



# Scottish council elections 2012

Report on the administration of the elections held  
on 3 May 2012

September 2012

## **Translations and other formats**

For information on obtaining this publication in another language or in a large-print or Braille version, please contact the Electoral Commission:

Tel: 020 7271 0500

Email: [publications@electoralcommission.org.uk](mailto:publications@electoralcommission.org.uk)

© The Electoral Commission 2012

# Contents

	Foreword	1
	Summary	2
1	Trust	9
2	Participation: voters	16
3	Participation: candidates	33
4	No undue influence	42
5	Counting the votes	45
	Appendices	51
	Appendix A	51

# Foreword

I am delighted to be able to introduce the Electoral Commission's first statutory report on the administration of council elections in Scotland. Our new duty to report on how well the elections were run is just one of a number of changes relating to the oversight and coordination of these elections, which have been introduced since 2007 to improve accountability and coordination in electoral administration and ensure a positive experience of local democracy for voters.

In passing the Local Electoral Administration (Scotland) Act 2011 (LEA Act) the Scottish Parliament extended the Commission's statutory remit to include Scottish council elections ensuring they would be subject to the same rigorous standards and scrutiny as parliamentary elections. Our statutory role enabled us to set standards for well-run polls and to report on Returning Officers' performance against these standards, run a voter information campaign, extend our Observers scheme, and publish plain English guidance for candidates at the elections. We set out the detail of that work in this report.

The LEA Act also set in statute the role of the Electoral Management Board (EMB) for Scotland and the Elections Convener. The Act ensured that the work undertaken since 2009 in a voluntary capacity by the EMB and the Elections Convener to improve voter centred planning and electoral coordination, could be secured by eliminating any risk that these developments would falter in the absence of a statutory obligation. I am pleased to report that the commitment to this work has been rewarded, as the elections were well-run and commanded high levels of voter satisfaction. This is testimony to the hard work of Returning Officers and Electoral Registration Officers in the planning and delivery of the elections.

While we can be pleased at the progress made, we cannot afford to be complacent. Although the average level of rejected ballots has fallen since 2007, there are communities across Scotland where the rate of rejection is unacceptably high, and more will need to be done by all of us with a role in elections to identify and address the causes of this. We must also be careful not to allow the opportunity of a break from scheduled elections in 2013 to divert our attention from the work yet to be done. In 2014 there will be a European Parliament election, a potential referendum on Scotland's future and significant changes to the electoral registration system with the introduction of individual electoral registration (IER). These will be followed by elections to the UK Parliament in 2015 and Scottish Parliament in 2016. We must use the coming months effectively to ensure that our systems are fit to deliver the best possible experience for voters regardless of the scale of the task ahead – voters expect no less of us.

**John McCormick**  
Electoral Commissioner

# Summary

## About this report and our role

This report is about the administration of the Scottish council elections held on Thursday 3 May 2012. It reflects and is informed by the experience of voters (based on public opinion research), the views of candidates and agents gathered via a survey, the views of parties who stood candidates at the election, Commission observations throughout the process and electoral data provided by Returning Officers. It also reflects feedback about the administration of the election from those responsible for delivering the poll and other participants.

The Electoral Commission is an independent body which reports directly to the UK Parliament. We regulate political party and election finance and set standards for well-run elections. We put voters first by working to support a healthy democracy, where elections and referendums are based on our principles of trust, participation, and no undue influence. We are responsible for publishing reports on the administration of elections and referendums. For council elections in Scotland we undertake a number of roles relating to the administration of the elections, for which we report directly to the Scottish Parliament.

## Facts and figures

Council elections were held in all 32 local authorities in Scotland. The last elections had taken place in 2007 for a four year term, and had been combined with the election to the Scottish Parliament. Following the issues which occurred at the elections in 2007,<sup>1</sup> the Scottish Parliament legislated to separate the two sets of elections by two years.<sup>2</sup> This would be achieved by extending the terms of office of councillors elected in 2007 and 2012 from four years to five years.

Just under four million people (3,983,185) were registered to vote in the elections held on 3 May 2012; 39.7%<sup>3</sup> (1,583,518) of them voted.

---

<sup>1</sup> The Electoral Commission, *Scottish elections 2007: The independent review of the Scottish Parliamentary and local government elections 3 May 2007* (October 2007).

<sup>2</sup> Scottish Local Government (Elections) Act 2009.

<sup>3</sup> The turnout figure in this report was revised in November 2012 following the submission of revised turnout figures from a local Returning Officer. The turnout figure originally published in September 2012 was 39.8%

Of the electorate, 15.2% (604,758 people) had a postal vote for these elections; 69.7% of them used their postal vote. Postal votes accounted for 25.5% (403,057) of all votes counted at the elections.

A total of 2,496 candidates stood to be elected for 1,223 seats in 353 wards. This was the second time that the council elections had been held using the Single Transferable Vote (STV) electoral system in wards electing three or four members. No ward was uncontested.

**Table 1 – Turnout at Scottish council elections since unitary councils established<sup>4</sup>**

1995	1999	2003	2007	2012
44.9%	58.5%	49.1%	53.8%	39.7% <sup>5</sup>

## The experience of voters

No significant Scotland-wide issues arose in the administration of the council elections. The elections ran smoothly. 75% of respondents to our survey were confident that the elections were well run, with only 12% not confident. Of the respondents to our survey, 89% who voted at the elections were confident, compared to only 59% of non-voters.

People had high levels of satisfaction with the procedure for getting their name on the electoral register – 84% of respondents were satisfied with the process, with only 1% dissatisfied.

Electors continue to have a high level of satisfaction with their chosen method of voting. Of those voting in polling stations, nearly all (98%) were fairly satisfied or very satisfied with the experience and only 1% was dissatisfied. Nearly everyone who voted by post (97%) said they were fairly satisfied or very satisfied with the process; 3% said they were dissatisfied.

Of those polled, 92% of voters said it was easy to fill in the ballot paper; only 4% said it was difficult. It was easy for most voters (96%) to find the candidates of their choice on the ballot paper, with only 3% saying it was difficult.

Not every ballot paper cast could be counted. Returning Officers (ROs) must reject ballot papers where voters' first preferences are not clear; the ballot paper cannot be confirmed as genuine; or a person has identified themselves on the

---

<sup>4</sup> In 1999, 2003 and 2007, the local government elections were held on the same day as the Scottish Parliament elections.

<sup>5</sup> This figure has been revised since first publication. See footnote 3 on page 2 for details.

ballot paper. The number of ballot papers rejected at the count by ROs was 27,042 (1.71% of the total.) This is slightly down on the number of ballots rejected as invalid at the 2007 elections, which was 1.83%. While we welcome the decrease in rejected votes, observers, candidates, agents and ROs have all commented on the numbers of ballot papers marked with multiple crosses, which were adjudicated and rejected in count centres because voters' first preferences weren't clear. We believe work is still to be done to try to reduce further the level of rejected votes, and we will work with ROs, parties and candidates to look at how awareness can be improved in order to achieve this.

In our public opinion research, the most common reasons people gave for voting related to a sense of having a civic duty to vote and feeling that it is important to do so. More than two-thirds (68%) of people gave this reason. Other common reasons given related to expressing a view (38%) and helping to create change (15%). Of people who did not vote, the most common reason given was because of circumstances preventing them from doing so (52%). This is in line with previous election surveys.

## Information for voters

We wanted to ensure that people were aware of the need to register to vote in order to take part in the elections, and how to fill in the ballot papers using numbers under the STV electoral system. We undertook a public awareness campaign to promote voter registration and education in relation to the voting system. It consisted of a booklet delivered to households; TV, radio, online and newspaper advertising; and media work.

Over half (56%) of respondents in Scotland said they knew 'a great deal' or 'a fair amount' about what the elections were about. Voters were much more likely to claim a 'great deal' or 'fair amount' of knowledge (73%) than non-voters (36%). Similarly, people who were confident that the election was well run were more likely to know a 'great deal' or a 'fair amount' (65%) than those who were not confident (29%).

## Electoral Management Board for Scotland

Although established on an interim basis in November 2008 this was the first occasion that the Electoral Management Board (EMB) had a statutory role for council elections. The EMB's duty to coordinate the administration of council elections in Scotland was an important test for the body's development, and we believe its actions contributed positively to the delivery of these elections.

The EMB faces a number of challenges in the next five years which require a great deal of commitment from its members and its advisers, and also resource to ensure that the EMB can achieve its objectives. The Commission is



committed to supporting the EMB as it develops as the national focal point for the administration of elections. The EMB's development in a statutory sense is, however, still not complete, as it continues to have no statutory duties in relation to parliamentary elections and we recommend that this should be addressed by both the Scottish and UK Governments.

