

# Timing of the count for the referendum on the law making powers of the National Assembly for Wales

## Decision of the Chief Counting Officer

### Summary

The Chief Counting Officer intends to issue a direction to counting officers that:

**The counting of votes must not begin before 9 am on the day following the close of poll.**

### Background

On 25 October 2010, the Electoral Commission wrote to a number of stakeholders seeking their views on the timing of the count for the referendum on the law-making powers of the National Assembly for Wales. The letter included the distribution of an options paper on when the count should be held (Appendix A). It sets out:

- the two separate options, those being:
  - Overnight verification and count
  - Verification and count on the day after voting
- the Chief Counting Officer's preferred approach which is to verify and count on the day after voting.

The options paper was placed on the Commission's website with the public invited to comment. It was also sent to organisations and individuals in Wales with a particular interest in any decision relating to the timing of the referendum count and when a likely announcement of the result would be made. This included:

- The main groups likely to be campaigning in the referendum
- Broadcasters
- Leaders of the main political parties
- Welsh Assembly Government
- Secretary of State for Wales Office
- National Assembly for Wales Commission
- Wales Political Parties Panel
- The Deputy Chief Counting Officer
- Association of Electoral Administrators (AEA) Wales

The Deputy Chief Counting Officer, Mr Bryn Parry-Jones, also discussed the matter with Counting Officers.

## Summary of responses

The Commission asked that respondents contact us with their views on timing by Friday 12 November 2010. We received a response from the following:

Welsh Labour  
Plaid Cymru  
Yes for Wales Campaign  
Welsh Assembly Government officials (not on behalf of Ministers)  
BBC Cymru Wales  
ITV Wales  
S4C  
AEA Wales  
Neath Port-Talbot County Borough Council  
Denbighshire County Borough Council  
Pembrokeshire County Council  
Bryn Parry-Jones, Deputy Chief Counting Officer

The vast majority of responses were received via email / letter but the Commission also met with BBC Cymru Wales, ITV Wales and Mr Parry-Jones. All responses are attached in Appendix B.

The Commission is grateful to all the individuals and organisations that took part in this process and took the time to carefully explain their views.

In summary:

- All broadcasters (BBC Cymru Wales, ITV Wales and S4C) favoured a Friday count. There were a variety of reasons for this, the main one being that it would facilitate an event that is likely to attract a larger viewing audience, thus allowing the greatest possible public access to a major constitutional event.
- The Deputy Chief Counting Officer favoured a Friday count, for reasons of practicability. These were that it will be important to ensure that the processes of verification of ballot papers and counting of votes are organised efficiently and effectively across Wales, in the context of producing a national result. If the count starts overnight, adverse weather conditions in early March could cause delays to the transport of ballot boxes to count centres, in some or many areas of Wales. This could significantly delay the completion of the count into the following morning. Maintaining the national nature of the count would be facilitated by starting in a coordinated manner across Wales when all ballot boxes have been received at all count centres. Staff would also be fresh and more likely to complete processes efficiently.
- AEA Wales said that the majority of their members who responded favoured an overnight count but accepted that there were difficulties faced by certain local authorities. They also understood that this was a national event and so an element of coordination was necessary across the authorities. They therefore supported counting on Friday but

wanted Counting Officers to have the option of verifying the votes on Thursday evening should they wish to do so.

- The Yes for Wales Campaign strongly favoured an overnight count because this was the tried and tested method for elections held in the UK and one which the public understood. This was the unanimous view of the group, made up of senior figures from the four main political parties as well as representation from Tomorrow's Wales.
- Plaid Cymru and Welsh Labour both favoured an overnight count
- Welsh Assembly Government officials (not responding on behalf of Ministers) confirmed their consistent preference for an overnight count. The response questioned if a potential audience would actually be greater for a Friday count compared to one that would be held overnight. They also sought an assurance that a Friday count would not cost more than one held after close of poll on Thursday night. The response considered that the views of broadcasters and campaigners (including political parties) should be considered first and foremost.

## Matters raised by the responses

### **Another option: local discretion to verify votes immediately after the close of poll but count the following day**

AEA Wales favoured an option not put forward by the Chief Counting Officer when seeking views on the timing of the count. They favoured that discretion be given to Counting Officers to verify votes immediately after the close of poll at 10 pm on 3 March, followed by storage of verified votes and counting commencing the following day.

The reason that this was not an option put forward by the Chief Counting Officer is that verification of ballot papers will take place with ballot papers face up. This means that referendum agents and count observers can see votes as they are being verified. Because there is a single ballot paper with only voting two options, agents and observers could build up a good idea of local results the night before the count itself takes place. This will potentially jeopardise the security of the count and compromise the declaration of the result.

