



Report on the National Assembly for Wales general election

5 May 2011

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We are an independent body set up by the UK Parliament. Our aim is integrity and public confidence in the democratic process. We regulate party and election finance and set standards for well-run elections.

Democracy matters

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Foreword

People in Wales were asked to vote in three electoral events in 2011: a Wales referendum on 3 March; the National Assembly for Wales election on 5 May and a UK referendum also held on 5 May. This report is our account of how the Assembly election was run. It also reviews the impact of combining the election with the UK referendum.

We focus especially on the experience of voters, using public opinion research and other research data to consider people's experience of registering to vote; public information available about the election, and people's experience of voting either in polling stations or by post.

We review two key issues that became news stories about the election itself. The first of these was the timing of the election count, after it became clear that the North Wales electoral region would count votes the day after the close of poll rather than overnight. We report on this issue and the actions we are taking to try to avoid similar controversy ahead of any other elections.

The second arose two weeks after the election, when it came to light that two candidates who had been elected as Assembly Members had been unaware that they were ineligible to have stood for election because of offices they held. The Commission's own actions came under public scrutiny as a result of an error in the Welsh language version of our guidance to candidates and agents. We issued a public apology and have revised our processes to prevent any future repeats. Our report covers this issue in detail.

Three major polls in Wales within two months brought challenges for those who administered them, meaning that they had to plan and prepare for the May polls at the same time as delivering the March referendum. Nevertheless, the Assembly election and both referendums were well administered by Returning Officers and their staff. Better coordination and consistency in electoral processes across Wales meant that improvements were achieved for voters. For example, poll cards, postal ballot packs and ballot papers were produced in improved formats that were more accessible and easier to read. Our report gives more detail on all of these issues.

On behalf of the Commission, I would like to thank all those who have provided us with assistance and information in compiling this report, including Returning Officers, electoral administrators, political parties, candidates and voters in Wales.

Ian Kelsall
Electoral Commissioner

Summary

About the report and our role

Our report is about the administration of the National Assembly for Wales general election, held on 5 May 2011. It identifies and comments on key issues that emerged and on voters' experience of the election. It also reviews the impact of combining the election with the referendum on the UK Parliamentary voting system.

The Electoral Commission is an independent body which reports directly to the UK Parliament. We regulate party and election finance and set standards for well-run elections and electoral registration. We are responsible for publishing reports on the administration of elections and referendums.

The Commission has also published a report on the UK-wide referendum on the voting system used to elect MPs, which was held on the same day as the Assembly elections. That report includes an assessment of the impact of combining the referendum with scheduled elections across the UK and recommendations to the UK Government on the conduct of referendums and elections.

Facts and figures

Our report focuses particularly on the experience of voters, based on public opinion research and other research data. In total 2,289,735 people were registered to vote in Wales and 41.8% of them did so. Overall 17% of electors asked for a postal vote and a high proportion of those, 71%, used their postal vote. Postal votes accounted for 28% of all votes cast at the election. Our report reviews people's experience of voting in polling stations or by post.

A total of 176 constituency candidates campaigned to be elected and 13 political parties nominated lists of regional candidates. This was 21 fewer constituency candidates and three fewer political parties than in the Assembly elections in 2007. Our report gives more detail on campaigning in the election.

Did people feel informed?

We undertook a public information campaign to increase people's awareness of the Assembly elections and the UK-wide referendum. We sent an information booklet to all households in Wales and used television, radio and online advertising to inform people about the elections. We evaluated levels of people's awareness by conducting public opinion research before and after our campaign. Of those surveyed, 78% recognised at least one element of our

campaign. After polling day, when asked if they had been aware of the Assembly elections, 82% of people said they were.

Seven in 10 people surveyed said they had enough information to make an informed decision on how to vote in the election, with 79% of those aged 55 or over feeling informed compared with 60% of those under 35.

In terms of people feeling informed, the prominence of the Assembly elections in the media continues to be an issue. Our public opinion research found a difference in Wales, compared with Scotland and Northern Ireland, in people's views of the amount of media coverage of the elections. Over half of people surveyed in Wales thought there was a lot of media coverage of the Assembly election, whereas 72% of people surveyed in Scotland and 70% of people in Northern Ireland thought there was a lot of media coverage of the elections being held there.

People's experience of voting

People in Wales continue to have very high levels of satisfaction with the voting process. Of those who voted in polling stations, 97% said they were satisfied with the process of voting and 98% of those who voted by post were satisfied. Full details of our research findings are contained in the report.

A key priority for the Commission is that voters are able to vote easily and confidently, knowing that their vote will be counted in the way they intended. The Assembly election ballot papers, prescribed in legislation by the Secretary of State for Wales, were designed according to our good practice guidance on accessibility. In public opinion research, nearly all voters (96%) said they found their ballot papers easy to complete. Of those who voted in both the Assembly election and the UK-wide referendum held on the same day, meaning they completed three ballot papers, 96% said they found it easy to fill in more than one ballot paper.

Lessons learnt: what should change

Timing of election counts

The timing of the Assembly election count became a controversial issue at the end of March, when it became publicly known that Returning Officers in the North Wales electoral region had decided to count votes the day after the close of poll rather than overnight. Our report explains the background and reviews the issue, as well as containing data on when results for each constituency and electoral region were announced.

By the end of November 2011, we will circulate an Issues Paper on the timing of election counts, identifying issues that have arisen at elections across the UK in recent years. We will seek views from those with an interest in the timing of election counts, including governments, political parties, Returning Officers, broadcasters and voters.

Following analysis of views received, we will seek to make recommendations in early 2012 on the timing of election counts and the way in which they are organised, taking account of the type of elections and a range of relevant circumstances.

Disqualification of two candidates returned as elected

Two weeks after the election, an issue of significant public interest arose. Two candidates who were returned as Assembly Members in regional elections were found not to have been validly elected because of offices they held, meaning that they were 'disqualified'. This became the subject of investigation by the police and, after the Crown Prosecution Service concluded that no criminal offences had been committed, by the National Assembly for Wales. The Commission's own actions came under public scrutiny as a result of an error in the Welsh language version of our guidance to candidates and agents, which had a bearing in one of the cases. We apologised to the Assembly and to the person concerned. Our report covers this issue in detail.

We have been working with the Welsh Language Board since this incident and are glad to implement a series of recommendations they made to us in September 2011. These include improving our processes for dealing with documents and guidance in Welsh, in order to avoid any future difficulties. In particular, we have thoroughly revised our processes for publishing information in Welsh and English online on our website.

Regional ballot paper

The format of the regional ballot paper had been revised for the 2011 election, so that it contained the names of political parties who had nominated candidates, together with any independent regional candidates who were standing, but not the names of party regional candidates. However, the names of candidates were required to be displayed in polling stations so that voters could see them.

Early on polling day, there were complaints that regional candidates' names were not displayed or were displayed inadequately by some Returning Officers. There were also a small number of complaints from postal voters that they did not have access to the names of regional list candidates other than by consulting notices in public places or local authority websites. Our report explains the background and the actions that were taken on polling day to resolve this issue.

We conclude that, following the experience at the elections, the question of whether candidates' names are included on the regional list ballot paper should be reconsidered. However, before certain relevant matters are resolved (which our report explains), it would be premature to make decisions on the regional ballot paper. We will revisit this issue no later than December 2014. We will seek further views and make any necessary recommendations to the Secretary of State for Wales in sufficient time for a decision not later than one year before the Assembly election in 2016. That would allow any change to the ballot paper to be prescribed in legislation at least six months before the 2016 election.

Invalid postal votes

In common with trends at previous elections, just under 5% of returned postal votes had to be rejected as invalid by Returning Officers, for one of the following reasons: the postal vote statement which must accompany the ballot paper was missing; the ballot paper was missing; or because the signature or date of birth supplied by postal voters could not be matched with their postal vote application. Our report contains more information and data about invalid postal votes.

Allowing Returning Officers to request a refreshed identifying signature, and also to provide electors with feedback if their postal vote has been rejected would help address this problem.

We first made this recommendation to the UK Government in 2007 and have since reiterated it. In September 2011, the UK Government said that it would work with the Commission and electoral administrators to avoid the problems we have highlighted with the current postal voting system, while taking into consideration the need to ensure it remains secure against fraudulent applications for postal votes.

We will work with the UK Government to ensure the right changes are in place by the next UK Parliamentary general election.

Collecting postal votes

Part of ensuring that every postal vote is counted involves ensuring that all postal votes are collected from mail centres by the time polls close. Individual Returning Officers are responsible for arranging and paying for Royal Mail 'sweeps', where any remaining postal votes are collected from mail centres so that they can be included in the election count.

In May 2011, the Commission took responsibility for arranging and paying for the cost of the 'sweeps' in respect of the UK-wide referendum. Royal Mail delivered all postal votes resulting from the sweeps directly to referendum counting areas, rather than Counting Officers having to collect them. This meant that, for the Assembly election, the same service was available and used by all Returning Officers.

Feedback from referendum Counting Officers and election Returning Officers about the sweep has been broadly positive, but there remains scepticism about its value, with only a small number of postal votes being returned as a result.

We aim to develop a better model for working with the postal service.

Campaigning in the election

Returning Officers offered and held briefing meetings with candidates and agents to iron out any difficulties in advance of nomination, and police representatives often attended to provide advice on electoral integrity issues. However, Returning Officers and the police have told us of poor attendance, with election staff and the police sometimes outnumbering candidates and agents or meetings being cancelled.

We continue to encourage candidates, agents and parties to attend briefing meetings offered by Returning Officers to ensure they are fully informed about the nomination process and the requirements of law.

We will consider further with Returning Officers and political parties what more could be done to improve the attendance of face to face local briefing for candidates and agents.

The new format of our candidates and agents guidance was welcomed in the feedback we received, but party officials that deal with compliance issues felt they would like in addition a comprehensive, 'one-stop' volume containing all of our guidance, with legislative references.

We will consider how we can meet that request for future elections.

We received feedback from certain political parties and some candidates who indicated that they were unclear about whether their election leaflets, delivered under freepost arrangements with Royal Mail, could include messages calling on people to vote for party candidates in both constituency and regional elections.

We have referred these issues to Royal Mail, who agreed to look at their guidance again. We will follow this up with Royal Mail and seek to ensure that the parties in Wales are consulted on any revisions to the guidance in good time before the next Assembly elections in 2016.

Our materials and resources for Returning Officers

We received positive feedback from Returning Officers about the materials and resources and the direct support we provided to them, but there was also negative feedback. Some felt that the Commission 'micro-managed' the UK referendum, with consequent impact on the combined elements of the election.

There was also some negative feedback about presentational issues, with some electoral administrators saying they found our website difficult to navigate, preferring to have the guidance in one printed volume and not to receive updates by email, in case these were missed.

We have taken account of the feedback we received on the planning of our guidance and resources for elections in 2012 and how we present that information on our website.

Costs of the election

Our report gives detail on how much the election cost. The Welsh Government meets the costs of local Returning Officers in delivering the election. Although the actual costs of Returning Officers are not yet known, since the Welsh Government has set a deadline of 5 January 2012 for the submission of accounts, the maximum recoverable amount for all 40 constituencies and 5 electoral regions is £4.7 million. The Welsh Government also met the costs of Royal Mail, almost £3.4 million, in delivering over 16.5 million freepost election communications from candidates and political parties.

1 Introduction

Our report

1.1 On 5 May 2011, there was a National Assembly for Wales general election. This report is about the administration of the election. It identifies and comments on key issues that emerged and on voters' experience of the election.

1.2 The Electoral Commission is an independent body which reports directly to the UK Parliament. We regulate party and election finance and set standards for well-run elections and electoral registration. We are responsible for publishing reports on the administration of referendums and elections.

1.3 The election on 5 May was combined with a UK-wide referendum on the UK Parliamentary voting system. Elections to the Scottish Parliament, the Northern Ireland National Assembly, and local government elections in parts of England and across Northern Ireland, were also held on this day.

1.4 We are publishing separate reports on the elections held in Scotland and Northern Ireland and on the UK-wide referendum, where we also include an assessment of the impact of combining the referendum with scheduled elections across the UK.

1.5 In July 2011, we published our report on the referendum on the law-making powers of the National Assembly for Wales, held on 3 March 2011. Where relevant to learning lessons from both referendums, the report on the UK-wide referendum also covers some matters from the referendum held in Wales.

1.6 We also published separate details of campaign expenditure incurred by election candidates and political parties contesting the Assembly elections, after the relevant deadlines that candidates and parties must meet for the submission of their statutory returns.