## Regulation of campaigning and advice for candidates

The Commission has no statutory power to publish guidance on candidate expenses for candidates standing at Scottish council elections, or to give advice on specific issues on request. We have provided assistance to candidates in 2003, 2007 and 2012 at the request of the Scottish Government. This arrangement should be reconsidered by the Scottish Government for future council elections.

The 2012 elections highlighted a number of issues relating to the regulation of campaigning by candidates, political parties and other campaigners. We recommend that the arrangements for regulating campaigning at future Scottish council elections should be thoroughly reviewed by the Scottish Government before the next set of elections scheduled for 2017, in time to allow any necessary legislative changes to be in place for those elections.

## E-counting

The election rules required the ROs to make arrangements for the counting of votes as soon as practicable after the close of poll, and that the votes would be counted by electronic means. The use of e-counting in 2012 meant that political and media focus would be on the counting process, as a number of problems had occurred with the 2007 e-counting solution. In the event, the use of e-counting on 4 May 2012 went well, with only minor issues occurring in a few count centres which were dealt with by the RO concerned.

The next ordinary elections for Scotland's councils are scheduled to take place in May 2017. Adequate time for the planning process is vital, and this should begin at least three years in advance of the elections as, we understand, is recommended in the Project Board's legacy document. We are aware that both the EMB and the Scottish Government support this view, based on their experience of the 2012 e-counting project.

The Scottish Government was ultimately responsible for the e-counting project, despite the fact that ROs are responsible for their own elections. We reiterate the recommendation made in our 2008 report, *Electoral Administration in Scotland*, that the EMB should take responsibility for such matters on behalf of all 32 ROs.



# Summary of recommendations

We have provided below a summary of each of the recommendations made in our report along with the corresponding paragraph number where more detail is provided.

## **Recommendation 1 – Publication of a ‘national result’ (para 1.13)**

We recommend that the EMB – as the co-ordinating body for ROs – is best placed to publish national information following the conclusion of the counts.

## **Recommendation 2 – Developing the EMB’s capacity to coordinate polls (para 1.15)**

We recommend that the EMB undertakes work now to strengthen their structures and processes for delivering the national coordination of polls, before any elections and referendums take place in 2014.

## **Recommendation 3 – Extending the EMB’s statutory remit to parliamentary elections (para 1.17)**

We continue to recommend that the EMB’s statutory remit be extended to cover all parliamentary elections in Scotland.

## **Recommendation 4 – Display of election posters on council property (para 2.16)**

We recommend that discussions take place between councils, Cosla, political parties and the EMB regarding local bans on the display of election posters on lamp posts and other council property.

## **Recommendation 5 – Issuing ballots to voters in a queue at 10pm (para 2.34)**

We recommend that the legal provision for voters queuing at 10pm to be issued with a ballot paper should be put in place for all statutory elections in the UK.

## **Recommendation 6 – Regulations governing Royal Mail (para 2.46)**

We recommend that the EMB initiate discussions with Royal Mail and other appropriate bodies regarding the potential impact on voters of regulations which restrict the Royal Mail from collecting mail from Returning Officers on Sundays.

## **Recommendation 7 – Refreshing the signatures of postal and proxy voters (Para 2.58)**

We recommend that the provisions in the Electoral Registration and Administration Bill before the UK Parliament, which would allow EROs to request an up-to-date signature and notify electors that their postal vote statement had been rejected, should be brought into force immediately following Royal Assent. We recommend equivalent legislation be made by Scottish Ministers as soon as possible, and at least in sufficient time for the 2017 Scottish council elections

### **Recommendation 8 – Availability of emergency proxy (para 2.69)**

We recommend that the Scottish Government extends the emergency proxy provisions to those who are unable to attend the polling station or apply to vote by post due to unforeseen circumstances. This should be done in time for the 2017 local elections or sooner if possible.

### **Recommendation 9 – Minimising rejected votes (para 2.73)**

We recommend that further work be undertaken to reduce the level of rejected votes at council elections. The Commission will work with ROs and political parties to identify any improvements we can make to the quality of voter information received on doorsteps, in the polling stations and postal ballot packs and as part of our public awareness campaigns.

### **Recommendation 10 – Regulation of campaigning at council elections (para 3.1 – 3.34)**

We recommend that in good time before the next set of Scottish council elections, the Scottish Government should review the arrangements for the regulation of campaigning at council elections. In particular this review should consider:

- how candidate spending should be regulated and how candidates and agents should be supported to comply with the rules
- introducing controls on the sources and reporting of donations
- revising spending rules to include a specific list of items that count against the spending limits for candidates
- whether candidate spending limits are set at the right level to facilitate campaigning
- whether party campaign limits should be introduced for council elections
- whether controls on general campaigning by non-party campaigners should apply at council elections.

Political parties that contested the 2012 elections, the Crown Office and Procurator Fiscal Service, the Commission and any other interested stakeholders should be consulted on these issues.

### **Recommendation 11 – Candidates employed by ‘arms-length’ organisations (para 3.35)**

We recommend that the Scottish Government reviews the rules to provide clarity on whether candidates employed by ‘arms-length’ bodies delivering council services would be required to resign from their employment in order to be a councillor at the relevant council.

**Recommendation 12 – Imprint requirements (para 3.41)**

We recommend that the Scottish Government reviews campaigning rules to provide clarity on imprint requirements. We will also review our guidance for candidates and agents to ensure it provides clear advice on imprint requirements.

**Recommendation 13 – Learning from e-counting experience**

We recommend that the EMB liaises with the Greater London Returning Officer (GLRO) to identify any relevant lessons from the use of e-counting at the London Mayoral and Assembly elections.

**Recommendation 14 – Coordination of e-counting contract (para 5.20)**

We reiterate our recommendation made in 2008 that the EMB should take responsibility for the procurement and management of the Scotland-wide e-counting contract.

**Recommendation 15 – Count verification (para 5.25)**

We recommend that ROs supply the result of the count verification process to candidates before the count is concluded and results declared, in order to provide candidates with the opportunity to question the result

**Recommendation 16 – Aggregation of voting data (para 5.28)**

We recommend that the EMB consider how the aggregation of data from polling stations with less than 200 votes cast can be carried out electronically as part of the e-counting at future council elections.

# 1 Trust

1.1 People should be able to trust the way our elections and our political finance system work. This chapter looks at whether people thought the elections were well run, and gives an overview of the performance of Returning Officers (ROs) in Scotland and the Electoral Management Board for Scotland (EMB).

## About the elections

1.2 Council elections in Scotland are normally held on a four-year cycle. However, following the 2007 combined elections for the Scottish Parliament and Scotland's 32 councils, the Scottish Parliament passed the Scottish Local Government (Elections) Act 2009 which de-coupled the council elections from those to the Scottish Parliament. The aim was to place the council elections at the mid-term point of the Scottish Parliament four-year term. This was achieved by extending the term of councillors elected in 2007 by one year, and those elected in 2012 to have a five year term of office. Thereafter councillors will again serve for four years.

1.3 People were voting for 1,223 councillors in 353 wards across Scotland's 32 councils. There are 189 three-member wards and 164 four-member wards. One more councillor was elected than in 2007, as an extra member was allocated to the Bathgate ward of West Lothian Council by the Local Government Boundary Commission for Scotland.

1.4 Due to the death of a party candidate, the poll in the Dunoon ward of Argyll & Bute Council did not take place on 3 May. As required by the election rules, the RO postponed the poll until Thursday 10 May, the first day on which the new poll could be held. The party who had nominated the candidate had the opportunity to nominate a new candidate but chose not to do so. Any existing candidate could also withdraw from the election but they all chose to remain in the contest.

1.5 At the same time as the elections in Scotland, elections were held in all 22 councils in Wales and 143 councils in England. Elections were held across London for the Mayor of London and 25 London Assembly members. Mayoral referendums took place in 10 English cities<sup>6</sup> to determine whether or not to introduce directly-elected mayors, and a referendum was held in Doncaster to decide whether or not to retain their existing elected mayoral system. There were also mayoral elections in Liverpool and Salford. The reports on these electoral

---

<sup>6</sup> Birmingham, Bradford, Bristol, Coventry, Leeds, Manchester, Newcastle, Nottingham, Sheffield and Wakefield.

events can be found on our website at [www.electoralcommission.org.uk/publications-and-research/election-reports](http://www.electoralcommission.org.uk/publications-and-research/election-reports).

## Were the elections well run?

1.6 The May 2012 Scottish council elections ran smoothly and no significant Scotland-wide issues arose in the administration of the elections. This is a tribute to all the hard work undertaken by thousands of people across Scotland.