Further, the verification process will involve communication between local Counting Officers and the Chief and Deputy Chief Counting Officers via the central hub, which will be at the Senedd. Verifying overnight in some parts of Wales, followed by others verifying the following morning and then the count, would involve lengthy maintenance of the central hub, potentially throughout the night and the following day. That is unlikely to be conducive to an efficient and effective count.

Lastly, allowing local discretion is inconsistent with a national approach. The Chief Counting Officer's view is that it is important to ensure that the processes of verification of ballot papers and counting of votes are organised in a coordinated way across Wales, in the context of producing a national result that voters can have confidence in.

## **Cost**

Welsh Assembly Government officials asked for an assurance that the Commission was taking costs into account in considering the timing of the count and sought an assurance that a daytime count would not result in any increase in costs.

The UK Government Cabinet Office (then the Ministry of Justice) looked at cost considerations in relation to the timing of election counts, prior to the UK Parliamentary general election in May 2010, when the matter was being considered by the UK Parliament. It concluded that daytime counts were cost neutral compared with overnight counts. This is because some costs will increase while others will decrease. For example, there may be a small increased cost associated with the overnight storage of ballot boxes. On the other hand, count staff will not be employed until the day after all ballot boxes have been gathered in and are not being paid while waiting for ballot boxes to arrive at count centres, as is the case for an overnight count. The count may well be completed during the working day in a shorter amount of time than overnight because staff are able to open all ballot boxes straight away and are fresher than when working in the small hours of the morning.

However, there is a further factor in the specific circumstances of the Wales referendum on 3 March. In parts of Wales, possible severe weather has the potential to delay the arrival of ballot boxes from some localities to count centres after the close of poll. Such delay could seriously lengthen the time taken to count overnight in some areas or indeed to accomplish it at all overnight, in turn having a significant impact on the time taken to produce and certify the national result. If such a delay occurred, it would inevitably increase the overall costs of counting the poll.

## **The Chief Counting Officer's decision on the timing of the count**

The key reasons leading to the Chief Counting Officer's decision relating to the timing of the referendum count are:

### **An efficient and effective count that voters can have confidence in**

Maintaining the national nature of the count would be facilitated by starting in a coordinated manner across Wales when all ballot boxes have been received at all count centres. There is a much greater chance of achieving this if verification and counting starts the following morning after polls have closed. Staff would also be fresh and more likely to complete processes efficiently.

We understand that campaigners and political parties who responded to us wanted to see a traditional, overnight count. However, this is a national referendum which produces one overall result – 'Yes' or 'No', compared with elections that have local results for candidates and political parties. It is not combined with any elections and takes place on a specified day, 3 March.

## **Potential adverse weather conditions in early March**

There is a real risk that severe weather may cause delays to the delivery of ballot boxes from polling stations to local count centres, especially in some areas of Wales. For example, Denbighshire County Borough Council pointed out that key transport routes in the county are often closed at that time of year, which would result in a likely two hour delay in the delivery of ballot boxes. In addition, weather conditions may mean potentially hazardous roads for those officers charged with the delivery of the ballot boxes by road to count centres after 10 pm at night.

It will be important to ensure that the processes of verification of ballot papers and counting of votes are organised efficiently and effectively across Wales, in the context of producing a national result. In planning the counting of the referendum, the Chief Counting Officer must take account of the risk of adverse weather conditions could have on achieving that.

## **Greater public access to the democratic process**

A count during the day provides a greater opportunity to ensure that the delivery of the result is a democratic event in itself, which could be showcased by the media in Wales. This would ensure greater public access to the process. BBC Cymru Wales, in its response to the Commission, says that “the average audience during the results programme would be much higher if the counting was on Friday....during the likely key results slot of around 4am/4pm, the television audience could be three times higher”.

The BBC also anticipated that the impact for S4C audiences would be similar, albeit on a smaller scale and that the average radio audience would be “significantly higher for a day count than an evening count”.

ITV Wales gave a similar assessment of the likely audience for a results programme when comparing late afternoon with early hours of the morning.

Having considered all responses and the particular circumstances of the case, the Chief Counting Officer intends to issue a direction to Counting Officers that:

### **The counting of votes must not begin before 9 am on the day following the close of poll.**

The decision is subject to the passage and coming into effect of the National Assembly for Wales (Assembly Act provisions) (Referendum question, date of referendum etc) Order 2010.

The Chief Counting Officer will continue work with broadcasters, Counting Officers, campaigners and other partners to ensure that the counting of votes in the referendum is well-run and produces a result that is accepted.

For more information please contact the Electoral Commission's Wales Office on 02920 346800 or email [rthomas@electoralcommission.org.uk](mailto:rthomas@electoralcommission.org.uk)