1.7 Sources used to inform this report and the research methodology we used is explained in Appendix A.

The first Assembly general election

1.8 Elections to the Assembly are held on a fixed term basis every four years. The first elections to the Assembly were held in May 1999 (combined with local

elections), with subsequent elections in 2003 and 2007. We reported on elections to the National Assembly for Wales in 2003 and 2007.¹

1.9 This was the first election to be formally titled the Assembly's 'general election' following a change to the law introduced by the Government of Wales Act (GWA) 2006.² There is also provision for an extraordinary general election if the Assembly resolves, on a two-thirds majority, that it should be dissolved.³

1.10 The additional member system (AMS) is used to elect Assembly members. Forty Assembly Members are elected in constituencies, using the first-past-the-post system. Twenty Assembly Members are elected using the political party list system and independent regional candidates may also stand for election. There are five electoral regions, each electing four regional Assembly Members. Regional seats are allocated according to a mathematical formula, where the total number of votes for a party in a region is divided by the number of constituency seats won by the party in that region, plus one. This enables those parties who have not won any constituency seats and independent regional candidates to be included in the calculation.

1.11 The electoral system means that voters have two votes in the Assembly election, each on a separate ballot paper. To vote in a constituency election, voters mark a cross (X) in the box opposite the name of one candidate. To vote in a regional election, voters mark a cross (X) in the box opposite the name of one political party or an independent regional candidate.

Overview

1.12 The combination of the election with the UK-wide referendum on 5 May, along with the fact that the combined polls followed the Wales-wide referendum on 3 March, meant a challenging time for Returning Officers (ROs) and their staff. There was an intense period of planning and preparation for the three polls; planning for the May polls had to be fitted around delivering the March referendum and there was no time for staff to take stock before nominations for the Assembly election opened three weeks after the March referendum.

1.13 Despite these challenges, the election, along with all the polls in Wales in 2011, was well administered by ROs and their staff. A greater level of coordination and consistency was achieved across Wales than ever before, building on year-on-year improvements. This meant that documents for voters, such as poll cards, postal ballot packs, and ballot papers, were produced more consistently in user-friendly, more accessible formats. Candidates and agents could expect a similar level of service from ROs and their staff wherever they were standing for election in Wales. Our report gives more detail on voters' experience; campaigning in the

¹ The Electoral Commission, *The National Assembly for Wales elections 2007* (2007), *The National Assembly for Wales elections 2003* (2003).

² Section 3.

³ Section 4.

election and delivering the election. One particular issue that we highlight as needing to be looked at again is whether the regional list ballot paper should contain names of candidates nominated by political parties.

1.14 The smooth delivery of the election was somewhat obscured by two significant issues that arose, the first in the month before the election and the second two weeks after the election had taken place. The first was the timing of the election count, when it became known that ROs in the North Wales electoral region were to count votes the day after the close of poll rather than overnight. This became a highly charged issue in early April, soon after election campaigning had begun. For a few days, media coverage of the debate over timing of the election count was equally or more prominent than media coverage of election campaigning. We report on this issue and the actions we are taking to try to avoid similar public controversy ahead of any other elections.

1.15 After the election, another issue of significant public interest arose. It came to light that two candidates who were returned as Assembly Members in regional elections were found not to have been validly elected because of offices they held, meaning that they were ‘disqualified’. This became the subject of investigation by the police and, following the Crown Prosecution Service conclusion that no criminal offences had been committed, by the National Assembly for Wales. The Commission’s own actions came under public scrutiny as a result of an error in the Welsh language version of our guidance to candidates and agents, which was important in one of the cases. We issued an apology to the Assembly and to the person concerned. It is important that our guidance is accurate and trusted and we have thoroughly revised our internal processes to ensure that such an error does not occur again. Our report covers this issue in detail.

Facts and figures

1.16 A summary of the election results on a constituency and regional basis, together with election turnout and vote share, is shown below.

Table 1: Turnout in Assembly elections

	2011 ⁴	2007	2003	1999
Registered electorate	2,289,735	2,248,122	2,229,545	2,205,117
Turnout, constituency votes	41.8%	43.5%	38.2%	46.4%
Turnout, regional votes	41.8%	43.4%	38.1%	46.1%

⁴ Turnout figures for 2011 include ballot papers rejected at the count. Figures prior to 2011 include valid votes only, because comprehensive data on rejected ballots is not available. The difference between these two ways of recording turnout is usually low. For example, if rejected ballots are excluded from the 2011 constituency turnout figure, turnout is 41.5%.

Table 2: Total seats won

	Conservatives	Labour	Liberal Democrats	Plaid Cymru	Ind
2011	14	30	5	11	0
2007	12	26	6	15	1

Table 3: Constituency vote share and seats won

	% vote share	change on 2007	seats won	change on 2007
Conservatives	25	+2.6	6	+1
Labour	42.3	+10.1	28	+4
Liberal Democrats	10.6	-4.2	1	-2
Plaid Cymru	19.3	-3.1	5	-2
Others	2.8	-5.4	0	-1

Table 4: Regional list vote share and seats won

	% vote share	change on 2007	seats won	change on 2007
Conservatives	22.5	+1.1	8	+1
Labour	36.9	+7.2	2	-
Liberal Democrats	8	-3.7	4	+1
Plaid Cymru	17.9	-3.1	6	-2
Others	14.7	-1.5	0	-

2 Voters' experience

2.1 This chapter explores the experience of voters at the election. We review how easy it was for them to take part in the election, including their experience of registering to vote, public information available to them about the election, and people's experience both in polling stations and by post.

Registering to vote

2.2 A complete and accurate electoral register underpins any election, as inclusion in the register of electors is essential for people to be able to vote.

2.3 The main focus of electoral registration activity is the registration of electors within households which is undertaken annually in the autumn (commonly known as the 'annual canvass'). Individuals may also register or amend their existing details at any time of the year, a process known as 'rolling registration', usually as a result of moving home or having missed the annual canvass.

Who could vote

2.4 The franchise for Assembly elections is the same as for local government elections in Wales. People could vote in the election if they were registered to do so at an address in Wales, were aged 18 or over on 5 May 2011, and were a British, Irish, European Union or qualifying⁵ Commonwealth citizen living in the UK.

2.5 A total of 2,289,735 people were registered to vote on 5 May. The deadline to register to vote was 14 April – 11 days before the election.

2.6 According to data from Electoral Registration Officers (EROs), 5,559 people took advantage of the 11-day deadline by registering after the formal election period began. This was 25 March, when official notice of the election had to be published by Returning Officers (ROs). The number of people reported by EROs to have registered after the formal election period began varied between constituencies in different parts of Wales, from none recorded in Delyn, 12 in Merthyr Tydfil and Rhymney, 30 in Clwyd South and Torfaen, up to over 300 in Ceredigion and 501 in the Vale of Glamorgan.

2.7 Data from EROs also shows that at least 895⁶ people tried to register to vote after the 11-day deadline. From data provided, polling station staff noted a total of 161 people who tried to vote on polling day but who were not on the

⁵ That is, with leave to remain or not requiring leave to remain.

⁶ Data provided by 30 out of 40 constituencies.

electoral register. While this figure is not a complete indicator of those who could not vote because they were not registered (since not all of those would have gone to polling stations and data was not provided by all constituencies) it does indicate that, in total, over 1,000 people in Wales either missed the deadline for registration; thought the deadline was later than it was; or were mistaken as to whether they were registered to vote.

2.8 The facility to allow voters to register late must be weighed against the need to maintain the integrity of electoral registers by allowing time for EROs to complete processes that limit fraudulent registration. We continue to consider rolling registration (that is registration on a monthly basis) and the 11-day deadline are valuable facilities for voters.

2.9 The total number registered to vote was a few hundred more than were registered to vote in the referendum in Wales on 3 March, which had the same franchise: 2,289,044. The total registered for the May election was a rise of two per cent compared with the Assembly election in 2007, similar to the rise in the adult population in Wales over the same period.

2.10 The franchise for the UK-wide referendum held on the same day as the Assembly election was the same as for elections to the UK Parliament, meaning that two electoral registers were in use in Wales. Polling station staff had to be careful to issue the correct ballots to those entitled to vote only in the election or the referendum or both. The key differences were that overseas electors were eligible to vote at the UK-wide referendum while citizens of European Union (EU) member states (other than the UK, the Republic of Ireland, Cyprus and Malta) were eligible to vote in the election but not the referendum.

People's experience of registering to vote

2.11 People were largely satisfied with the process of registering to vote. In our public opinion survey,⁷ 85% of those surveyed in Wales said they were satisfied with the procedure for registering to vote, the same as for the rest of Great Britain. Only 2% said they were dissatisfied with procedures for registering to vote.

Why people did or did not vote

2.12 Our public opinion research explored why people did or did not vote in the election.

2.13 In common with previous post-election research, the most common reasons given for voting related to a sense of having a duty to vote and feeling that it is important to do so. A slightly higher percentage of Welsh voters, 66%, gave such a reason, compared with 61% in the UK as a whole. Other common reasons given were expressing a view (36%) and creating change (16%).

⁷ See Appendix A for details of public opinion research.

2.14 Again reflecting other post-election surveys, over half of all non-voters said circumstances prevented them from doing so, with about half of these saying they were too busy to vote.

Information we provided

2.15 We undertook a multi-media public information campaign in Wales, launched at the end of March 2011, to increase people's awareness of the Assembly elections and the UK-wide referendum being held on 5 May. The key feature of the campaign was the delivery of an information booklet, which we sent to all households in Wales. The booklet contained information on the elections, including how to take part in it, along with information about the subject of the UK-wide referendum and how to take part in it. It also included information on registering to vote, postal and proxy voting.

2.16 We ran a similar campaign for the referendum on the law-making powers of the National Assembly for Wales on 3 March, details of which can be found in our report on that referendum.⁸

2.17 Our public awareness campaign for the Assembly elections was aimed at all eligible voters and was run in two phases using television, radio and online advertising. The first stage of the campaign began on 1 April and aimed to inform people that a booklet was on its way explaining what was happening on 5 May and how they could take part. The second phase of the campaign began on 25 April. It aimed to reinforce the original message while ensuring that anyone who had not yet received a copy of the booklet could do so by visiting our website www.aboutmyvote.co.uk or by calling our dedicated helpline and ordering a copy.

2.18 Our helpline received over 9,750 calls with 1,753 booklets and 1,361 voter registration forms distributed.

2.19 Distribution of the booklet took place through the Royal Mail's Door to Door service and the distribution plan included every postcode area in Wales. Independent evaluation of the distribution of the booklet estimated delivery at 96%.

2.20 Our website for voters www.aboutmyvote.co.uk also had a section on the Assembly elections, including a copy of the booklet. The Assembly elections page received 18,710 hits during the period of our public information campaign, with our voter website as a whole receiving around 778,000 hits.

⁸ Report on the Referendum on the law-making powers of the National Assembly for Wales 3 March 2011
www.electoralcommission.org.uk/_data/assets/pdf_file/0019/118603/Wales-ref-report-FINAL-web-mail.pdf

Levels of public awareness after our public information campaign

2.21 We evaluated levels of people's awareness by conducting public opinion research before and after our public information campaign.⁹

2.22 Of those surveyed in Wales, 78% recognised at least one element of our campaign with 43% having seen our television advertising.

2.23 The number of people who said unprompted (that is, when they were simply asked about forthcoming or recent opportunities to vote) that they were aware of the Assembly elections, rose from 21% prior to our campaign to 59% after polling day. Reported awareness rose further to 82% once people were asked whether they were aware of the Assembly elections.

2.24 By comparison, the number of people in Wales who said they were aware of the referendum on the UK Parliamentary Voting System rose from a lower base of 9% to similar levels (58% unprompted and 77% prompted) over the same period.

Did people feel informed?

2.25 Seven in ten people considered they had enough information to make an informed decision on how to vote in the election. People who voted in the election were more likely to say they had enough information on how to vote (83% of those who said they voted compared with 54% of those who said they did not), as were older voters (79% of those aged 55 and over, compared with 60% of 18-34 year olds).

2.26 Our public opinion research found a difference in Wales, compared with Scotland and Northern Ireland, in people's views of the amount of media coverage of the election. Over half of people surveyed in Wales (54%) thought there was a lot of media coverage of the Assembly election. In Scotland, 72% of those surveyed and 70% in Northern Ireland thought there was a lot of media coverage of the elections being held there. This is reflected in the research analysis of media coverage of the May polls conducted for us,¹⁰ which found that the total number of newspaper and television stories on the Assembly elections in Wales was somewhat lower than election stories in Northern Ireland and significantly lower than election stories in Scotland. This is partly due to the presence of Scottish versions of national daily newspapers and the Scottish version of BBC Newsnight.