1.7 A number of changes were made to the election rules for the 2012 council elections. It was the first occasion that the EMB existed with a statutory role for council elections since the passing of the Local Electoral Administration (Scotland) Act 2011. The EMB has a statutory duty to coordinate the administration of council elections across Scotland. It is led by Elections Convener, Mary Pitcaithly, who is also RO for Falkirk. The EMB comprises a further five ROs and three Electoral Registration Officers (EROs). The EMB can coordinate the elections in the way it believes most appropriate. To aid it in its duty, the Elections Convener has a power of direction over other ROs and the EROs.

1.8 The Local Electoral Administration (Scotland) Act also meant the Commission, for the first time, had a statutory remit covering the administration of council elections, and a public awareness duty similar to that which it has in Scotland for all parliamentary elections. We welcomed these additional duties for which we report to the Scottish Parliament. Previously, we had undertaken various roles on behalf of the then-Scottish Executive in 2003 and 2007 under a memorandum of understanding.

1.9 The Scottish Government introduced a new election rule,<sup>7</sup> which we welcomed, allowing anyone in a queue by 10pm who had not yet been given a ballot paper to receive a ballot and cast their vote even if this was after 10pm. Some electoral administrators initially felt the legislative provision was unworkable. We met with representatives of the EMB and the Scottish Government to draft workable guidance on how to manage any queues that might arise at the close of poll. Following these discussions we published guidance for both ROs and polling station staff that was widely accepted as helpful and workable. This guidance was used at the elections as a very small number of people were in a queue at a polling station at 10pm and were allowed to vote thanks to the change in the rules.

---

<sup>7</sup> Rule 33(6), Scottish Local Government Elections Order 2011.

## What voters thought

1.10 Overall people in Scotland were confident that the elections were well run. Our public opinion research found that 75% of people and 89% of voters surveyed in Scotland were confident that the council elections were well run. This is similar to Great Britain as a whole, where 74% of people were confident that the polls were well run. People had high levels of satisfaction with the procedure for getting their name on the electoral register. Of respondents, 84% were satisfied with the process, with only 1% dissatisfied.

## The Electoral Management Board for Scotland

1.11 The actions of the EMB contributed positively to the delivery of the elections. Although established on an interim basis in November 2008 this was the first occasion that the EMB had a statutory role for council elections. The EMB's duty to coordinate the administration of council elections in Scotland was an important test for the body's development, and it undertook a variety of tasks to achieve its objective which we outline below. While individual ROs are responsible for managing the election in their local area, and are ultimately accountable to the courts for their actions, the EMB and its Elections Convener provided a central focus of practitioner advice, best practice and experience, and through its actions positively coordinated the delivery of the elections.

1.12 The EMB meets on a regular basis and its remit includes the operational detail of planning the delivery of the election at the national level, providing practitioner advice from within the electoral community, additional advice, guidance and information in its bulletin to its membership, through to the more strategic consideration of legislation and policy. The EMB and the Elections Convener undertook roles and tasks which were important for the effective delivery of the election, such as:

- the Elections Convener escalation procedure among ROs to allow discussion of issues arising locally, and considering options for ways forward which could have impacted elsewhere or nationally in the immediate run-up to polling day
- consideration by the Elections Convener of regular performance monitoring reports from the Electoral Commission, and taking action on any issues arising for resolution
- national advocacy by practitioners to practitioners of consistent good standards of service to voters, candidates and agents
- provision of guidance and supplementary guidance further to that provided by the Commission on ballot box seals and adjudication of doubtful ballots
- development and advocacy of guidance to ROs on the provision of information to candidates and agents, with emphasis on count centres
- consultation on timing of counts leading to the Election Convener's direction on the timing of counts

- contribution to the development of a consistent approach to the preparation of post-election data
- the work of the EMB's forms sub-group to develop consistent and good quality non-statutory forms to compliment the work undertaken by the Commission on statutory forms
- the EMB's Communications Network working with, and separately from, the Commission to ensure public awareness messages were consistently delivered

1.13 The rationale behind the creation of the EMB was the intention to bring clear benefits to the voters in Scotland through the delivery of better and more consistent electoral administration. In the days following the election a debate took place amongst politicians and in the media as to who had 'won' the election and what the national turnout had been. No one body is charged with providing the 'national result' in the sense of who amongst the parties had won most first preferences, and what the percentage share of the poll was for the various parties at a national level. It is of course the duty of the individual 32 ROs to declare and publish the 353 ward results. We recommend that the EMB is best placed to provide such national information, as it is the coordinating body for ROs and particularly in the context of an e-counted council election, could easily collate and provide such data.

1.14 The EMB is currently undertaking its own post-election evaluation and it will also be reporting to the Scottish Parliament on its activities. It will be important for the EMB not to lose the momentum they have built in the last year and to develop clear strategies for strengthening coordination of elections in Scotland and driving up standards for voters. The next five years will be a significant period for the EMB and the Elections Convener. They face the challenges of establishing their presence amongst stakeholders, consolidating their role as the public face of electoral administration in Scotland, and developing the administrative procedures which will underpin their future development, including communications, corporate and operational planning. It will be important for them to develop robust plans and identify the resources they will need to achieve these plans.

1.15 We recommend that the EMB takes the opportunity it is presented with to focus on putting robust structures and processes in place before facing a number of challenges in 2014 as it leads planning for the European Parliament elections, preparations and delivery of the proposed Scottish referendum, the introduction of Individual Electoral Registration (IER), the UK and Scottish Parliamentary elections and the next cycle of council elections in 2017.

1.16 Continued commitment from EMB members and that of its advisers is necessary to meet the challenges faced, as well as the necessary resource to help it achieve its objectives. The Commission is committed to supporting the EMB; it is an important body as only it provides national coordination of ROs and EROs in Scotland.



1.17 The EMB's development in a statutory sense is still not complete however, as it continues to have no statutory duties in relation to parliamentary elections, and we recommend that this should be addressed by both the Scottish and UK Governments.

## Performance of Returning Officers

1.18 ROs in councils are responsible for the conduct of elections. We use a performance standards framework to highlight where elections are well run and to challenge ROs where the service received by electors is below standard. We publish online guidance to ROs on all aspects of the administration of elections, along with templates and other resources, which assist them in meeting the performance standards. We also provide specific guidance and advice on request. Our guidance and performance standards have been developed in consultation with ROs, electoral administrators, and other key stakeholders.

1.19 Underlying our performance standards framework, and published guidance, is a commitment to ensuring that elections and referendums are conducted with the interests of voters in mind, in line with our key objectives of participation, trust, and no undue influence. Our standards focus on outcomes and the completion of some key processes (with measurable outputs) that are predictive of well-conducted elections.

1.20 Rather than ask ROs to report on their performance after the poll, we assessed performance in the run-up to polling day. All ROs were required to submit monitoring returns at pre-determined points demonstrating their performance against the standards. This enabled us to monitor performance throughout the process of planning for and delivering the election, and, in the case of Scottish council elections, to communicate any issues to the Elections Convener so that she could recommend or direct improvements as she saw fit prior to polling day. We also separately monitor the performance of Electoral Registration Officers (EROs) in Great Britain.<sup>8</sup>

1.21 We also assessed supporting data and evidence from 15% of all ROs.<sup>9</sup> Our pre-poll monitoring and follow-up activity with ROs provided us and the Elections Convener with sufficient assurance that the polls were being planned for and delivered effectively. In addition we provided feedback to each of the ROs in our sample, including in some cases making recommendations where the quality of evidence could be improved for future elections.

---

<sup>8</sup> Our latest annual assessment of ERO performance can be found on our website: [www.electoralcommission.org.uk/performance-standards](http://www.electoralcommission.org.uk/performance-standards).

<sup>9</sup> We select ROs for our sample based on a number of factors, including - past performance, length of time that the RO/Depute RO has been in post, and any other local knowledge that we hold.

1.22 This report summarises the performance of ROs in Scotland against the standards. In addition to this summary, information about the performance of individual ROs is available on our website, in a chart-based format that enables comparison with ROs from other councils.

## Summary of performance

1.23 Our performance standards and our published guidance are grouped into five key subject areas representing the most important areas that ROs should focus on when preparing for and delivering a well-run election:

- Planning and organisation
- Administering the poll
- Absent voting
- Verifying and counting the votes
- After the declaration of results

1.24 No major issues arose in the administration of the elections, and all ROs in Scotland met the requirements of our performance standards.

1.25 Our revised performance framework gives ROs the opportunity to show where they have performed beyond the requirements of our standards, and to demonstrate creativity and innovation. We are currently assessing the evidence supplied by those ROs who have reported performing beyond the standards, and will publish the outcome in due course for the whole of Great Britain.

## Planning and organising the elections

1.26 The objective of our performance standards for ROs is to make sure that adequate preparations are made in advance. This is to ensure that specific risks to the successful conduct of the election are identified and properly managed and that the poll is well-run. The EMB also has a duty to ensure the effective coordination of Scottish local government elections, and therefore worked with ROs to ensure that robust plans were in place.

