK should – as a matter of urgency – review their planning assumptions they for the provision and staffing of polling stations, reflecting on the problems at the May 2010 elections. These reviews should take into account population increases and demographic trends within their constituencies, as well as projected turnout.

Local authorities in Great Britain should take steps immediately to begin the process of conducting reviews of polling districts and polling places, reflecting on the problems identified at the May 2010 elections. Although such reviews are the responsibility of the local authority, we strongly recommend that authorities and (Acting) Returning Officers should work closely together in undertaking the review process.

The Electoral Commission will review our guidance for (Acting) Returning Officers to set out in more detail key factors they should consider in planning for the provision and staffing of polling stations. We will also publish revised guidance on conducting polling district reviews in July 2010 to support local authorities and (Acting) Returning Officers in taking forward this work.

In the absence of any specific body or bodies with responsibility and authority to ensure (Acting) Returning Officers have adequate plans in place for elections, the **Electoral Commission** will consider how to put informal monitoring arrangements in place to ensure that these recommended actions are taken.

The Electoral Commission will publish our assessment and analysis of the performance of (Acting) Returning Officers at the 2010 UK Parliamentary general election as part of our scheduled election reporting in July. We will use the results of this interim review, and the performance standards assessment, to identify particular areas where we will need to follow up and challenge poor performance.

The unnecessary and inappropriate structural complexity in electoral administration should be addressed

4.13 Section 2 of this report summarises the various individuals and bodies with statutory responsibilities for supporting the provision of polling stations at elections in Great Britain. It is undoubtedly a confusing and complex pattern, including some plainly redundant ceremonial positions which are – at best – out-of-date and confusing in an era when expectations are that public services will be delivered efficiently and professionally. In contrast, responsibility for electoral administration in Northern Ireland rests clearly with the Chief Electoral Officer for Northern Ireland.

4.14 We have repeatedly highlighted the risks associated with this structural complexity in reports to the UK and Scottish Governments and evidence to inquiries since 2007. The issues explored in this report relate to a series of specific problems for voters at the close of poll, but they represent only the most visible manifestation of a wide range of problems which have affected voters at these elections as well as almost every other election that the Commission has reported on since 2001. The problems experienced on 6 May illustrate once again some of the weaknesses inherent in the current structure for the administration of elections:

- Too many different individuals and bodies with authority and statutory responsibilities: individual (Acting) Returning Officers for UK Parliamentary elections; local government Returning Officers; the Ministry of Justice; local authorities; and the Electoral Commission.
- The involvement in the administration of elections by local authorities in approving schemes for polling districts and polling places.

- Inappropriate and inadequate accountability arrangements for (Acting) Returning Officers, with no established middle ground between ‘naming and shaming’ (Acting) Returning Officers who have failed to meet performance standards and the ultimate sanction of criminal prosecution for breach of official duty.
- No effective statutory mechanism for ensuring that (Acting) Returning Officers have planned consistently and professionally to manage a successful election in line with national guidance, or for ensuring that they follow the law or guidance designed to ensure access to the electoral process.

4.15 Section 2 also outlines the legal framework for the provision, staffing and management of polling stations. We have issued comprehensive guidance and support to (Acting) Returning Officers in delivering their duties under this framework, and we recommend below a further series of urgent actions for (Acting) Returning Officers and local authorities to take steps to improve the provision and staffing of polling stations. There is, however, no structural mechanism for ensuring that these actions are taken forward, and no mechanism for ensuring that adequate planning provision is made for future elections.

4.16 When we published the results of our comprehensive review of the structure of electoral administration in the UK in August 2008, we made a series of recommendations for changes to improve the coordination and management of elections in Great Britain, including the establishment of an electoral management board (EMB) in Scotland and similar arrangements elsewhere.⁴³

4.17 Good progress has been made in Scotland, where an Interim Electoral Management Board was established in 2009 to coordinate the delivery of the European Parliamentary elections. It also coordinated Returning Officers as they prepared for the 2010 UK Parliamentary general election.

4.18 The Scottish Government and the Scotland Office of the UK Government have responded to this positive progress by making a joint commitment to recognise the EMB in statute and provide the Convener of the Board with powers to issue directions to Returning Officers. We understand that the Scottish Government is expected to introduce legislation into the Scottish Parliament recognising the EMB in statute later this year for local government elections in Scotland, similar to the powers already held by Regional Returning Officers in relation to European Parliamentary elections.

4.19 The response from the UK Government has, however, been disappointing. The Ministry of Justice has not responded to our August 2008 report.

4.20 The current structures for the administration of elections in Great Britain do not provide an environment designed to ensure the professional delivery of elections. Until the improvements that we have recommended are taken

⁴³ [Electoral administration in the United Kingdom](#) (2008) Electoral Commission.

forward fully by the UK and Scottish Governments there remains an unacceptable risk that electors will continue to suffer from problems caused by poor quality planning and administration.

Urgent actions for the UK Government

The UK Government should bring forward a comprehensive plan for modernising and ensuring professional electoral administration in Great Britain, including responding to the recommendations made in the Commission's August 2008 review of electoral administration in the UK.

We will set out in more detail the elements which we believe this plan should include in our July report on the 2010 UK Parliamentary general election, but in broad terms it should set out how the Government intends to:

- Improve coordination and accountability for the delivery of elections, including building on existing regionally based models.
- Provide authority to achieve improvements through powers to direct and ensure actions are taken by (Acting) Returning Officers where needed.
- Simplify and consolidate the legal framework for elections.
- The Scotland Office of the UK Government, working with the Ministry of Justice, should bring forward legislation to establish and recognise the Electoral Management Board for Scotland for UK Parliament, European Parliament and Scottish Parliament elections, in line with its joint commitment with the Scottish Government.

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