2.27 However, 65% of survey respondents in Wales thought there was a lot of media coverage of the UK-wide referendum, held on the same day as the

⁹ See Appendix A for details of campaign tracking research.

¹⁰ See Appendix A for details of media analysis research.

election. This reflects the more prominent coverage of the UK-wide referendum by London-based media, which is read, viewed or heard in Wales. Wales-based media gave greater prominence to the Assembly elections.¹¹

People's experience of voting

The experience of people who voted in polling stations

2.28 People continue to have very high levels of satisfaction with voting in polling stations. Nearly all (97%) of polling station voters were satisfied with the process of voting at the polling station, with 76% very satisfied and 1% dissatisfied. This is consistent with our survey findings at the Wales referendum on 3 March, when 96% were satisfied.

2.29 Of the people surveyed, 73% felt that voting at a polling station in Wales was convenient. Those who cast their vote at their local polling place were more likely to rate it as convenient, with 96% so rating it. Again, this is consistent with survey findings after the Wales referendum on 3 March, when 92% of those who voted at a polling station said they found it convenient.

2.30 All (100%) of polling station voters surveyed said that it was easy for them to get inside their polling station to vote on 5 May, with nine in ten saying it was very easy.

2.31 Voters were asked about the atmosphere inside the polling station. Nearly all (97%) agreed that their polling station 'was well ordered'. The same proportion (97%) said that 'it was safe'. Polling station voters in Wales (98%) were slightly more likely to agree that their polling station 'was well run by staff' than across the UK as a whole (96%).

2.32 Although there has been significant improvement in the accessibility of polling stations in Wales over recent years, there remain some where access into or within the polling station is restricted. These are usually in localities where there are limited alternative options or where a more accessible building would be at the expense of it being within easy distance of most local voters. We encourage local authorities to keep their polling station provision under continual review and they work hard to do so. A four-year cycle of statutory reviews of polling stations will have been completed across Wales by the end of 2011, which we expect to lead to further improvements in accessibility.

Information for voters in polling stations

2.33 Nearly three-quarters (73%) of polling station voters in Wales felt that the help and support available from polling station staff was useful. Polling station voters in Wales, in common with those in Scotland and Northern Ireland, were

¹¹ See Appendix A for details of media analysis research.

more likely to have found this help and support useful than those in England (66%).

2.34 A similar proportion (74%) said that the written instructions (posters or guidance) on display in the polling place were useful. They were slightly more likely to say this than voters across the UK as a whole (69%).

The experience of people who voted by post

2.35 The deadline for applying for a postal vote was 5 pm on Thursday, 14 April. In total 389,150 people had a postal vote, that is, 17 % of the electorate.

2.36 There has been a significant increase in the number of people in Wales who choose to vote by post since 2000, when it became possible to do so 'on demand'. Levels of postal voting now appear to have become more steady; there was a very similar level at the Wales referendum on 3 March (16.6%) and at the UK Parliamentary general election in 2010 (16.4%).

2.37 The percentage of electors with postal votes varies across Wales, however, as shown below.

- The lowest was Dwyfor Meirionydd, where 12% of electors had postal votes.
- The highest was Neath Port Talbot, where 22% of electors had postal votes.
- In 25% of all constituencies (10), 20% or more of electors had postal votes. The majority were in South Wales, including Cardiff.
- In the regional elections, 19% of voters in the two regions of South Wales Central and South Wales West had postal votes compared with 15% in North Wales.

2.38 As in previous elections, turnout amongst those with a postal vote was significantly higher than in-person voters. Of those registered to vote by post, 71% did so, which accounted for 28% of all votes cast at the election.

2.39 Overall, people who voted by post on 5 May were positive about their experience. Nearly all (98%) of those who voted by post said that they were satisfied with the process, reflecting findings at previous recent elections. This compares with 59% of all respondents who considered voting by post to be convenient.

2.40 Nine out of ten said that it was easy to understand what had to be done in order to vote and to return their postal vote. The vast majority of postal voters (94%) also found the written instructions on how to return their ballot useful. This is a positive finding, bearing in mind that postal voters in Wales received three ballot papers to complete and return in their postal ballot pack – two Assembly election ballot papers and one for the UK-wide referendum. The Commission had provided user-friendly template instructions for inclusion in postal ballot packs. The templates had been tested on voters.

Invalid postal votes

2.41 At the Assembly elections, 276,641 postal vote envelopes were returned by voters. In total, 12,650 constituency votes and 11,745 regional votes were reported as having been rejected as invalid by ROs, just under 5% of the total.¹²

2.42 Returned postal votes must be rejected by ROs if the postal vote statement or ballot paper is missing. They must be rejected if the personal details supplied by voters and returned with their postal vote cannot be successfully matched with those provided on their postal vote application. There is a legal requirement to match these personal identifiers, designed to prevent voting fraud.

2.43 The Chief Counting Officer in the UK-wide referendum, which was combined with the Assembly election, directed local Counting Officers (COs) to plan to verify 100% of personal identifiers (signatures and dates of birth) on returned postal vote statements. Although she could not direct ROs to do so for the Assembly election, we recommended that they did. In the event, all COs and ROs in Wales (in practice the same people) told us that they verified 100% of returned postal vote statements.

2.44 All ROs in Wales checked 100% at the UK Parliamentary general election in 2010 and at all three polls in 2011. Since 2007 we have repeatedly called on the UK Government to mandate a more robust and consistent system of postal voting security checks requiring the checking of personal identifiers on all returned postal ballot packs – rather than the current minimum 20% sample at each opening session – before postal ballot papers are included in the count.

2.45 We therefore welcome the announcement¹³ in September 2011 of the UK Government's proposal to make changes to the legislation to require Returning Officers to check the personal identifiers on 100% of returned postal vote statements. As part of this change the UK and Welsh Governments will need to ensure that sufficient funding is made available to ROs to support mandatory 100% checking at all elections in Wales.

2.46 The rate of rejection of postal votes in Wales, at just under 5%, compares with just under 6% of the UK referendum ballot papers rejected in the UK as a whole. A similar proportion, just under, 5%, was rejected in Wales at the UK Parliamentary general election in 2010.

2.47 At the Wales referendum on 3 March, fewer postal votes were rejected: just over 3%, from over 250,000 postal votes returned. This may reflect the fact that there were fewer papers in the postal ballot pack for voters to deal with and return – in March one ballot paper to complete, with a choice of voting 'Yes' or

¹² These figures should be treated with caution owing to some inconsistencies in reporting.

¹³ Cabinet Office, *The UK Government's Response to Reports on the Administration of the 2010 UK Parliamentary general election* (September 2011).

'No' and a postal voting statement – compared with three ballot papers, two with a number of choices, and a postal voting statement, in May. Of the postal ballots rejected at the Assembly election, approximately half of these were reported as being invalid because they were missing either the postal vote statement or ballot paper; in March, around a third (31%) were rejected for that reason.

2.48 Another significant proportion of postal votes had to be rejected because the date of birth or the signature did not match the records. Feedback from ROs suggests that the reasons for this include: people giving the date that the postal vote was completed rather than their date of birth; change of name, such as on marriage; and changes in signatures over time. The table below shows the proportion of postal votes that were reported as being rejected for different reasons. Not all of the data returned to us by ROs appears to be entirely consistent, so these figures are indicative.

Table 5: Reasons for postal vote rejection at the Assembly election

Rejected for	%
Missing postal voting statement or ballot paper	50
Want of date of birth	8
Want of signature	4
Want of both	4
Mismatched date of birth	18
Mismatched signature	12
Both mismatched	4

2.49 While it is clearly important that measures are in place that are effective in detecting and preventing fraud, these measures should not inadvertently disenfranchise voters who simply make mistakes on their postal voting statements. In practice this means that some people are voting but their vote is not being counted. Allowing ROs to request a refreshed identifying signature, and also to provide electors with feedback if their postal vote has been rejected, would help address this problem.

2.50 We first made this recommendation in our July 2007 evaluation of the introduction of personal identifiers for absent voting in England and Wales, and reiterated it in our July 2010 report on the 2010 UK Parliamentary general

election. In its response to that report in September 2011, the UK Government¹⁴ said that it would work with the Electoral Commission and electoral administrators to identify how to avoid the problems we have highlighted with the current postal voting system, while taking into consideration the need to ensure that it remains secure against fraudulent applications for postal votes. We will work with the UK Government to ensure the right changes are in place by the next UK Parliamentary general election.

Collecting postal votes

2.51 Part of ensuring that every postal vote is counted involves ensuring that all postal votes are collected from mail centres by the time polls close. Typically, a Royal Mail 'sweep' can be arranged by ROs to take place on polling day. The 'sweep' involves Royal Mail collecting any remaining postal votes from a main mail centre, and if requested neighbouring mail centres, so that they can be included in the count.

2.52 Normally, individual ROs are responsible for arranging and paying for the 'sweeps'. In May 2011, arrangements for the 'sweep' varied from the norm, in that the Commission took responsibility for arranging and paying centrally for the cost in respect of the UK-wide referendum. Arrangements were made for Royal Mail to deliver all postal votes resulting from the sweeps directly to Counting Officers, rather than COs having to collect them.

2.53 This meant that for the combined Assembly election, the same service was available and used by all ROs in Wales.

2.54 We had taken on this responsibility to ensure consistency of service across the UK and to ensure that the most cost effective processes were in place to collect and deliver as many postal votes as possible from within Royal Mail Centres. It was also cheaper to have one contract covering the UK referendum than having lots of different contracts across the country.

2.55 We also agreed with Royal Mail that there would be approximately 250 secondary sweeps of mail centres. These centres were chosen on the basis that sweeps were usually conducted in these areas and where Royal Mail's operational knowledge identified there was sufficient quantities of mail to make such a secondary sweep viable.

2.56 Feedback from ROs/COs about the sweep has been broadly positive, although some felt that there was significant room for improvement by Royal Mail in terms of service levels, consistency and communication especially with individual local authorities. However, there remains scepticism among ROs in Wales about the value of the sweep, with only a small number of postal votes being returned as a result. We recognise that the benefit of sweeps will be

¹⁴ Cabinet Office, *The UK Government's Response to Reports on the Administration of the 2010 UK Parliamentary general election* (September 2011).

limited, because local mail centres only deliver to particular ROs. We aim to develop a better model for working with the postal service.

2.57 A total of 1,419 envelopes containing postal votes were received after the close of poll on 5 May. While averaging 35 per constituency, this ranged from 124 in the Vale of Clwyd and 118 in Monmouth down to 12 in Wrexham and none in Carmarthen West and South Pembrokeshire.

Voting by proxy

2.58 If an elector had a valid reason why they were unable to vote in person, such as illness, physical incapacity, work commitments, or being overseas, they could appoint a proxy to vote on their behalf, either in a polling station or by post. In total 3,378 people asked for a proxy vote which, as a proportion of the whole electorate in Wales, was fewer than 0.2%.

2.59 Of that total, 23 were proxies appointed as result of medical emergencies. The deadline for appointing a postal proxy voter was 5 pm on 14 April and 5 pm on 21 April for an in-person proxy voter. After that time, anyone who was suddenly taken ill and was unable to vote could appoint an emergency proxy, up to 5 pm on polling day itself.

Completing the ballot paper

2.60 A key priority for the Commission is that voters are able to vote easily and confidently, knowing that their vote will be counted in the way intended. The format of the two ballot papers for the Assembly election was prescribed in secondary legislation¹⁵ that contained the rules as to how the Assembly election must be conducted. The Secretary of State for Wales was responsible for the legislation.

2.61 We had recommended to the Secretary of State that the ballot papers should be designed according to the principles contained in our guidance on accessibility of ballot papers and election stationery.¹⁶ The ballot paper format was finalised by the Secretary of State following consultation with representatives of ROs, electoral services staff, the main political parties, and ourselves and it met our accessibility guidelines.

2.62 Our public opinion survey asked whether voters found it easy or difficult to complete their Assembly ballot papers. Nearly all (96%) said that they found them easy to complete, with three-quarters (76%) finding it very easy.

¹⁵ National Assembly for Wales (Representation of the People) (Amendment) Order 2010

¹⁶ The Electoral Commission, *Making your Mark Good practice for designing voter materials guidance for electoral administrators* (2009).

www.dopolitics.org.uk/making-your-mark/?a=80804

2.63 Of those surveyed, 3% reported difficulties in completing ballot papers. Voters with disabilities were more likely to say they found completing the ballot paper difficult. Among those that reported difficulties, the main reason given related to not having clear instructions.