1.27 All 32 ROs confirmed to us that they had plans and risk registers in place and that these contained detail addressing the criteria set out in our performance standards.

1.28 We reviewed in detail copies of the plans and risk registers from a sample of 15% of ROs. We found that the plans met our performance standard, and we gave some recommendations on points of quality. We supplied the Elections Convener with a report on all returns received within five days of each return deadline. The reports satisfied her that all ROs were prepared for the elections. The Convener also became aware of emerging issues from other sources, including from ROs, and took steps to address these as appropriate. The final outcome of our monitoring of ROs' planning of the elections was that all 32 ROs met the performance standard. This showed that suitable and

sufficient preparations had been made across Scotland for the delivery of the elections.

1.29 At a Scotland-wide level, we held a conference in December 2011 to consider pre-election planning matters designed to consider issues with ROs, Depute ROs and EROs. In February and March 2012 we held four regional briefings which considered more practical matters relating to postal votes, polling day and the count. These sessions also included a training session on forensic signature recognition. All these events were co-hosted and organised in consultation with the EMB.

## 2 Participation: voters

2.1 It should be straightforward for people to participate in elections, whether voting or campaigning, and people should be confident that their vote counts. People, and those who voted in particular, had a generally positive view of the process of voting in the elections held in Scotland on 3 May. This chapter focusses on how we and others sought to inform people about the elections, and whether they felt able to participate easily and with confidence.

### 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 undertaken annually in the autumn, usually 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'. This enables people who have moved home during the year or missed the annual canvass to register.

### Who could vote

2.4 The following people were eligible to vote in the elections if they were aged 18 or over and on a local government electoral register in Scotland on polling day:

- a British citizen living in the UK
- a qualifying Commonwealth citizen<sup>10</sup> living in the UK
- a citizen of the Irish Republic living in the UK
- a European Union citizen living in the UK
- registered to vote as a Crown Servant
- registered to vote as a service voter

2.5 British citizens living abroad and registered as overseas electors are not eligible to vote in local elections.

---

<sup>10</sup> To qualify Commonwealth citizens must live in the UK and either have leave to enter or to remain, or not require such leave.

## Number of people registered to vote

2.6 Just under four million people (3,983,185) across the 32 Scottish councils were registered to vote on 3 May. At the previous council elections in 2007, 3,897,675 were registered to vote.

2.7 Data collected from Electoral Registration Officers (EROs) shows that 37,152 people, or 0.9% of the electorate, successfully applied to register between 9 March when the last scheduled update to the registers was made, and the final deadline to be registered in time for the council elections, which was 18 April 2012.

2.8 Data collected from EROs and Returning Officers (ROs) also suggests that at least 281 people went to polling stations wishing to vote but were unable to do so because they were not registered. A further 4,345 people tried to register after the deadline, up to and including on polling day itself.<sup>11</sup> Some of these may have been registered at a previous address but others may not have been registered to vote at all, and would not have been able to cast a vote.

2.9 The facility to allow voters to register close to the election 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 view rolling registration (updating the register monthly) and the 11-day deadline as a valuable facility for voters.

## Public awareness

2.10 The Local Electoral Administration (Scotland) Act 2011 gave the Electoral Commission for the first time a statutory duty to promote public awareness of the council elections. In carrying out this duty, the Commission worked closely with ROs in Scotland, who have a power to promote public understanding of the local government elections. The Communications Network of the EMB comprises communications professionals from all councils and staff of the EROs, where electoral registration is provided via joint board arrangements in Scotland. This group met in early December to share planned activity and public information materials ahead of the election, with the aim of increasing the reach of voter information messages; ensuring the efficient use of resources and minimising the risk of contradictory messages being disseminated across Scotland.

2.11 The Commission ran a multi-media public information campaign from 19 March to 3 May, to increase public understanding of how to register and vote in

---

<sup>11</sup> Based on information received from 28 of the 32 ROs.

the council elections. The campaign, which carried the message 'It's your vote, don't lose it', had two distinct but overlapping phases:

- **Registration phase:** The first phase focussed on raising public awareness of the need to register in order to vote, how to register and the deadline for doing so. The campaign's key message during the registration phase was 'It's your vote, don't lose it'.
- **Voting information phase:** The second phase aimed to raise awareness of how to vote using the Single Transferable Vote (STV) system, so that voters were able to complete their ballot papers confidently using numbers in order of their choice. An information booklet was sent to households in Scotland with details on how to fill out the ballot paper. Advertising directed people to look out for this booklet.

2.12 The campaign advertising was launched over a number of weeks, with online advertising beginning on 19 March 2012, radio and press advertising on 26 March 2012 and TV activity on 1 April 2012. The information booklet was scheduled for delivery from 2 to 14 April, so that postal voters would receive it before they completed their postal votes and registration messages could be disseminated before the deadline for registration.

2.13 We carried out media activity in the print and broadcast media which also included information for voters on how to participate in the elections. This activity included coordinating a photo call with representatives of all political parties in the Scottish Parliament, with a message to the public on registering to vote.

## Communications Network and council activity

2.14 Working with the Communications Network of the EMB, we also arranged a set of giant numbers to tour Scotland ahead of the elections, to promote discussion about voting with numbers. This joint activity allowed for the numbers to be used in photo calls and activity in 26 of the 32 council areas, and maximised opportunity for coverage in local press. The giant numbers also generated national news stories.

2.15 The councils carried out a wide range of local activity including traditional press releases and poster campaigns in public spaces. Some utilised council vehicles to carry advertising about the election. Activity in 2012 saw a significant increase in the use of social media by councils, with widespread use of Twitter, Facebook, YouTube and blogging sites and some well-developed web pages.

2.16 In our report on the 2003 Scottish elections,<sup>12</sup> we noted that not all councils allowed election posters to be placed on lampposts. We commented that allowing posters to be displayed helped to create the backdrop of the election and highlighted awareness of the event taking place. Since 2007, a further third of councils have prohibited this practice so that only 11 councils still allow candidates to put posters on lampposts. We believe that the issue of use of street furniture for political party posters near the date of an election should be reviewed as it may encourage participation at elections. We will seek discussion in Scotland on this matter with councils, Cosla, the parties and the EMB.

## Partnership with others

2.17 We also worked in partnership with organisations with particular expertise in reaching those who might experience barriers to registration or voting. This included working with disability networks to raise awareness about the availability of accessible versions of the voter information booklet. We worked with the Care Commission and the Scottish Human Rights Commission to produce information for care home staff on supporting residents to participate in the election, and this was sent to every care home in Scotland. Shelter Scotland also worked with us to reach people in the social rented sector and those at risk of homelessness, with information about how they could register and vote.

## Information about how to vote

2.18 During the registration campaign, we also launched a voter information campaign to inform people of a booklet that would be arriving which explained the voting system. The adverts explained that the voting system was different and that the booklet would explain how it was different. We deliberately kept the messaging around how to vote at a high level, following the results of creative testing with various audience groups. During testing, many people said that if the advertising talked about how to vote, they would switch off because 'they know how to vote'. However, by explaining that the system was different and used numbers, it was sufficiently engaging to want to find out more.

2.19 Voter information on how to vote is never just confined to public awareness activities, but also encompasses work with ROs and their staff through the EMB to ensure good postal vote pack design and graphic polling booth posters are provided and used to ensure good quality information is available at the point when the voter is completing their ballot paper. We also provided template training slides for ROs to adapt and use to train polling station staff. Also ROs were encouraged to ensure that all presiding officers

---

<sup>12</sup> The Electoral Commission, *Scottish elections 2003: The official report on the Scottish Parliament and local government elections 1 May 2003* (November 2003).



actively reminded voters that they used numbers to fill in the ballot paper when handing over the ballot paper in the polling stations.

## Effectiveness of our public information campaign

2.20 As with previous campaigns, all advertising, media and community work directed people to the Commission's [www.aboutmyvote.co.uk](http://www.aboutmyvote.co.uk) website for further information and to access voter registration forms. During the campaign period the website received 732,000 visits, with 146,000 downloaded voter registration forms across Great Britain. It is estimated that approximately 29,000 of these registration forms were downloaded in Scotland, exceeding the target of 15,000. We also set up a campaign telephone helpline to answer voter queries from across Great Britain. Our helpline received around 12,500 calls during the campaign period. Of these calls, 27% (3,375) related to the Scottish council elections.

2.21 We carried out research<sup>13</sup> before, during and after the campaign with members of the public to measure its success. The research found that 65% of those surveyed said they were aware of at least one element of our registration campaign, with 50% saying they had seen the TV advertising and 26% hearing the radio advertising. In addition, 84% of people said that the adverts made it clear that you had to register to be able to vote, and 69% said it was clear where to go for further information.