2.64 Nearly all (96%) of those who said they voted in both the Assembly elections and the UK-wide referendum held on the same day, meaning that they completed three ballot papers, said they found it easy 'to fill in more than one ballot paper on the same day'.

2.65 Similarly, the vast majority of voters (94%) said they found it 'very' or 'fairly' easy to find the candidate name they wanted to vote for on the constituency ballot. This was similar in Scotland (96%), where voters were also completing three ballot papers – for constituency and regional elections to the Scottish Parliament and for the UK-wide referendum. Nearly all voters said it was easy to find the name of the party they wanted to vote for on the regional list ballot paper (96% in both Wales and Scotland).

2.66 The regional list ballot paper had been redesigned for the Assembly elections in 2011, with the effect that names of political parties and individual regional list candidates were shown, but not the names of candidates included on the political party lists. A particular issue arose over the non-inclusion of candidate names on the regional list ballot paper, which we review in Chapter 3.

People's confidence that their vote was counted

2.67 In common with voters across the UK, the overwhelming majority of voters were confident that their vote was included in the election count, with only 2% saying they were not confident. This is the same proportion as were confident that their vote was counted at the Wales referendum on 3 March.

2.68 Postal voters and polling station voters were equally likely to be confident that their vote was included in the count, although more polling station voters were **very** confident (75% compared to 61%). These findings were again very similar to those at the Wales referendum on 3 March.

People's confidence and satisfaction with the way the election was run

2.69 Eight in ten people surveyed were satisfied with the procedure for voting in elections and referendums in Great Britain generally. Of the people surveyed, 78% were confident that the Assembly elections were well run and, of those voting, 90% were confident. This compares with 73% of voters in Wales who were confident that the UK Parliamentary general election was well run in 2010.

Electoral integrity

2.70 About four in ten (41%) of our survey respondents in Wales said they understood at least a little about fraud relating to elections and voting, compared with 46% of all our survey respondents across the UK as a whole. In Wales, 27% of respondents said they understood nothing at all about fraud.

2.71 Nevertheless, 78% said that they thought voting in general was safe from fraud and abuse, about the same as in the UK as a whole and a figure that has remained consistent over the last few years.

2.72 Reflecting previous public opinion surveys, 86% of survey respondents in Wales and in the UK as a whole think that voting in person in polling stations is safe.

2.73 Postal voting continues to be thought of as less safe than in-person voting; 57% of those surveyed in Wales and across the UK thought that postal voting was safe. However, a lower percentage than in 2010 said it was unsafe; 19% compared with 26% at the UK Parliamentary general election.

2.74 A quarter of survey respondents in Wales were concerned that fraud and abuse might have taken place at the Assembly elections. However, this was lower than at the UK Parliamentary general election in 2010, when 36% said they were concerned about it. When asked why they were concerned that some kind of fraud took place, survey respondents mainly focussed on why electoral fraud is a bad thing rather than any more specific concerns. Some were concerned that the current system might not rule out fraud.

3 Key issues

Timing of the Assembly election count

Overview

3.1 It is for individual Returning Officers (ROs) to decide when to count votes, the legal requirement being that they do so as soon as practicable after the close of poll.¹⁷ The Regional Returning Officer (RRO) for North Wales and ROs in that electoral region decided to count votes at the Assembly elections the day after the close of poll. When it became clear at the end of March that North Wales would be the only electoral region to do so, controversy was sparked, with all four political party leaders and the then Presiding Officer of the Assembly publicly critical of the decision to count votes during Friday 6 May rather than overnight. They were concerned about the lack of a consistent approach across Wales and that the overall result of the election would not be known until the completion of counting in North Wales. There was a substantial amount of media coverage of the issue in April, shortly ahead of the election.

Background

3.2 At an early stage in the planning process for the May polls, there had been discussion amongst ROs about the timing of the election counts. This followed difficulties at the Assembly elections in 2007. We had included in our report on the elections in 2007 the following recommendation:

Some Returning Officers feel strongly that the Assembly election count should take place the day after the election. The Commission continues to stress that it is important for election counts to be accurate and acceptable rather than fast. Although how and when this is best achieved is a matter for Returning Officers, for elections at the level of devolved government, the decision should not be viewed as a relatively private, local matter. Election results programmes are broadcast across Wales by all the major broadcasters and news about the election outcomes are of national significance.

The Commission believes that decisions as to timing of counts of National Assembly for Wales elections are decisions of public importance. Learning from the experience of the elections in 2007, public announcements as to the timing of counts of future Assembly elections should be made as early as possible in the elections planning cycle by Returning Officers.

Electoral Commission report, 2007

¹⁷ Rule 54, Schedule 5, National Assembly for Wales (Representation of the People) Order 2007.

3.3 Our priority for all the polls in 2011 was that voters, candidates and parties could be confident that all votes were counted accurately. The Chair of the Commission, Jenny Watson, was Chief Counting Officer (CCO) for the UK-wide referendum held on the same day as the elections. She made her view clear, during the planning process for the May polls, that voters in Wales should know as soon as possible who will represent them in the Assembly for Wales and form the next Welsh Government. While the result of the referendum was important for the UK's constitutional arrangements, it did not have immediate consequences and did not need to delay the results of elections.

3.4 Based on that reasoning, the CCO directed that the referendum would be counted across the UK starting at 4 pm on 6 May, thereby enabling the elections to be counted first. The CCO's decision was announced in December 2010. The early announcement was aimed at ensuring that plans for the referendum count were known well ahead of the May polls and facilitating ROs' planning for their election counts.

3.5 In arriving at her decision, the CCO had sought views on the timing of the referendum count from counting officers, political parties, referendum campaigners and broadcasters on an 'issues paper', that was also placed on our website for public responses. The CCO followed a similar process of seeking views on an issues paper on the timing of the count for the Wales referendum held on 3 March.

3.6 By contrast, the timing of the Assembly elections count was a matter for individual ROs, provided that it met the legal requirement of beginning as soon as practicable after the close of poll on 5 May. ROs commonly seek views from, or share their proposals with, local parties and candidates in considering the timing of the count. In determining when to verify and count votes, they need to take account of a range of factors that vary locally, including: geography; availability of staff and venues; the security of ballot boxes; the volume and management of returned postal votes.

3.7 A particular factor this year was the volume of ballot papers. Before votes are counted, ballot papers have to be verified. The verification of ballot papers is the process for checking that the number of ballot papers in each ballot box either matches the number of papers recorded as issued in the polling station, or if it does not, that the source of the variance can be identified and explained. It also gives a figure that can be used to reconcile the total number of votes counted. The verification process is complete once the statement of verification for each poll has been prepared and signed. Verification is crucial in achieving an accurate election or referendum result.

3.8 Verification for all three polls, that is the two Assembly election ballot papers and the UK referendum ballot paper, had to be completed before the declaration of any results. The purpose of this legal requirement was to ensure that every ballot paper was accounted for and went forward to be counted. Sheer volume of ballot papers for the three polls meant that verification would

inevitably take longer than it did for the Assembly elections in 2007, when there was no combined referendum.

Differing views

3.9 There were discussions between ROs on the timing of the count as part of election planning meetings convened by the Commission and led by the referendum Regional Counting Officer in Wales, in November 2010, early January 2011, and finally in mid-March. Despite attempts to reach consensus, there were different views in different electoral regions and constituencies. Most but not all ROs in the relatively urban, more compact, constituencies in the three electoral regions of South Wales preferred overnight counting. ROs across Wales based in local authorities with single Assembly constituencies also mainly preferred overnight counting. This contrasted views in North Wales, where constituencies are more rural in nature and can have long distances between polling stations and count venues. ROs in the Mid and West Wales region considered that, although they would also face the challenge of distance, they could count overnight.

3.10 The RRO in North Wales and ROs within the region considered that their plans were too far advanced by mid-March 2011 to revise and that the decision to count the day after the close of poll was the right one for the region in any case. They explained they had consulted parties and candidates locally.

3.11 Although RROs and ROs had consulted political parties and election candidates locally in deciding count timings, the decision of all regions was not known by national politicians until the end of March. Criticisms were then made by political leaders on grounds of a lack of a consistent approach across Wales and that the overall result of the election would not be known until the completion of counting in North Wales.

3.12 Perspectives of ROs and national politicians diverged widely. The views of the parties can be seen from a letter, from the four main party leaders, of 14 April to the North Wales Regional Returning Officer, where the leaders wrote of their collective concern, calling for the decision to be reconsidered and commenting:

This is a Welsh General Election and we believe it is wrong that the people of North Wales should be treated differently, when it comes to them hearing local results at this important election. The stipulation by the Electoral Commission that counting of votes cast in the AV referendum must commence at 4.00pm on Friday, 6th May means that if some declarations in North Wales are delayed due to re-counts, the entire process could quickly fall into chaos and confusion. This is a risk that will be minimised in the rest of the country, due to the commencement of counting taking place on Thursday, 5th May.

If North Wales declarations are delayed, then the overall result of the Welsh General Election could be delayed. We believe that such a delay would be

unacceptable to the people of Wales as a whole – not just to the people of North Wales.

3.13 The North Wales Regional Returning Officer pointed out that he had consulted candidates and agents within the region, as had other ROs in North Wales, in arriving at the regional decision.

Length of time taken to count votes

3.14 In the event, verifying three ballot papers and counting two election ballot papers was a lengthy process in all regions, including in a number of urban areas that had previously been more confident about concluding the process in a reasonable time overnight. The shortest time taken to verify election and referendum ballot papers and declare the election result was in the single constituency local authority of Blaenau Gwent. The total time taken was 4 hours 10 minutes from close of poll. Blaenau Gwent was also the first local authority to declare a result in the Wales referendum in March.

3.15 Of those counting ballot papers overnight, the last constituency to finish was Cardiff North, which declared results at 7.18am on Friday 6 May. The last region was South Wales Central who finished at 9.18am. The last constituency to declare, where counting began at 9 am on Friday 6 May, Clwyd South, did so at 1.31 pm. North Wales declared at 1.48 pm. Full details of count timings are attached as Appendix B.

Future election counts

3.16 The timing of election counts has sparked controversy in recent years in other parts of the UK. The UK Parliament debated the timing of counts for the UK Parliamentary general election in 2010 and legislated to require ROs to begin counts within four hours of close of poll or to explain why they could not. The question of overnight or daytime counting has been an issue in Scotland over the years. The time taken to count votes in Northern Ireland in May 2011, a different but related issue, brought criticism during and after the count.

3.17 The Electoral Commission has no role in determining the timing of any election counts. However, it is clear that the question of the timing of election continues to need to be addressed.

3.18 We will circulate an Issues Paper on the timing of election counts, identifying issues that have arisen at elections across the UK in recent years, by the end of November 2011. The Issues Paper will include evidence on the time taken to count votes at different elections and the impact made by factors such as: the combination of elections; different electoral systems; and the number of ballot papers. The Issues Paper will identify the different perspectives that can be held by those delivering elections and parties campaigning in them, as well as broadcasters who make election results programmes.

3.19 We will seek views from those with an interest in the timing of election counts, including governments, political parties, ROs, broadcasters, and voters.

3.20 Following analysis of views received, we will make recommendations in early 2012 on the timing of election counts and the way in which they are organised, taking account of the type of elections and a range of relevant circumstances.

Regional ballot paper

Overview

3.21 An issue arose on polling day itself in relation to the regional ballot paper. The format of the regional ballot paper had been revised for the 2011 election, so that it contained the names of political parties who had nominated candidates, together with any individual regional candidates who were standing, but not the names of party regional candidates themselves. However, the names of regional candidates were required to be displayed in polling stations so that voters could see them.

3.22 The issue that arose on polling day related to the inadequate display, by certain ROs, of regional candidates' names in polling stations. The background to the issue is explained below.

Background

3.23 At the Assembly election in 2007, the size of the regional ballot paper was problematic. Parties can nominate up to 12 candidates in regional lists and, with some electoral regions having 13 parties nominating candidates, in 2007 regional ballot papers were very long. This caused problems for voters, who found the ballot papers awkward to complete, fold and put in polling station ballot boxes and difficult to fold and insert into postal ballot packs. At the election count, the ballot papers were equally awkward for count staff to open and flatten out again, slowing the count process.