2.22 Of those surveyed, 68% said they were aware of at least one element of our voter information campaign, with 58% saying they saw the TV advertising and 29% hearing the radio advertising. In addition, 73% of people said that the adverts made you realise you vote using numbers rather than a cross in these elections, and 67% of people said the adverts made it quite clear that you would be receiving (or should have received) a booklet explaining how to vote in the next elections. A further 67% of people said it was clear where to go for further information, and 38% of people recognised the information booklet. Of those surveyed, 63% knew the elections were for the local council.

## Reports of non-delivery of voter information booklet

2.23 During the campaign period, there were a number of reports of voters not receiving their booklet. Where address information had been supplied, or could be gathered, sporadic reported cases of non-delivery were directed to Royal Mail for investigation (through the company the Commission had contracted to manage delivery of the booklets). During the door-drop, a cluster of individuals in Shetland reported not receiving the booklet and as a result we requested an investigation. It emerged that three council areas (Orkney, Shetland and

---

<sup>13</sup> Face-to face interviews were conducted with the following sample sizes: 22 February – 1 March (948 people), 25 April – 2 May (905), 23 May – 31 May (968).

Western Isles), and one postcode area in the Highlands, had been omitted from the distribution list, with the result that 36,194 households were not initially sent booklets.

2.24 As soon as the issue was reported (Thursday 19 April), we arranged for additional booklets to be printed. Our contractor supported us to ensure deliveries were made before 3 May, booking the additional door drop in four days rather than requiring the usual three-week lead time. Royal Mail also provided support to help ensure the booklets were delivered to the affected postcodes ahead of polling day.

2.25 The Commission undertook a review with our contractor of what happened, and will ensure controls are in place to avoid a similar problem at future elections where a booklet distribution is part of our public awareness plans.

2.26 Upon the conclusion of the campaign, an independent audit of the door drop was undertaken to establish the percentage of households who had received their booklet. The findings indicated that only 73% of households reported that they had received the booklet. This was below the range of 85% to 95% typically expected by the auditor, and far below the 94.1% delivery rate in Scotland reported in the audit for the May 2011 polls door drop. However, in order to gain a better understanding of whether **reported** non-delivery was evidence of **actual** non-delivery, a control group had been established where we could verify that the booklet had been delivered to 100% of households in that group. The results from the control group indicated that despite the fact that we could verify a 100% delivery rate, only 86% of those households reported having received the booklet. It appears that there may have been significant under-reporting by the public which contributed to the low reported rate. In advance of any future campaigns which include the delivery of a booklet, we will consider whether changes to the design of the front (and back) cover could lead to improved rates of recognition.

## People's experience of voting

2.27 A total of 1,583,518 people voted in the elections for Scotland's 32 councils (39.7%<sup>14</sup> of those eligible to vote.) It is difficult to make useful comparisons between turnout at these elections and previous local polls. It would be misleading to compare this year's figure with any Scottish council election turnout from 1999-2007 because council elections in Scotland were held on the same day as elections to the Scottish Parliament. It is widely accepted that the higher profile elections to Parliament boosted turnout at council elections during this period. In addition, although turnout in 2012 was

---

<sup>14</sup> This figure has been revised since first publication. See footnote 3 on page 2 for details.

around five percentage points lower than that recorded at the last standalone council elections, the seventeen-year gap between these polls, and the range of relevant changes in the intervening period, makes it difficult to offer a confident view on the reasons for any difference. For example, the 1995 elections were held in a different political landscape – in the absence of the Scottish Parliament and around the time that some elections in the UK started to record falling turnouts.

## Why people did and did not vote

2.28 In our public opinion research, the most common reasons people gave for voting related to a sense of having a civic duty to vote and feeling that it is important to do so. Of those surveyed, 68% of people gave this reason. Other common reasons given related to expressing a view (38%) and helping create change (15%). These findings were broadly similar across all elections in Great Britain held on the same day, and reflect what we have found in surveys following previous elections.

2.29 Of those people who did not vote at the council elections in Scotland, 52% said this was because of circumstances preventing them from doing so, in line with previous election surveys. This was similar to those areas in England with local elections (52%). However, non-voters in Wales were less likely to give circumstantial reasons (43%).

## Did people feel informed about the elections?

2.30 Of people surveyed in Scotland, 56% said they knew what the local elections were about, with 12% saying they knew 'a great deal' and 45% saying 'a fair amount'. However, 31% said they knew 'not very much' and 12% said they knew 'nothing at all'.

2.31 In Scotland 65% of people surveyed agreed they had enough information to make an informed decision on how to vote, which compared with the 76% of London voters who felt they had sufficient information. Voters in Scotland (80%) were more likely to say they had enough information than non-voters (48%).

## Poll cards

2.32 Poll cards contain information that tells voters what election is taking place, when it will be held, where they can vote and the last date for applying for a postal or proxy vote. The law requires that poll cards are despatched 'as soon as practicable' after the notice of election has been published. Our performance standards for ROs set deadlines for despatching poll cards. For these elections, the deadline was no later than 21 working days in advance of the election – that is, no later than 2 April. Our performance monitoring identified this standard was met by all ROs across Scotland.

# Voting in polling stations

## People's experience of voting in polling stations

2.33 In Scotland 78% of people surveyed believed that voting at a polling station was convenient. Of those who voted in polling stations, nearly all (98%) were satisfied with the experience. Of these, 69% were very satisfied. Only 1% were dissatisfied. This is consistent with our findings in Scotland after the Scottish Parliamentary election and referendum in 2011.

2.34 The revised rules for these elections allowed polling station staff to issue ballots to those who were in a polling station queue at 10pm. We are aware of three people who arrived at their respective polling stations in South Lanarkshire just before the close of poll but had not been issued with a ballot paper by 10pm on 3 May. The voters were able to vote. While adequate planning and staffing of polling stations remains the priority for the avoidance of queues at the close of poll, the evidence from South Lanarkshire clearly demonstrates that no degree of planning can entirely mitigate the potential for queues. We believe that the Scottish Government's legislative provision to enable the issuing of ballot papers to those who have arrived at the polling station by the close of poll is a wise backstop which puts the interests of voters first, and we continue to recommend that similar provisions be made for all other statutory elections in the UK.

## Accessibility of polling stations

2.35 Nearly all voters at polling stations (99%) said it was easy for them to get inside their polling station to vote, with 91% saying it was very easy. When asked about the atmosphere inside polling stations 99% of voters agreed that it was 'well ordered'. A further 99% said that it was 'safe' and 98% thought their polling station was 'well run by staff'.

## Information for voters in polling stations

2.36 Over three-quarters (76%) of voters in Scotland felt that the help and support available from polling station staff was useful. A smaller proportion, 67%, said that the written instructions, posters or guidance was useful. 4% said they did not find the materials useful. Nearly a third of respondents to the survey (28%) said they did not need or use them. This is a fall from our post poll survey in 2011, when 77% of those surveyed found the displayed guidance useful. However, more polling place voters in Scotland said that they didn't use or need the written instructions than at the election and referendum in 2011 (28% compared with 20% in 2011), rather than an increase in those who did not find the materials useful (4% v 3% in 2011).

2.37 We will examine why only two-thirds (67%) of voters found the written instructions useful to see what improvements can be made for future elections

or what was different from 2011. One possibility is that the clear instruction to Presiding Officers to pro-actively tell voters to use numbers when completing the ballot paper may have made the written/graphic materials redundant for some voters.

## Accessibility of information for voters

2.38 We want to ensure that all voters share a consistent experience and receive the same high quality service irrespective of where they are registered to vote. Our performance standards aim to ensure that all ROs provide all materials in accessible formats that are easy for voters to use and understand.

2.39 We provided template poll cards, postal voting statements and 'guidance for voters' notices for ROs to use. Our templates are produced in line with our published good practice design guidance (Making Your Mark) for voter materials, based on research conducted with voters and existing good practice for accessible communications.

2.40 All ROs in Scotland met our performance standard for production of voter materials, telling us that they either used our best practice templates or used their own forms and notices designed in line with criteria set out in our guidance.

## Voting by post

### People's experience of voting by post

2.41 Just over half (53%) of all those surveyed thought that voting by post was convenient, with 97% of postal voters saying this.

2.42 Nearly everyone who voted by post said they were satisfied with the process. Of those surveyed, 96% said that it was easy to understand what had to be done in order to return their postal vote. The vast majority of postal voters, 97%, also found the written instructions on how to return their vote useful.

2.43 We set performance standards for ROs to ensure that the absent voting process is conducted in a professional, transparent and secure manner, and to ensure all absent voters share a consistent experience and receive the same high-quality service irrespective of where they vote.