3.24 After the Assembly election in 2007, we made two recommendations to the Secretary of State for Wales.¹⁸ Our first recommendation was that the number of candidates eligible to be on a party list should be reduced from 12 to six. We pointed out that the facility to nominate 12 candidates remained from previous elections when it had been possible for candidates to stand in both the regional and constituency elections at the same time. For the Assembly election in 2007 and subsequently, this has been prohibited.¹⁹ Four candidates are elected in each electoral region. We reasoned that it was no longer necessary for parties to nominate 12 candidates and that six was sufficient to cover the need to fill any

¹⁸ The Electoral Commission, *The National Assembly for Wales elections 2007* (July 2007).

¹⁹ Section 7 (5) and (6), Government of Wales Act 2006 (GOWA).

casual vacancies arising in regions between Assembly general elections (there is no legislative provision for regional by-elections²⁰).

3.25 The second was that the design of the ballot paper should be reviewed, to try to reduce the size and the design prescribed in legislation.

3.26 The first of our recommendations did not achieve consensus support from all the main political parties in Wales. Because of this, and because it required an amendment to primary legislation, alternative solutions were explored by the Secretary of State for Wales, in the context of taking forward the second of our recommendations.

3.27 The Secretary of State for Wales sought the views of representatives of ROs, electoral services managers, political parties and the Commission on the design of the regional ballot paper. A proposal emerged to remove the names of party list candidates from the regional ballot paper. No parties objected to that proposal and the revised regional ballot paper, which met our good practice recommendations on accessible formats,²¹ was subsequently prescribed in legislation.²²

3.28 Legislation requires the list of candidates' names to be displayed inside and outside polling stations.²³ This meant that voters in polling stations should have been able to view the names of candidates on party lists, if they wished to do so. Our printed handbooks for polling station staff gave guidance on the display of this list, which formed part of the 'statement of persons nominated'.²⁴

Problems in polling stations and for postal voters

3.29 Early on polling day we received reports from one political party and a regional election candidate that the lists were not being displayed in polling stations in some localities. We telephoned all ROs and found that the notices had not been displayed in the constituencies within Cardiff, Swansea, the Vale of Glamorgan and Bridgend. Cardiff, Swansea and the Vale of Glamorgan quickly rectified the situation by sending out notices, which were displayed in those areas by mid-morning on polling day. In Bridgend the position was rectified later in the day.

3.30 We also received reports that, in some other localities, the notices with regional candidates' names were not consistently well displayed in polling stations; that the size of the notices was too small, or that font size was too

²⁰ Section 11 GOWA.

²¹ The Electoral Commission, *Making Your Mark. Good practice guidance for designing voter materials: guidance for electoral administrators* (2009).

²² The National Assembly for Wales (Representation of the People) (Amendment) Order 2010.

²³ National Assembly for Wales (Representation of the People) Order 2007, Sch 5, Rule 37(17).

²⁴ The Electoral Commission, *Handbook for polling station staff, supporting the referendum on the voting system for UK Parliamentary elections and elections to the National Assembly for Wales*, page 9 (2011).

small. We recommend that polling station notices be printed on large A2 paper or, if not feasible, A3 at minimum, with font sizes that can be easily read.

3.31 We were also contacted by a small number of postal voters who complained that they did not have access to the names of regional list candidates other than by consulting notices in public places or local authority websites.

3.32 In post-election feedback, ROs and electoral services managers considered that, aside from the question of display of candidates' names in polling stations, the regional ballot paper was a substantial improvement in terms of its usability for voters and in administering the count. For the first time at an Assembly election, we received no complaints from voters about the usability of the regional ballot paper.

3.33 We also received feedback from representatives of the four main political parties after the election, which acknowledged both the benefits and drawbacks of the latest regional ballot paper design.

Future design of the regional ballot paper

3.34 We conclude that, following the experience at the Assembly elections in May 2011, the question of whether candidates' names are included on the regional list ballot paper should be reconsidered. However, it is appropriate first to await further relevant developments. For the reasons set out below, we believe it is too early to undertake further work on the regional ballot paper.

3.35 Firstly, the next Assembly elections are scheduled to be held in 2016. At the time of writing this report, it is not yet known whether the Assembly elections will be combined with local elections throughout Wales, which are also scheduled for that date. There may also be elections for Police and Crime Commissioners. The number and type of elections taking place on the same day affects the amount and type of information needed by voters.

3.36 Further, in the wake of the Assembly election results where some high profile Assembly Members (AMs) lost regional seats through the operation of the Assembly's compensatory electoral system, questions were raised by some politicians about the electoral system and the prohibition on candidates standing in both constituency and regional elections. Any potential changes need to be determined before changes are made to the design of the current regional ballot paper. For example, if the prohibition on candidates standing in both constituency and regional elections were to be removed, that may lead to an overall increase in the number of regional list candidates. That would need to be considered in reviewing regional ballot paper design.

3.37 Until these matters are resolved, it would be premature to make decisions on the regional ballot paper. We will revisit this issue no later than December 2014. We will seek further views and make any necessary recommendations to the Secretary of State for Wales in sufficient time for a decision not later than

one year before the Assembly election in 2016. That would allow any change to the ballot paper to be prescribed in legislation at least six months before the 2016 election.

Disqualification of two candidates returned as elected

3.38 An issue arose after the election that had significant prominence in the public domain and became the subject of investigation by the police and the National Assembly for Wales. It came to light after the election that two individuals who were returned as Assembly Members had not been aware that they were ineligible to stand for election because of offices they held, meaning they were 'disqualified'. The circumstances are described below.

Overview

3.39 Two Liberal Democrat candidates, John Dixon and Aled Roberts, were returned as Assembly Members in the regional list elections in South Wales Central and North Wales respectively. On 17 May they were notified by the National Assembly for Wales that they had not been validly elected as Assembly members when it transpired that each were members of bodies listed under the National Assembly for Wales (Disqualification) Order 2010. Mr Dixon was a member of the Care Council for Wales and Mr Roberts was a member of the Valuation Tribunal for Wales.

3.40 At the time of nomination, both had signed 'Consent to Nomination' forms, indicating that to the best of their knowledge and belief they were not disqualified from membership of the Assembly. It is an offence for a person knowingly to make a false statement as to their qualification for election.

3.41 Shortly after the suspensions became public, a formal complaint was made to the police by John Bufton MEP, UKIP. South Wales Police commenced investigations into both cases on 19 May. On 23 June, the Crown Prosecution Service (CPS) announced that neither John Dixon nor Aled Roberts were to be prosecuted for any criminal offence arising out of their nomination and return as AMs when disqualified.

3.42 The Presiding Officer of the National Assembly, Rosemary Butler AM, requested an Assembly investigation into the relevant circumstances as soon as the disqualifications came to light on 17 May. That investigation had to be held back when the police investigation began and was in progress. On 24 June, after the CPS announcement that there were to be no criminal prosecutions, the Presiding Officer's investigation was resumed and taken forward by the Assembly's Commissioner for Standards, Gerard Elias QC.

3.43 The outcome was a report, circulated to Assembly Members and published on 5 July. The report concluded that Aled Roberts took all necessary

steps to ensure that he was eligible to stand for election, but was supplied inaccurate information in the Welsh language version of the Commission's guidance for candidates standing for election. That information would have led him to believe that he was eligible to stand for election. The report concluded that John Dixon read the Commission's English version of the guidance for candidates standing for election (which contained no errors) but he did not check the Disqualification Order and its applicability to him. He believed he was eligible to be a member of the Assembly.

3.44 The Assembly has legal power to resolve that the disqualification of any person may be disregarded if it appears to it that the ground of disqualification has been removed and that it is proper so to resolve.²⁵ Motions to reinstate Aled Roberts and John Dixon were tabled in the Assembly by the Liberal Democrats prior to the conclusion of the investigation. Both resigned their membership of the bodies that disqualified them from membership of the Assembly. Following the publication of Gerard Elias' report, the Liberal Democrats withdrew the motion to disregard John Dixon's disqualification. On 6 July, the Assembly voted to disregard the disqualification of Aled Roberts and he resumed his role as AM.

3.45 The effect of the disqualifications, when they came to light on 17 May, was that the elections had been void and the two regional seats were vacant.²⁶ Vacancies for regional AMs are filled by moving to the next person on the relevant political party's list of nominated candidates.²⁷ The Assembly's Presiding Officer notified the two relevant Regional Returning Officers on 27 May that the seats were vacant. However, she requested that the two RROs, when they were in a position to notify her of replacement names, enquire of her what the latest position was in relation to the vacancies, in accordance with the procedure suggested by the Electoral Commission. We had advised that, as it was known that the Assembly was considering disregarding the disqualifications, the two RROs could make preparations to fill the vacancies but not proceed to do so until the Assembly's decision was known, providing there was not undue delay.

3.46 When the Assembly motion to disregard the disqualification of John Dixon was withdrawn, the Regional Returning Officer in South Wales Central proceeded to fill the regional vacancy. Eluned Parrott, the second candidate nominated in the Liberal Democrat regional list, became an AM on 6 July.

3.47 Further information on the background to these events is given below.

²⁵ Section 17(3) Government of Wales Act 2006. Such a resolution would not take effect if a candidate were convicted of a corrupt practice.

²⁶ Section 18, Government of Wales Act 2006.

²⁷ Rule 78, Schedule 5, National Assembly for Wales (Representation of the People) Order 2007.

The Assembly's Disqualification Order

3.48 In order to stand for election, candidates must be qualified to stand (for example, aged 18 or over and meeting certain criteria) and not disqualified. Candidates are disqualified from standing for election if they are:

- a judge
- a civil servant
- a member of the armed forces
- a member of the police force
- a member of a legislature of any county or territory outside the Commonwealth (other than Ireland)
- employed as a member of staff of the Assembly
- holding an office listed in the relevant National Assembly for Wales Disqualification Order
- the subject of a bankruptcy restrictions order or interim order

3.49 A person may also be disqualified if they have been convicted or reported guilty of a corrupt or illegal practice by an election court.

3.50 Disqualification Orders contain a list of bodies and organisations. The Assembly approved a new Disqualification Order on 1 December 2010, which was subsequently approved by Privy Council on 15 December and came into effect on 11 January 2011. This replaced the existing Disqualification Order, made in 2006.

3.51 The Care Council for Wales, in which John Dixon held office, was listed in both the 2006 and 2010 Orders.

3.52 The Valuation Tribunal for Wales, in which Aled Roberts held office, was included in the new 2010 Order but not the earlier 2006 Order.

Publicising the Disqualification Order 2010

3.53 As noted in the report of Mr Elias to Assembly Members, when the new Disqualification Order was made, no steps were taken by Welsh Assembly Government (as it then was) to publicise the 2010 Order or the fact that it had come into force. Mr Elias noted that there was no formal communication with the Electoral Commission that the Order had been approved or come into force; no consultation with the Valuation Tribunal (or any other listed body) about its inclusion in the Order; and the Tribunal had not been formally informed that it had been listed.

3.54 We have previously relied upon governments across the UK to notify us in advance of changes to any legislation that affects elections and to inform us when legislation is completed, whether or not we are required by law to be consulted. This was the first time since we were established in 2000 that this has not happened. We publish guidance for those standing for election and those

delivering elections. Our guidance is prepared well ahead of elections and, when any relevant new legislation is expected to come into effect, we draft in anticipation of any changes so that as soon as the new law is made, we can publish up to date guidance.

3.55 The Wales Election Planning Group is a planning forum, chaired and convened by Welsh Government officials, comprising representatives of ROs, electoral administrators, political parties, the Secretary of State for Wales and the Commission. It is intended as a forum for sharing information about key actions taken and proposed, as well as promoting good practice. Informing representatives of the Wales Election Planning Group about the making of the 2010 Order would have ensured that senior officials in all key organisations involved in the Assembly elections were aware of the new rules. We recommend that Welsh Government shares information about all relevant forthcoming legislation in the Wales Election Planning Group in future.

3.56 However, following the experience with the Disqualification Order, we have already put in place further separate measures to ensure that whether or not we are informed of forthcoming relevant legislative changes, our guidance is accurate on publication.

Our guidance

3.57 We give guidance to prospective candidates and agents on the rules for standing in Assembly elections and this was available on our website. Printed copies of the guidance in English and Welsh were also sent to ROs for their use in briefing local candidates. A copy of the printed guidance was placed on our website.

3.58 Our candidates' guidance contained a module entitled 'Can you stand for election?'. The website version of the guidance contained a hyperlink to the Disqualification Order. This originally referred to the (out of date) 2006 Order. Welsh Government officials drew our attention to the new 2010 Order on 10 March and from 11 March the hyperlink in our English language version of the guidance was to the 2010 Order. On 24 March, we issued an erratum slip in English to ROs to use with the hard copies of the guidance we had sent to them. However, although the need to update the hyperlink in the Welsh language version of the guidance was identified, an error meant this was not done, with the result that the hyperlink in the Welsh language version continued to link to the out of date 2006 Order.

3.59 This became important in the case of Aled Roberts. Mr Elias reported that Mr Roberts said he consulted the Commission's guidance in the Welsh language sent to him by the Denbighshire electoral services on 24 March by way of an email with links to the online guidance found on the Commission's website. This guidance continued to link to the Disqualification Order 2006. Mr Elias concluded that it was clear that the Welsh version would erroneously still have been signposting the 2006 Order at that time. He also concluded that the

Commission was unable to confirm or deny that its Welsh website pages were visited that day.

Our apology

3.60 We published a statement on 5 July, after Mr Elias' report was considered by the Assembly. We apologised to the Assembly and to Aled Roberts for our error and issued a public statement, commenting:

It is important that all guidance published by the Electoral Commission is accurate and trusted and as today's report identifies, there were mistakes made by the Commission in the issuing of our guidance for the May 2011 election.

The law requires candidates standing for election to ensure they are eligible for nomination. All candidates must sign and submit a declaration saying they are eligible to stand for election. It is critical that both candidates and parties are aware of the correct legal requirements and that there is a process in place within each party to ensure that the correct checks are in place.

Once the Commission became aware of the change to the Order, the relevant English language guidance for candidates 'Can you stand for election?' was updated on our website on 11 March – still well before the deadline for nomination as a candidate, which was 4 April.

However, the Welsh language version of the guidance for candidates was not updated ahead of the election. We regret and apologise for this very rare error and have reviewed our internal processes to ensure such an error does not occur in future.

Electoral Commission, 5 July 2011

3.61 We have been working with the Welsh Language Board since this incident and are glad to implement a series of recommendations they have made to us in September 2011. These include improving our processes for dealing with documents and guidance in Welsh, in order to avoid any future difficulties. In particular, we have thoroughly revised our processes for publishing information in Welsh and English online on our website.

Usage of our website

3.62 On 9 August 2011, we made available on our website our written answer to a specific query received from an individual about visits to our online guidance pages for candidates seeking election to the Assembly. Relevant extracts from

our published letter are below.²⁸ The full text of the letter includes information about the chronology of events, already described above in this report.

We have a website analytics tool, 'WebTrends', which we regularly use to measure and interpret user behaviour on the Commission's website.

WebTrends registered no visits or downloads of the Welsh language version of our guidance for candidates and agents that contained a link to the Disqualification Order, on 24 March 2011 or at any time from when the guidance was published on our website on 21 February, up to and including 4 May....

From 15-17 June, we gave information to the police, having used the WebTrends software to retrieve the number of views/downloads to our website for pages for candidates seeking election to the Assembly, over a specified time period. The information we supplied to the police contained a short explanation of what WebTrends could retrieve, together with 'screenshots' of specified documents over specified timeframes....

We provided a summary of the information that we had given to the police about views/downloads of relevant documents on our website to Mr Elias. We summarised the number of views/downloads but did not provide copies of all the 'screenshots'....

It was of course for the police/CPS and Mr Elias to consider all relevant information available to them from individuals and bodies and to reach their conclusions. We had made clear to them that WebTrends is an analytics tool, not a forensic tool, and therefore we drew no conclusions from the analysis. We made clear that we are not able to conduct conclusive or definitive analysis of our website usage, using the website tools available to us. As we said at the time that Mr Elias' report was published, we fully accept Mr Elias' conclusions and having nothing further to add to what we have already said about the report.

Electoral Commission, 9 August 2011

²⁸ www.electoralcommission.org.uk/news-and-media/our-views

4 Campaigning in the election

4.1 This chapter reviews issues arising from election campaigning. We report on the number of candidates and political parties campaigning, candidate nominations, guidance and support and regulatory issues.

Facts and figures

4.2 In total 176 constituency candidates campaigned to be elected in 2011 and 13 political parties nominated lists of regional candidates. This was 21 fewer constituency candidates and three fewer political parties than in the Assembly elections in 2007, as shown in the table below.

Table 6: Candidates and political parties standing for election

Number of candidates and political parties	2007	2011
Constituency candidates	197	176
Political parties on regional lists	16	13
Independent candidates on regional lists	5	1

4.3 From the numbers of candidates and regional lists nominated by political parties, the following trends are apparent:

- The Conservatives, Labour, the Liberal Democrats and Plaid Cymru nominated candidates in all 40 Assembly constituencies and all five electoral regions.
- Three other parties, the British National Party, the English Democrats and the Green Party nominated candidates in both constituency and regional elections, but not in every constituency or region.
- The United Kingdom Independence Party (UKIP) did not nominate any constituency candidates in 2011, compared to 13 in 2007, concentrating instead on the regional elections.
- In addition to the four main political parties, a total of five other parties nominated constituency candidates, the same as in 2007.
- In addition to the four main political parties, nine other parties nominated regional candidates, down from 16 in 2007.

Candidate nominations

4.4 In order to stand for election in a constituency, a candidate can nominate him or herself by completing and signing a nomination form or the form can be signed by a subscriber. Candidates must also formally consent to nomination by signing a form, stating that they are aware of what would legally disqualify them from being a candidate and that they are not disqualified from being a Member of the Assembly.

4.5 Regional candidates are nominated on lists submitted by political parties and candidates must also formally consent to nomination by signing a form.

4.6 Constituency candidates, independent regional candidates, and regional list must submit a deposit of £500 with the relevant Returning Officer (RO). If the candidate or party obtains more than 5% of the valid votes cast in the constituency or region, the deposit will be returned to the person who made it.

4.7 The Commission provided template candidate nomination forms and forms for consent to nomination, along with other resources such as checklists for candidates and agents to assist them in completing nominations. These were widely used and welcomed, helping to ensure a consistent approach across Wales.

4.8 Returning Officers offered and held briefing meetings with candidates and agents to iron out any difficulties in advance of nomination, and police representatives often attended to provide advice on electoral integrity issues. However, ROs and the police have told us of poor attendance at candidate briefing meetings, with RO staff and the police sometimes outnumbering candidates and agents or meetings being cancelled.

4.9 We continue to encourage candidates, agents and parties to attend briefing meetings offered by ROs to ensure they are fully informed about the nomination process and the requirements of the law. We will consider further with ROs and political parties what more could be done to improve the face to face local briefing of candidates and agents.

Our advice and guidance for candidates and agents

4.10 For the 2011 polls, the Commission produced guidance for candidates and agents in the Assembly elections in a new, more user-friendly format which was available on our website. It was organised as a suite of linked, bite-sized documents that become more detailed as the user moves from 'Introduction' towards 'Expert papers'.

4.11 'Introductions' are relevant to everyone, and are intended to help users understand the subject and select the additional documents relevant to them. 'Overviews' and 'Situations and procedures' documents provide information in sufficient detail to meet the needs of most readers. These documents are intended to guide users through reporting requirements or to increase their understanding of particular issues, processes or electoral events. 'Expert' papers' cover more difficult issues.

4.12 We also consolidated the key documents from the suite of candidates and agents guidance into a single volume and provided this in hard copy for the ROs to distribute to candidates and agents at local level. Orders placed for hard copy versions of the guidance varied, with electoral services managers in five local authorities ordering 50 English language versions each and five ordering just 10; one local authority ordering 50 Welsh language versions and 15 ordering 10 or fewer. Although there is some correlation between numbers of constituencies within local authorities and numbers ordered, size only partially accounts for the degree of variation. We will consider further the provision of hard copy guidance to ROs for their local use.

4.13 We have received feedback on our new-format guidance from our post-election candidate survey and through meeting the main political parties after the election. The new format was welcomed, but party officials that deal with compliance issues felt they would like in addition a comprehensive, 'one-stop' volume containing all of our guidance, with legislative references. We will consider how we can meet that request for future elections.

4.14 A significant issue arose after the election in relation to a module of our Welsh language guidance for candidates, which we report on in detail in Chapter 3.

4.15 Ahead of the election period we also attended the main political party conferences, attended party training events and met smaller parties to brief them on the legal aspects of campaigning in the election, particularly concerning campaign spending and donations.

Freepost election addresses

4.16 In the Assembly election, one election communication may be sent by each constituency or individual regional candidate or on behalf of a party list of regional candidates, free of charge, to each elector or delivery point (normally a property address) in the relevant constituency or electoral region.

4.17 Royal Mail delivered 16.6 million items of communication during the election period, down on 17.2 million items from 2007. Despite the fall in number

of items distributed, costs of distribution rose – approximately £3.4 million, compared to approximately £2.7 million in 2007.²⁹

4.18 In our 2007 report on the Assembly elections,³⁰ we reported that political parties were unclear whether their election leaflets could call on people to vote for party candidates in both the constituency and regional elections. At that time, Royal Mail, which is responsible for ensuring that freepost election communications meet basic legal requirements before delivering them, undertook to consider more detailed guidance in that area in future. Although Royal Mail did revise their guidance for the 2011 elections, it does not specifically address this point. The feedback we received from certain parties and some candidates in 2011 indicated that they were still unclear about whether leaflets could include text such as ‘vote twice’ for a particular party.³¹

4.19 We have referred these issues to Royal Mail who agreed to look at their guidance again. We will follow this up with Royal Mail and seek to ensure that the parties in Wales are consulted on any revisions to the guidance in good time before the next Assembly elections in 2016.

Monitoring party campaigns

4.20 As part of our risk-based approach to regulating party and election finance, we carried out desk-based monitoring of party campaigns at the Assembly election. The purpose of this work was to promote compliance by gathering information on campaigns which could be referred to when checking statutory returns. The research included monitoring advertising, leaflets and internet activity. We will report on any matters of interest arising from this work in our reporting on the financial aspects of the 2011 electoral events in early 2012. By that point we will have received all campaign spending returns for UK electoral events in 2011, completed our checks and finalised our conclusions about spending issues.

Compliance with spending regulations

4.21 Political parties and candidates in the elections were required to comply with limits on what they could spend on campaigning in the Assembly elections. In the case of constituency candidates, the limit was based on an amount per constituency plus an amount for each elector in the constituency, and in the case of political parties, the number of constituencies and regions in which they were fielding candidates.

²⁹ Data provided by Royal Mail.

³⁰ The Electoral Commission, *The Official Report on the National Assembly for Wales elections 3 May 2007* (July 2007).

³¹ Section 65, National Assembly for Wales (Representation of the People) Order 2007.

4.22 We published on our website on 1 September 2011³² details of the relevant limits and what political parties spent, where their spending was below £250,000. Those parties were required to submit returns to us three months after the election, that is, 5 August 2011. We also published on 1 September details of spending by 'third parties' campaigning at the election. 'Third parties' are organisations that campaign at election time in favour of or against a party, candidate or policy.

4.23 We will publish details of spending by political parties, who spent more than £250,000, in December 2011. Those parties are required to submit returns to us six months after the election, that is, 5 November 2011. We will publish the limits and details of what constituency candidates spent in October 2011.

Electoral integrity

4.24 In partnership with the Association of Chief Police Officers (ACPO), we issued revised versions of *Guidance on preventing and detecting electoral malpractice* to all police forces in Wales in February 2011, as well as a pocket guide for police officers on duty during the electoral events of 2011. Both of these were revised to ensure they were suitable for the elections and referendums to be held in 2011. The bilingual pocket guides provide practical advice on electoral administration to police officers to assist them in the handling of any issues. These documents continue to form part of our response to a demonstrated need for more information and support for police forces on this specialised area of law.

4.25 We also revised our *Code of conduct for political parties, candidates, canvassers and campaigners on the handling of postal vote applications and postal ballot papers in England and Wales* to ensure it was current for all of the electoral events (including referendums) that were held in 2011, and we continue to monitor adherence to the Code. The pocket guide issued to police officers was included as an appendix to the Code. Following a request from the political parties after the 2007 elections, we provided a pocket guide to the postal vote Code of conduct that could be referred to by party activists and campaigners on the ground during campaign periods.

4.26 Following their creation within each police force in time for the 2007 elections, dedicated officers, or SPOCs (Single Points of Contact) again acted as a focal point for both police officers and electoral offices in relation to electoral malpractice and allegations of offences. SPOCs attended seminars with electoral staff across Wales in the spring of 2011 in preparation for the 2011 electoral events, and contributed to our post-election review in order to take forward lessons learned.

³² www.electoralcommission.org.uk/news-and-media/news-releases/electoral-commission-media-centre/news-releases-donations/Electoral-Commission-publishes-details-of-party-spending-at-National-Assembly-for-Wales-election-2011

4.27 As in 2007 the South Wales Police SPOC was tasked with leading and liaising with other police forces in Wales to act as 'super SPOC'. This led to a more co-ordinated approach to preparations for the elections and referendums, and facilitated the distribution of advice and guidance.