2.44 ROs were asked to confirm that postal voting statements were produced in accordance with the template statements we provided or designed in line with the criteria set out in our published guidance. All 32 ROs gave this confirmation.

2.45 The postal ballot packs for North Lanarkshire were designed in line with the guidance but the RO also included additional pictorial guidance which contained an error. One of the illustrations in the additional guidance advised postal voters to use an 'X' to complete the ballot paper rather than numbers to express their preferences.

2.46 The error was discovered on Saturday 21 April. The RO issued the correct information to voters on Monday 23 April and offered to replace any voter's ballot which they had returned if they thought they had followed the wrong instructions. The RO wanted to send a letter to all postal voters advising them of the error on Sunday 22 April. However, the regulations governing Royal Mail mean they must offer the same service to all users and so cannot collect mail from one customer on a Sunday. As such, the letters could not be posted until the next day. The EMB should discuss this matter with the appropriate bodies.

2.47 To meet our performance standards, ROs were also required to tell us their scheduled and actual date of dispatch of postal votes. This was to be between eleven and eight working days before the poll, except for those voters added to the register on the fifth day before polling day. This enabled us to monitor that postal votes across Scotland were dispatched in a timely fashion in accordance with legal deadlines. All 32 ROs met the performance standard and we informed the Elections Convener of the EMB of this in our regular update to her.

2.48 The 2012 council elections were the first with an extended timetable which included a longer period of time between close of nominations and the first day ROs could issue postal votes. The additional time enabled ROs to work with their printers to ensure that all postal ballot packs were ready for dispatch at the earliest opportunity.

2.49 The RO for Dumfries & Galloway Council became aware on 24 April that 896 postal ballot packs were delivered that did not contain ballot papers despite checking procedures being in place. This omission occurred due to a member of the print company's staff not following the agreed procedures and quality control checks. The print company was able to deliver new and complete postal voting packs on 25 April so that they arrived with voters on 26 April. The RO hand-delivered replacement postal packs to nine postal voters who telephoned the council to say they would not be available to receive their pack on or after 26 April. In addition, the RO and his staff made as much information public as possible through the press, local radio, the council website, information for council call centre staff and a letter sent to all affected postal voters. He also advised the candidates and local councillors.

## Levels of postal voting

2.50 In total 604,758 people (15.2% of electors) were issued with a postal vote for the council elections. This compares with 14.1% at last year's Scottish Parliamentary election, which uses the same franchise. In 2010 the rate was 13.2%, 11.2% in 2007 and 3.6% in 2003. The trend of increasing numbers of Scottish voters opting for a postal vote continues, although slowing in rate of increase. A smaller proportion of the Scottish electorate has tended to be issued with a postal vote than is the case in England and Wales, but this gap has narrowed slightly this year, and the figure in Scotland was only 1.3 percentage points lower than the 16.5% recorded in England, and 2.3 percentage points lower than the 17.5% in Wales. This gap has tended to fluctuate, and depends



in part on which parts of England have elections: the number issued was higher at the 2011 Parliamentary Voting System referendum in England than Scotland (by 2.2 percentage points) than at elections in 2007 when only some English local authorities had elections (by 1.7 percentage points). There will be a clearer picture of how far levels of postal voting uptake in Scotland are in line with those elsewhere when there is another electoral event covering the whole of Great Britain. The deadline for applying for a postal vote was 11 working days before the election, which was 18 April 2012, at 5pm.

2.51 People who vote by post continue to be significantly more likely to vote than people who vote in polling stations. Of those registered to vote by post, 421,755 people returned their vote. Turnout of postal voters was down to 69.7% compared with 77% at the Scottish Parliamentary election in 2011. However, it was still higher than turnout among electors who voted in person (34.9%) and postal ballots accounted for 25.9% of all votes counted at the election.

## Invalid postal votes

2.52 Of the 421,755 postal votes returned to ROs, 16,742 were reported by ROs as having been rejected as invalid (4.0% of the total returned.)<sup>15</sup> This figure is lower than at the Scottish Parliamentary election of 2011 where 5.9% constituency and 5.8% regional list postal votes were rejected as invalid. However, it is higher than the 3.6% of postal votes rejected as invalid at the 2010 UK Parliamentary election.

2.53 Returned postal votes must be rejected by ROs if:

- the postal vote statement<sup>16</sup> or ballot paper is missing or
- the personal details supplied by voters with their postal vote cannot be successfully matched with those previously provided by the voter and held on the ERO's records

2.54 There is a legal requirement to check these personal identifiers, designed to prevent voting fraud. The requirement is to check a minimum of 20% of returned postal votes. Our performance standards require ROs to check all returned postal votes to ensure that the personal details supplied by voters match those previously provided by the voter and held on the EROs' records. All 32 ROs reported having checked 100% and met the performance standard.

2.55 The following table shows the reasons why ROs rejected postal votes as invalid and reflects trends at previous elections.

---

<sup>15</sup> These figures should be treated with caution owing to some inconsistencies in reporting. We will address these inconsistencies in future guidance on reporting.

<sup>16</sup> This is a form that all postal voters must complete and return with their postal ballot paper. Voters must include on this their date of birth and signature.



Table 2: Reasons for postal vote rejection

Rejected for	%
No signature	13.9
No date of birth	4.8
Neither	15.2
Mismatched signature	18.7
Mismatched date of birth	15.1
Both mismatched	6.9
Missing ballot paper	7.4
Missing postal voting statement	17.5

## Refresh signatures

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

2.57 We first raised this issue with the UK Government in 2007. We welcome the inclusion of a clause in the Electoral Registration and Administration Bill currently before the UK Parliament that will allow EROs to request a refresh, and for electors to be notified that their postal vote statement was rejected. The change will be implemented through regulations.

2.58 We see no reason why these new arrangements should not apply to the first set of elections after the Bill receives Royal Assent, which should be those held in May 2013 in England. This would also give absent voters the opportunity to update their personal identifiers in good time ahead of the next European Parliamentary election in 2014, a possible Scottish Referendum; and the UK Parliamentary General Election in 2015. We recommend equivalent legislation be made by Scottish Ministers as soon as possible, and at least in sufficient time for the 2017 Scottish council elections.

2.59 The percentage of postal votes not included in the count has fallen from last year, however it is still higher than in 2010. While the exact reasons why the individual postal voters did not complete the postal vote statement correctly may never be known, it is a matter of concern to the Commission, the EMB and ROs in Scotland.

## Mismatch of forms and dates of birth

2.60 Beyond the question of the signature refresh mentioned above, at every election there are also incidents where people living in the same household accidentally complete each other's postal voting statement, resulting in neither of their identifiers matching those on record. The UK Government responded to our report on the 2010 UK Parliamentary general election indicating they would look at postal vote statement checking, but so far have not done so. ROs in Scotland and the EMB are of the view that they should have discretion to accept such 'mismatches'.

2.61 Some ROs have also suggested that they should have the discretion to accept a date of birth that does not match, if they believe it to be a genuine voter error. While we share concerns about the potential disenfranchisement of voters through error as opposed to attempted fraud, in the absence of alternative security measures we believe that the provisions for matching dates of birth must be consistently applied in order to ensure fairness and integrity in elections, and to uphold public confidence in the postal voting system.

2.62 While we understand the desire to ensure that otherwise valid votes are not discounted, this could potentially diminish the effectiveness of an important fraud prevention mechanism. We will consider these issues as part of our review of absent voting and voting at polling stations, which is outlined at paragraph 4.16.

## Power of attorney

2.63 Twenty ROs reported that at least 98 postal voting statements had been signed by a person holding a power of attorney on behalf of an elector. Postal voters must sign their own statement. Consequently any ballot returned with a power of attorney signature was not included in the count. The decision on whether and how to vote must be made by the individual concerned and power of attorney does not extend to voting rights. In preparation for the Scottish local government elections in May 2012 we worked with councils and relevant statutory and voluntary organisations in the social care sector to increase understanding of the law on power of attorney and voting, and to promote awareness of the availability of waivers. We will continue to do so.

## Waiver

2.64 ROs report that many signatures which fail in their view are not accepted because the voter is no longer able to provide a signature which can be matched. While the refresh provisions mentioned above may assist in this issue, there is also provision in law for an ERO to grant a waiver for the signature if they are satisfied that the elector is unable to supply a consistent signature. Across Scotland 5,771 waivers were granted by EROs and in force for the Council elections.

2.65 We worked with the Forms Working Group of the EMB ahead of the council elections to review postal voting materials in Scotland. The aim was to ensure that the instructions for postal voters were sufficiently clear and the consequence of mismatched or missing identifiers was highlighted to the voter. We will review this work with the group to see if more can be done. For instance, a quarter of the rejected postal votes were due to either the ballot paper or the postal vote statement not being returned, and therefore better designed forms may help in reducing the number of ballots not entered into the count.

2.66 We have previously recommended to governments that they should review the timescales in the election timetable to ensure that they are fit for purpose following all the changes in electoral law in recent years. The first time that postal votes can be issued (5pm on the eleventh working day before the election) particularly needs reviewing. Over 2,800 postal votes were received by the ROs after polling day and so could not be counted. Enabling postal votes for council elections to be issued earlier would give voters a greater opportunity to return their vote, and be of particular benefit to postal voters who are overseas.

## Voting by proxy

2.67 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. The deadline for applying for a proxy vote was 5pm on Wednesday 25 April. In total, 5,483 people were granted a proxy vote which, as a proportion of the electorate, was 0.14%.

2.68 After the deadline for applying for a proxy vote, anyone who was taken ill and unable to vote as a result could appoint an emergency proxy, up to 5pm on polling day itself. Of the total number of proxy voters, 28 were appointed as a result of medical emergencies.

2.69 The UK Government has announced plans to extend the emergency proxy voting provisions to those unexpectedly called away on business or military service. Though we support this proposal, we have recommended that it be further extended to apply to those who have other reasons for not being able to attend the polling station at short notice, such as caring responsibilities or a recent bereavement. We recommend that the Scottish Government extends the emergency proxy provisions to those who are unable to attend the polling station or apply to vote by post due to unforeseen circumstances. This should be done in time for the 2017 local elections or sooner if possible.

## Completing the ballot paper

2.70 Since the Scottish elections in 2007 the issue of ballot paper design and testing has been at the forefront of the minds of ministers, civil servants, ROs, the EMB and the Commission. We want to ensure that materials used by electors to cast their vote are consistently designed to a high standard. People

should be confident that they know how to cast their vote successfully. That is why we developed the design guidance 'Making your Mark'.<sup>17</sup>

2.71 Prior to the election, the Scottish Government designed and tested the ballot paper to be used on 3 May in accordance with our design guidance. We would urge other governments and departments to follow similar practice. Our public opinion research asked whether voters found it easy or difficult to fill in their ballot papers. Of those surveyed, 92% said they found it easy, with only 4% reporting difficulties. A further 97% said it was easy to fill in ballot paper(s) in Wales, 95% in London and 98% in English council election areas.

2.72 In Scotland, 96% said it was easy to find the candidates of their choice on the ballot paper, with only 3% reporting any difficulty.

2.73 The number of ballot papers rejected at the count by ROs as invalid was 27,044 (1.71% of the total.) This is slightly down on the 1.83% of ballots rejected as invalid at the last council elections in Scotland in 2007. While it is pleasing to note the decrease in rejected votes; observers, candidates and agents and ROs have all commented on the numbers of ballot papers marked with multiple crosses which were adjudicated and rejected in count centres. Work still needs to be done to try to reduce further the level of rejected votes. We will work with administrators, parties and candidates to consider whether any changes to public awareness activities and electoral administrative processes could assist in achieving this.

**Table 3: Highest percentage of rejected ballots by council**

Council	Rejected ballots
Glasgow	2.79%
Dundee	2.43%
Aberdeen	2.20%
East Ayrshire	2.19%
North Ayrshire	2.18%

---

<sup>17</sup> The Electoral Commission, *Making your mark: Good practice for designing voter materials guidance for government policy-makers*, (2009).

**Table 4: Lowest percentage of rejected ballots by council**

<b>Council</b>	<b>Rejected ballots</b>
Orkney Islands	0.55%
Shetland Islands	0.89%
East Dunbartonshire	0.98%
East Renfrewshire	1.09%
Scottish Borders	1.09%

**Table 5: Highest percentage of rejected ballots by ward**

<b>Ward (Council)</b>	<b>Rejected ballots</b>
Hilton/Stockethill (Aberdeen)	7.73%
Springburn (Glasgow)	4.49%
Govan (Glasgow)	4.11%
Southside Central (Glasgow)	3.92%
Canal (Glasgow)	3.88%

**Table 6: Lowest percentage of rejected ballots by ward**

<b>Ward (Council)</b>	<b>Rejected ballots</b>
Kirkwall East (Orkney Islands)	0.39%
Meadows/Morningside (Edinburgh)	0.37%
Tay Bridgehead (Fife)	0.35%
West Mainland (Orkney Islands)	0.33%
North Isles (Orkney Islands)	0.28%

2.74 The percentage of ballot papers rejected in the Hilton/Stockethill ward of Aberdeen at 7.73% was substantially higher than in any other ward. The next highest ward was Springburn in Glasgow with 4.49% of ballot papers rejected.

At the 2007 elections, the percentage of rejected votes in Hilton/Stockethill was 2.44%, with the most being rejected again in Springburn (4.16%). We spoke to the Aberdeen RO's staff to establish if there was any particular reason for the large volume of votes being rejected in the ward in 2012. They could not identify any obvious local or administrative factors that would have contributed to this figure.

# 3 Participation: candidates

## Standing for election

3.1 The number of candidates who stood for election in 2012 was 2,497, which was less than the 2,607 who stood in 2007. There were 2,039 candidates who were nominated by political parties and 458 who stood as independents.<sup>18</sup> All 353 wards were contested and therefore no councillor was elected unopposed.

The table below shows the number of council seats won by party in 2012, compared with the 2007 local elections.

**Table 7: Change in council seats by party 2007-2012**

Party	2007	2012	Change
SNP	363	424	61
Labour	348	394	46
Independent	187	201	14
Conservative	143	115	-28
Liberal Democrat	166	71	-95
Green	8	14	6
Others	7	4	-3

## Advice for candidates from the Commission

3.2 It should be easy for people who want to stand for election to find out how to get involved, what the rules are and what they have to do to comply with these rules. To assist us in reporting on the election we sought the views of candidates and agents via a post-election survey.

3.3 Where we have a statutory duty to do so, we publish general advice for candidates standing for election and give specific advice on request. We have no such duty or power in relation to Scottish council elections rules relating to candidate expenses, but did so in 2003, 2007 and 2012 at the request of the

---

<sup>18</sup> This figure includes candidates who stood without a description on the ballot paper.



Scottish Government. This arrangement should be reconsidered by the Scottish Government before future council elections.

3.4 To complement the guidance, we published accompanying resources such as template nomination forms and campaign spending returns. In the period from January to mid-May we responded to over 450 significant queries (requests which go beyond the 'run of the mill' enquiry) about the rules on party registration and campaigning at the 2012 elections taking place in Great Britain, including the Scottish local elections. The most common queries we received were about the nominations process, campaigning and electoral integrity issues.

## Improving guidance

3.5 In response to feedback received from political parties and candidates at previous elections, we simplified the format of the candidates and agents' landing page on our website so that our guidance was more easily accessible. Feedback received from political parties and candidates after the May 2012 elections welcomed the improvements to the format, but identified that more needs to be done to improve the navigability of our website. Experienced party officials also asked for more detail in the 'expert' level of our guidance. We will consider these points in further revisions to our website and in developing our guidance for future elections.

3.6 In addition to producing online guidance, we also offered briefings to candidates and agents. We held sessions at political party candidate briefing events and at party conferences, as well as at ROs' candidate and agent briefings where we were invited. There was positive feedback from those who attended these events and we will provide more sessions at the next council elections. We also welcome the use of our guidance materials by ROs at their briefing events for candidates and agents, as this gives our information greater reach.

3.7 The nature of our briefing sessions depended on whether they were being held as 'stand-alone' events or as part of a wider programme, but in all cases the main points covered were issues around nominations, candidate spending, donations and imprints. In total, approximately 200 candidates/agents attended our candidate and agent briefings. All of these sessions aimed to serve the dual purpose of enhancing compliance through our presentations and subsequent contact with attendees, as well as the promotion of our guidance materials. In our survey of candidates and agents 64% said they found the Commission a useful source of advice.

## Advice for candidates from Returning Officers

3.8 As part of performance monitoring we wanted to be satisfied that candidates and agents were provided with clear and timely information to enable them to engage effectively in the election process. ROs advise

candidates on standing for election in their area, and it is generally accepted that because of their location they are better placed than us to advise candidates and agents.

3.9 Our performance monitoring of ROs requires that they:

- confirm that candidates and/or election agents were issued with written guidance on the election process, including local arrangements, and
- confirm that briefing sessions were offered, the dates of any briefings and that briefing resources were prepared

3.10 We were encouraged that all ROs reported that they were meeting our standards for issuing written information to candidates and agents on the election process, including local arrangements in advance of polling day.

3.11 All ROs confirmed that they offered and held briefing sessions for candidates and agents. Feedback from candidates and agents suggests that they continue to value candidate briefing sessions. ROs and their staff are the most used source of information by candidates on the electoral process. Of those surveyed, 94% felt that the RO and their staff had been helpful during the campaign, as had EROs and their staff, and 92% felt the election on polling day had been well run.