4.28 We work with the Association of Chief Police Officers to collect data on the number of allegations of malpractice reported to the police, in order to understand the scale and nature of electoral malpractice at elections and referendums. Data is collected locally by Single Point of Contact Officers (SPOC) and sent to the Police National Information and Coordination Centre (PNICC). Each SPOC returns information, on a monthly basis, on any instances of alleged malpractice.

4.29 From the beginning of January to the end of July 2011, a total of seven cases were recorded in Wales, all of which related to the Assembly elections rather than the two referendums. Of those seven cases, no further action was taken by the police in three, because there were no electoral offences involved. In one case the police gave informal advice to a candidate. One case was under investigation at the time of compiling this report. The remaining two cases involved candidates returned as Assembly Members. We report further on those cases and the outcome of the police investigation in Chapter 3.

5 Delivering the election

5.1 This chapter contains an account and review of the delivery of the election by Returning Officers (ROs) and their staff, including planning for and administering the election count. It identifies and comments on the key issues that arose.

5.2 The combination of the election with the UK-wide referendum on 5 May and the fact that the combined events were only two months after the Wales referendum on 3 March meant an intense period of planning and preparation for all those concerned with running electoral events in Wales. Despite these challenges, the electoral events of 2011 in Wales were administered well.

5.3 The timing of the election count proved to be a contentious matter. We review that issue in Chapter 3 and make proposals as to how the difficulties that arose might be resolved.

Legislation

5.4 The rules governing the conduct of the election are contained in secondary legislation,³³ which it is the responsibility of the Secretary of State for Wales to make. The rules were substantially the same as they were for the Assembly election in 2007, with some minor amendments to resolve some technical issues that had arisen in the 2007 elections. The most notable change was to the design of the regional ballot paper, which we review in Chapter 3. The amending legislation containing the changes completed its passage through the UK Parliament in November 2010.³⁴

Combination of polls

5.5 The complicating factor for the conduct of the Assembly election was its combination with a UK-wide referendum. The UK Government introduced legislation providing for a referendum on the UK Parliamentary voting system – the Parliamentary Voting System and Constituencies (PVSC) Bill – on 22 July 2010.

5.6 The Bill contained provisions to combine the referendum with elections already scheduled to take place on 5 May 2011, that is, elections to the Assemblies in Wales and Northern Ireland, the Scottish Parliament, local elections in parts of England and across Northern Ireland. In England, there were also some parish or town council elections and a small number of local mayoral elections. In practice, this meant that across the UK, voters would be

³³ National Assembly for Wales (Representation of the People) Order 2007.

³⁴ National Assembly for Wales (Representation of the People) (Amendment) Order 2010.

completing between one and five ballot papers on 5 May. In Wales, they would be completing three.

5.7 Polls taking place on the same date can either be held concurrently but as separate events or – if the relevant legislation allows – they can be combined, so that elements common to the different polls can be taken together. Combination simplifies matters for voters, so that they receive combined information relating to the polls taking place on the same day rather than separate sets of information. For example, voters can receive a single polling card giving information about the polls taking place on that day, rather than separate cards for each different poll.

5.8 However, there are no legislative provisions enabling a referendum conducted under the rules in the Political Parties, Elections and Referendums Act 2000 to be combined with other polls. When the PVSC Bill was introduced in Parliament in July 2010, it did not contain any such provision.

5.9 In July 2010, we issued a statement setting out our views on the proposal to combine the UK-wide referendum with scheduled elections. We said:

It is important that voters have access to information about the arguments for and against the choices they have at the different polls on 5 May. Elected representatives and others have raised concerns that if a UK-wide referendum is held on the same day as elections in different parts of the UK this would impact on the coverage of the campaigns for the elections. It is important that political parties, the media, referendum campaigners and the Electoral Commission all recognise this issue and play a part in ensuring that voters receive an appropriate level of information on the relevant campaigns and can make informed decisions.

But there are also benefits from holding a referendum on the same day as scheduled elections in many parts of the UK that can be set against these concerns, including some overall cost savings and avoiding asking approximately 39 million electors to participate in an election and a referendum on two separate occasions.

*Voting at different polls on 5 May 2011 –
the Electoral Commission's position
22 July 2010*

5.10 We acknowledged the possible risks that could occur as a result of holding the polls on the same day, including:

- Voters being confused by different or conflicting campaign messages for the referendum and other scheduled elections could lead to confusion among voters about their choices for each contest.
- Different ballot papers and voting systems used on polling day could lead to confusion and errors by voters in correctly recording their choices.

- Overlapping, conflicting and complex responsibilities for the conduct of the referendum and other scheduled elections could lead to poor quality electoral administration.
- If the legal framework does not provide for formal combination of the referendum and elections, but provides only that the two electoral events are held on the same day, the administration of the two events will be more complex and the cost savings will be reduced.
- Overlapping regulatory regimes for donations and campaign spending could lead to confusion for campaigners and reduced transparency.

5.11 We set out a number of steps which the UK Government should take to address the risks we identified. These were:

- The UK Government to work with the Commission to ensure planning for the 5 May took account of the different impact of the range of polls right across the UK.
- The rules on how the referendum was to be conducted had to be clear from at least six months before polling day, that is by early November for a 5 May poll.
- Adequate provision must be made for appropriate public awareness activities to ensure voters understood the election and referendum process.
- Appropriate funding must be made available to deliver the referendum and scheduled elections together.
- The legal framework for the referendum must make provision for it to be formally combined with the scheduled elections.

5.12 In early November 2010, six months before polling day, we published an assessment of the progress of the legislation and steps taken to mitigate the risks we had identified in July 2010 to the successful delivery of the May 2011 polls. We concluded at that stage that we were broadly satisfied that sufficient progress had been made to enable the local Returning and Counting Officers to run the polls well and that voters would be able to participate in them. Combination could go ahead on that basis.

5.13 We monitored the passage of the PVSC Bill closely and issued briefings at key stages. In the event, the PVSC Bill completed its passage through Parliament and became law less than three months before polling day.

Combination rules

5.14 New, specific rules had to be written to cover how the combined polls must be run in each part of the UK, taking into account the separate rules that would ordinarily apply to each of those polls and any differences between them. The rules also had to specify which parts of the polls would be combined and who would take lead responsibility for them, ROs or referendum Counting Offices.

5.15 The combination rules provided for referendum local Counting Officers (COs) to discharge a number of the functions common to the polls for which an election Returning Officer would normally be responsible, such as provision of polling stations, appointment of poll clerks and issuing of combined poll cards. The PVSC Act also provided for decisions on most core functions that relate to the conduct of a combined poll to be made at the discretion of the CO.

5.16 Returning Officers remained responsible for the non-combined aspects of the election, primarily candidate nominations and the counting of votes at the elections.

5.17 Our companion report on the UK-wide referendum, published alongside this report, contains further detail on the rules for conduct of the referendum and on the complexities of combining referendum and election rules. It contains recommendations on how the difficulties experienced in 2010-11, as a consequence of having to make referendum and combination rules in a short space of time, should be addressed by the UK Government.

Outcome of combination for voters

5.18 In the event, as our findings on voters' experience have already shown, the vast majority of voters said they had no difficulties completing three ballot papers. This was a key priority for the Commission and the referendum Chief Counting Officer across all the polls held on 5 May.

5.19 Voters' perceptions were borne out by the number of ballot papers that had to be rejected at the count, which was no more than the norm at other elections in Wales – 5%. Nevertheless, that was a higher rate of ballot paper rejections than at the stand-alone referendum held in Wales in March 2011, where there was only one ballot paper. At 3%, that was the lowest number of ballot paper rejections recorded in Wales in the last decade.

Impact of combination on the administration of the 5 May polls

5.20 There were no rules on combination in place ahead of the UK-wide referendum being called and a relatively short amount of time available for making detailed legislation containing those rules. Until the PVSC Bill was enacted by the UK Parliament, there was some uncertainty for those who were required to deliver the combined elections and referendum on 5 May.

5.21 In particular, ROs and COs were understandably nervous about finalising plans and committing resources while not knowing for certain whether the funding that the UK Government had indicated it intended to provide would in fact be available. It also meant that in Wales, as in other parts of the UK where elections were taking place, ROs needed to plan for a combined event and to have contingency arrangements should the referendum not be held on 5 May.

This uncertainty about combination affected, for example, ROs' ability to take final decisions on the printing of voter forms and notices, set-up of polling stations, size of count venues, and numbers of temporary staff required for polling day and the count.

5.22 In our survey of ROs, a large number of authorities reported that the late legislative confirmation of the referendum and the combined nature of the polls made scheduling and completing tasks difficult. It also put additional pressure on the printing and production of postal ballot packs.

5.23 In Wales, these circumstances were exacerbated by the fact that the combined events were only two months after the referendum on the law-making powers of the Assembly, held on 3 March. This meant an intense period of planning and preparation for all concerned. Sheer volume of work to be completed and the fatigue of key election staff was a factor that ROs in Wales had to take into account in monitoring risks to the successful conduct of the May polls. Despite these challenges, all the electoral events of 2011 in Wales were administered well.

Management of the election

5.24 A co-ordinated approach to election planning has become the norm in Wales through joint working of ROs, election staff, the Commission, and government officials where relevant. This approach has strengthened year on year, especially over the last three years when ROs have sought to adopt a collective approach. In 2011, a particular issue arose over the timing of the election count, which we review in Chapter 3.

5.25 The UK-wide referendum with which the election was combined had a different management structure to that which applies in elections. We review that management structure in more detail in our companion report on the UK referendum. The Chair of the Commission, Jenny Watson, was Chief Counting Officer (CCO) for the referendum and had a legal power of direction to 11 Regional Counting Officers (RCOs) and local Counting Officers (COs). One of the 11 RCOs was RCO for Wales.

5.26 The Commission set up the Elections and Referendums Steering Group (ERSG) to bring together a group of representatives of the relevant legislatures and UK Government departments, including the Secretary of State for Wales and Welsh Government, RCOs and the Association of Electoral Administrators. Its purpose was to provide national strategic oversight to the development of legislation and the planning, management and delivery of the referendum and combined elections ensuring that any risks we had identified to the smooth running of the 5 May polls were properly managed.

5.27 The Elections, Referendums and Registration Working Group (ERRWG) was established to assist the CCO and the Electoral Commission in delivering their respective functions and duties for the May 2011 polls. This group was a

continuation of the group that was initially constituted for the 2009 European Parliamentary election and continued for the UK Parliamentary general election in 2010.

5.28 The objectives of the ERRWG were to provide the CCO and the Electoral Commission with advice and support in the development and delivery of referendum and election instructions, guidance and resources, and to ensure the needs of the electoral registration and elections staff in Great Britain were reflected in the development of instructions, guidance and resources. The Group was also intended to respond to any issues identified by the ERSG and the electoral regions during the planning process for the spring 2011 electoral events, and overall to enable effective communication between the individuals and groups involved in delivering the Spring 2011 polls.

5.29 The membership of the ERRWG included a representative of each Regional Counting Officer in Great Britain and of the Greater London Returning Officer, and a representative from the Cabinet Office, the Association of Electoral Administrators and the Scottish Assessors Association. It met monthly between August 2010 and February 2011, and minutes of the meetings were also published on the Electoral Commission's website.

5.30 The management structure brought UK-wide coordination and consistency to the referendum, with consequential consistency to the Assembly elections. The referendum Regional Counting Officer for Wales was Bryn Parry-Jones, European Regional Returning Officer for Wales and Chief Executive of Pembrokeshire County Council, who had also been Deputy Chief Counting Officer (DCCO) for the Wales referendum on 3 March. Mr Parry-Jones was also Regional Returning Officer for the Mid and West Wales electoral region in the Assembly elections.

5.31 Working with the Commission, the RCO led ROs/COs in adopting a strongly coordinated approach to planning and delivering the three electoral events being held in Wales in 2011 – the March referendum in Wales, the Assembly elections and the UK-wide referendum. Every RO in Wales personally attended a series of planning seminars for the March and May polls and/or had individual discussions with the RCO and the Commission.

5.32 This meant that the RCO and the Commission were able to make accurate assessments of the state of preparedness across Wales for the May polls and to step in to provide additional guidance and support in a timely way where it was needed.

Our materials and resources

5.33 The CCO issued instructions and directions to COs about the conduct of the referendum, with the central aim of achieving a consistent approach to delivery of the referendum and the counting of votes. The instructions were designed to be used for the combined aspects of the elections and the

referendum. Returning Officers were instructed to interpret the directions as guidance from the Commission in relation to non-combined functions.

5.34 In addition to the instructions covering the combined aspects of the referendum, we also produced guidance for ROs for use in the election candidate nomination process and accompanying resources such as candidate nomination forms.

5.35 We prioritised accessibility for all voters in the guidance and resources we provided for ROs, along with doing so in the instructions and directions for Counting Officers in the combined UK-wide referendum. For example, our directions for the combined polls specified the maximum number of voters to be allocated to polling stations and the ratio of staff to voters that must be employed in polling stations. This was aimed in part at avoiding any queues occurring at polling stations, as had happened in some parts of England at the UK Parliamentary general election in 2010.

5.36 We provided resources to assist with the layout and set-up of polling stations and gave guidance on accessibility and the flow of voters from entry to exit. We provided template resources for training polling staff that covered these issues and gave guidance on assisting voters with disabilities. Our directions for the combined polls also required a minimum number of polling station inspectors to monitor polling stations in each locality throughout polling day to ensure that polling stations were properly set up, fully equipped and accessible to all voters.

5.37 We also issued a comprehensive set of template materials for local use, including poll cards, postal vote materials and polling station notices and handbooks for polling station staff. The polling station handbook included a checklist on accessibility (produced after consultation with disability groups) and advice on assisting voters with disabilities.

Lessons learnt about the materials and resources we provided

5.38 In our post-election survey, we received feedback on the support and guidance service the Commission provided to ROs and their staff and on our published guidance materials and resources. There were positive comments about the direct support provided by the Commission, such as:

The Commission's Wales Office is very supportive and will always come back to you with advice if they cannot help you first time round.

Returning Officer, Wales

5.39 However, through feedback it was clear that some felt that the Commission 'micro-managed' the UK referendum, with consequential impact on the combined elements of the election. While ROs found that project plans, templates and information about conducting election and referendum counts

useful, we also had feedback that the CCO's instructions were too detailed, prescriptive and too many in number, meaning that not all were read by recipients.

5.40 Much of the negative feedback related to presentational issues rather than the substantive content of our materials. For example, some electoral administrators said they found the Commission's website difficult to navigate and experienced problems downloading the forms and guidance and would have preferred the guidance to be in one printed volume. This was not universal; those who used our website more regularly were familiar with where all the guidance and resources could be found. Returning Officers and their staff gave negative feedback about receiving update materials from the Commission by email, because they felt it was easy to miss relevant information contained in email updates.

5.41 We have taken account of the feedback we received in planning our guidance and resources for elections in 2012 and how we present that information on our website.

Performance monitoring

5.42 Another means the CCO adopted to achieve consistency of delivery in the referendum was performance monitoring. At elections, where the Commission has no operational role or power of direction, we have reported on the performance of ROs against published standards after the event. Following the approach we adopted at the March referendum in Wales, at the UK-wide referendum we adopted a more proactive role and monitored the performance of local COs and ROs as the combined electoral events progressed. This enabled us, with the each of the RCOs, to intervene quickly if circumstances required and to give guidance and support where it was needed.

5.43 Our monitoring strategy comprised the following four main strands:

Monitoring planning and organisation: ensuring that appropriate plans and resources were in place as the foundation for delivering the combined polls on 5 May 2011 by requiring COs to provide copies of their plans and risk registers along with a statement demonstrating that they had adequate resources in place to enable them to deliver the combined polls effectively and in line with the legislation and CCO directions.

Checking compliance: general monitoring that directions were carried out by all COs through the completion of checklists at pre-determined points in the electoral process. This aspect covered the referendum and the combined aspects of the election.

Risk-based monitoring: detailed monitoring of performance on a risk-based approach through monitoring visits and scrutiny of information and

evidence. This covered the referendum and the combined aspects of the election.

Exceptions: where a CO believed that they had a legitimate reason for not complying with a direction, they were entitled to inform the RCO and seek to be granted an 'exception' to allow them to carry out a specific process or procedure in a different way to that set out in the direction. This applied to the referendum and the combined aspects of the election.

5.44 We analysed all the project plans and risk registers to check that ROs/COs had covered appropriately all the key tasks outlined in the instructions.

5.45 In addition they were asked to return checklists on a weekly basis confirming that key directions were being followed. This monitoring enabled us, working with the Wales RCO, to ensure that key tasks had been carried out on time and to deal with any problems – for example, to ensure that polling cards and postal votes were sent out at the required time and that there were no significant problems that might affect voters.

5.46 The monitoring enabled us, with the RCO, to intervene quickly in a number of specific instances to address local difficulties and to provide active support and guidance where needed. The approach meant that problems were averted and risks mitigated and addressed, contributing to the overall effective administration of the election across Wales. We received positive feedback from the ROs concerned where we provided intervention and support as a result of the monitoring.

5.47 We received feedback from some electoral services staff such that they found the 'real-time monitoring' burdensome during very busy periods in the run up to the 5 May polls, for example when postal votes were being issued. We also had some feedback that some of the information that was being requested in checklists was already contained in project plans and risk registers, meaning that some information was being duplicated.

5.48 We will take account of all the feedback we received, building on the lessons learnt from our approach to managing the March referendum in Wales and the combined polls in May for the management of future electoral events. In particular, we will revise our performance standards scheme for ROs to monitor their performance in real-time. We will be consulting widely on a new performance standards framework in autumn 2011, with the new standards to be in place for elections held in May 2012.

Costs of the election

5.49 The election is funded by the Welsh Government, which meets the costs of local ROs in delivering the election. The National Assembly for Wales (ROs' Charges) Order 2011 contained the maximum amounts recoverable by ROs for contested regional and constituency elections held on the same day as the

referendum on the Parliamentary Voting system. The maximum possible amount recoverable for all the constituencies in Wales was £4,628,549 and for the regions was £84,300, an overall total of £4,712,849.

5.50 The actual cost that ROs in local authorities incurred in running the elections are not yet known. The Welsh Government provided guidance on how to account for the elections and set the deadline of 5 January 2012 for submission of ROs' election accounts.

5.51 The Welsh Government met the costs of Royal Mail (£3,385,292) of delivering 16,604,020 freepost election communications of candidates and political parties.

Appendix A

Research methodology

This report uses information from a number of research projects which were carried out by us or by contractors working on our behalf. Details of the methodologies used for each of these projects are below.

Public opinion survey

ICM interviewed a representative sample of 1,001 voters and non-voters in Wales by telephone on 7–23 May 2011. Across the UK, 3,961 voters and non-voters were interviewed in the same period. The sample breakdown for other areas is as follows: England 1,458, Scotland 1,001 and Northern Ireland 501.

Data was weighted to the known national population profile in Wales and in each area of the UK. Findings are statistically significant at the 95% confidence level or above. A technical report is available upon request.

Comparisons made between the different polls held in 2011 and elections held in previous years are indicative and should be treated with some caution.

Campaign tracking

GfK NOP interviewed 191 adults in Wales (1,409 adults across the UK) at the pre-wave (4 to 27 March), 103 adults in Wales (418 across the UK) at the mid-wave (2 to 4 May), and 193 adults in Wales (1,392 adults across the UK) at the post-wave (6 to 29 May). The target audience for the research was adults aged 18+ who were eligible to vote in elections and the UK referendum in May 2011.

All interviews were conducted face to face in-home, with the sample drawn using random location sampling from Wales and across the UK. Pre and post wave interviews were conducted using GfK NOP's Random Location Omnibus, and around 200 ad-hoc top up interviews were completed in Wales, Scotland and Northern Ireland. Mid wave interviews were conducted as an ad-hoc study. All interviews were sampled using the random location methods, and were conducted in the same way, to enable them to be combined and comparisons to be made.

In Wales, all interviewing materials were available bilingually, and respondents were given the option of completing the interview in English or in Welsh. Around 1% at each wave took up the option of completing the interview in Welsh.

Electoral data

Professors Colin Rallings and Michael Thrasher at the Elections Centre, University of Plymouth collected and collated data on the Commission's behalf working with Scott Orford at Cardiff University. This included data relating to electoral registration, turnout, absent voting and rejected ballots. Data was collected from Returning Officers and Counting Officers in Wales and across Great Britain.

Media analysis

The Centre for Elections, Media and Parties at the University of Exeter captured and analysed news content across 41 outlets across the UK for a 53-day period in the run up to polling day. News outlets monitored in Wales included television news and newspapers including the Western Mail and South Wales Evening Post. A technical summary is available upon request.

Survey of election candidates and agents

We issued a bilingual postal survey to all constituency candidates in the week after polling day. Included in the pack was an additional survey for the agent to fill out if they wished to. Surveys were also issued to the agents for all regional party lists, and to the agents for individual candidates who were standing on these lists. Further technical information is available upon request.

Political parties' feedback

We received feedback from officials of the four political parties represented in the Assembly through our Wales political parties' panel. We also met and corresponded with individual Assembly Members on request.

Returning Officers' and Counting Officers' feedback

The Commission issued an optional qualitative feedback form to Returning Officers and Counting Officers in Wales and across Great Britain to comment on their experience of administering the 5 May polls. Analysis is based on approximately 100 returns.

We also held a post-election seminar for Returning Officers and electoral administrators in Wales.

Appendix B

National Assembly for Wales election count timings

Constituency or electoral region	Time verification of Assembly election and UK referendum ballot papers completed	Time election result declared	Total time to verify and count election
Blaenau Gwent	01:02	02:10	4 hours 10 minutes
Islwyn	02:04	03:04	5 hours 04 minutes
Merthyr Tydfil	00:51	03:13	5 hours 13 minutes
Llanelli	02:02	03:15	5 hours 15 minutes
Cynon Valley	02:00	03:25	5 hours 25 minutes
Montgomeryshire	02:22	03:29	5 hours 29 minutes
Newport East	02:17	03:37	5 hours 37 minutes
Aberavon	01:30	03:41	5 hours 41 minutes
Pontypridd	02:02	03:46	5 hours 46 minutes
Neath	02:00	03:48	5 hours 48 minutes
Newport West	02:17	03:48	5 hours 48 minutes
Ceredigion*	05:42	03:52	5 hours 52 minutes
Swansea East	01:27	04:00	6 hours 0 minutes
Brecon and Radnorshire	03:20	04:12	6 hours 12 minutes
Ogmore	02:47	04:17	6 hours 17 minutes
Carmarthen East & Dinefwr	03:47	04:29	6 hours 29 minutes
Caerphilly	03:47	04:35	6 hours 35 minutes
Dwyfor Meirionnydd	03:20	04:36	6 hours 36 minutes
Rhondda	03:15	04:41	6 hours 41minutes
Monmouth	03:28	04:41	6 hours 41minutes
Swansea West	02:00	04:41	6 hours 41minutes
Carmarthen West & South Pems	03:47	04:42	6 hours 42 minutes
Bridgend	03:15	04:52	6 hours 52 minutes
Torfaen	02:22	05:01	7 hours 01 minutes
Preseli Pembrokeshire	03:47	05:05	7 hours 05 minutes

Vale of Glamorgan	03:58	05:10	7 hours 10 minutes
Gower	03:14	05:12	7 hours 12 minutes
Cardiff South and Penarth	03:10	05:52	7 hours 52 minutes
Cardiff West	03:47	06:14	8 hours 14 minutes
South West Wales Region		06:23	8 hours 23 minutes
Mid & West Wales Region		07:03	9 hours 03 minutes
Cardiff Central	04:27	07:18	9 hours 18 minutes
Cardiff North	04:56	07:18	9 hours 18 minutes
South Wales East Region		07:40	9 hours 40 minutes
South Wales Central Region		09:18	11 hours 18 minutes
Vale of Clwyd	01:13	12:06	6 hours 19 minutes
Arfon	00:51	12:17	6 hours 08 minutes
Clwyd West*	03:47	12:17	9 hours 04 minutes
Aberconwy*	03:34	12:52	9 hours 26 minutes
Ynys Mon	02:12	13:01	8 hours 13 minutes
Alyn and Deeside	02:10	13:15	8 hours 25 minutes
Wrexham*	04:10	13:20	10 hours 30 minutes
Delyn	02:10	13:30	8 hours 40 minutes
Clwyd South	02:17	13:31	8 hours 48 minutes
North Wales Region		13:48	4 hours 48 minutes

* The timings that verification was complete came from information received electronically in the referendum Result Collation System. However, in some cases, there was a delay to results being transmitted electronically, meaning that verification may have been completed earlier than the time shown in these instances.