## Future regulatory arrangements

3.12 The Electoral Commission has a statutory role in relation to the administration and public awareness aspects of Scottish council elections, but does not regulate the rules on spending by candidates at these elections, since PPERA specifically excludes these elections from the Commission's remit in monitoring and taking steps to ensure compliance with the rules. Decisions on whether to undertake a prosecution in respect of a breach of the spending rules are taken by the Crown Office and Procurator Fiscal Service. Candidates were required to provide their spending return to the relevant RO by 8 June 2012. As of 3 September we are aware of two possible breaches of the rules on candidate spending at these elections being investigated by the police.

3.13 Although there are controls on candidates' campaign spending at these elections currently, candidates are not subject to the controls on donations that apply at other elections.<sup>19</sup>This is in contrast to elsewhere in the UK where such rules are in place for local elections in England, Wales and Northern Ireland.

---

<sup>19</sup> Candidates who are party members or holders of a relevant elective office have to comply with separate rules on donations relating to their political activities, but these rules only require donations over £500 to be checked for permissibility and donations over £1,500 to be reported

3.14 In the light of experience in 2012, our recommendation is that the arrangements for regulating campaigning at future Scottish council elections should be thoroughly reviewed by the Scottish Government before the next set of elections scheduled for 2017 in time to allow any necessary legislative changes to be in place for those elections. There are several issues to consider, which we outline below, with recommendations where appropriate.

## How should candidates be regulated and given guidance at future Scottish council elections?

3.15 The arrangements for providing support to candidates on regulatory matters at the 2012 elections were only resolved at a late stage. Following confirmation in February 2011 that the Scottish Government did not intend to use the Local Electoral Administration (Scotland) Bill to give the Commission powers to provide advice to candidates on matters relating to election campaigning, our initial planning for the 2012 elections did not include the production of guidance for candidates on campaigning.

3.16 In November 2011, following discussions, the Scottish Government's Minister for Local Government and Planning requested that the Commission produce guidance for candidates under section 10 of the Political Parties, Elections and Referendums Act 2000 (PPERA) which enables us to give assistance to bodies including the Scottish Government. The costs of providing this guidance were included in the funding provided to the Commission by the Scottish Government in respect of the 2012 council elections.

3.17 In response to the Scottish Government's request we developed written guidance and published it, as part of our wider suite of guidance for candidates and agents on the running of the elections, in early January 2012.

3.18 Our guidance on candidate spending in Scotland had a different function from that in England and Wales, because we had no statutory role in regulating campaigning. This meant that the Scottish guidance could not provide the usual assurance that where candidates and agents complied with it, they would normally be doing enough to comply with the law. Instead our guidance explained that, although the Procurator Fiscal may have regard to the Commission's guidance, decisions regarding prosecution for breaches of the rules on candidate spending would be for the Procurator Fiscal alone. Although this was inevitable given the Commission's lack of a statutory remit, it had the potential to create uncertainty for candidates and agents.

3.19 We recommend that, in good time before the next set of Scottish council elections, the Scottish Government should consult political parties that

---

to the Commission. Candidates at elections in other parts of the UK must check and report donations over £50.

contested the 2012 elections, the Crown Office and Procurator Fiscal Service, the Commission and any other interested stakeholders on:

- how candidate spending should be regulated, and
- how best to support candidates and agents in complying with the rules, at future local elections

## Should there be rules on donations to candidates?

3.20 The Order under which the 2012 elections were regulated followed the legislation at previous Scottish council elections in imposing no controls on the sources from which candidates could accept donations towards their campaigning, and no requirements to report donations in candidates' spending returns. Legislation has been passed to allow the inclusion of donation controls in the Orders for Scottish local council elections, but the relevant provisions have not yet been commenced.<sup>20</sup>

3.21 At local elections in England and Wales, and at all other elections in the UK including elections to the Scottish Parliament, donations to candidates are controlled and reportable. The lack of donation controls did cause some confusion amongst candidates who sought advice from the Commission during the election, and often a reaction of surprise that such controls did not exist. Of respondents to our candidates and agents survey, 70% agreed there should be rules on donations and 10% disagreed.

3.22 It is our view that the absence of controls on donations to candidates at these elections is not helpful. The current arrangements mean that candidates may accept money from any source, and that the value and sources of the donations they accept are not made public. This has the potential to enable donors to exercise undue influence and to damage voters' trust in the outcome of these elections. We recommend that the Scottish Government should introduce controls on the source and reporting of donations before the next Scottish local council elections.

## Should the rules on spending by candidates be amended?

3.23 The activities that count against candidates' spending limits at Scottish council elections include the use of property, the use of other facilities, and goods or services. The rules do not specify in any further detail the items and activities that count against the spending limit, unlike the spending rules for candidates at other elections in the UK, which include a schedule of items that count against the limit (such as advertising, unsolicited material sent to voters, etc.).

---

<sup>20</sup> Section 130 of PPERA, which amended the RPA 1983 to introduce controls on donations to candidates, was dis-applied for Scottish local elections (Section 130(4), PPERA).

3.24 Respondents to our candidates and agents survey (84%) did find the rules on spending clear. However, in our view a specific list of items that count against the limit would provide greater certainty for candidates and agents on how to comply with the spending limits. We recommend that the Scottish Government should introduce such a list in the spending rules for future Scottish council elections.

3.25 As at other local elections in the UK, candidates must count their 'personal expenses', such as their own travel and accommodation costs, against their spending limit. The use of the single transferable vote at Scottish council elections has created wards with a larger number of voters than before, and this, combined with the geographically dispersed nature of the population in some areas of Scotland, means that candidates in some areas can potentially incur significant levels of personal expenses while campaigning. Where this happens, it will reduce the proportion of their spending limit that is available to them for the production of campaign materials, and may restrict their ability to get their campaign messages across to voters. We are currently considering the relationship between candidate spending limits and personal expenses at elections generally, as part of a technical review of the rules on party and election finance. We expect to report on the outcome of this review next year.

3.26 The level of the candidate spending limit was also raised with us following the elections by some party members who suggested that the limits needed to be increased. The limit had already been increased by the Scottish Government immediately prior to the elections.<sup>21</sup> We recommend that the Scottish Government reviews the candidate spending limits before the next ordinary election to Scotland's councils, so that they can be amended in good time if considered necessary.

## Should there be rules on national party campaigning at these elections?

3.27 PPERA imposes controls on campaign spending by political parties (as opposed to individual candidates) in the period leading up to certain elections, including those to the Scottish Parliament, UK Parliament and European Parliament. These controls include spending limits and requirements to report on spending after the poll. The controls only apply to party campaign spending at council elections which are held at the same time as, or within the same regulated period as, one of these other types of election.

3.28 The 2012 Scottish council elections were the first such elections since the introduction of the PPERA controls, to be held on their own, rather than

---

<sup>21</sup> The limit was raised from £600 plus five pence per elector to £705 plus six pence per elector on 12 March 2012.

combined with the Scottish Parliamentary election to which party campaign spending rules apply. This meant that there were no spending limits on party campaign spending, such as manifestos, adverts encouraging voters to support a party rather than an individual candidate, and media events, in the run-up to the elections.

3.29 During the campaign period and subsequently, a number of political parties have said to us that they were surprised that there were no limits on party campaigning, and that they would support the introduction of such controls at future Scottish council elections that are held separately from other elections at which party campaign spending limits apply. They have suggested that, since elections to councils in Scotland are all held at the same time (unlike local elections in England), and are seen by voters and the media as a significant political event, it is appropriate for controls on party spending to apply whether or not other elections are taking place at the same time.

3.30 We recommend that the Scottish and UK Governments should consult on whether party campaign spending limits should apply at all future Scottish council elections. If the conclusion is that they should, the Scottish Government and UK Government would need to consider the most appropriate way of amending the current PPERA controls.

### Should there be controls on general campaigning by non-party campaigners at these elections?

3.31 As with the party campaign spending limits described above, PPERA places controls on general campaigning for or against a party or group of candidates at some elections, including those to the Scottish Parliament, UK Parliament and European Parliament. The controls, which include spending limits, restrictions on the sources from which donations can be accepted, and reporting requirements on spending and donations, only apply to Scottish council elections that are held alongside one of these other types of election.

3.32 We are aware that at the 2012 elections, several organisations produced material which appears to have been intended to influence voters to support or oppose candidates with particular views. Campaign material of this type would have been subject to the PPERA controls if the 2012 elections had been held alongside one of the types of controlled election described above.

3.33 We recommend that the Scottish Government should consult on whether controls on general campaigning by non-party campaigners should apply at all future Scottish local council elections. If the conclusion is that they should, then as with party spending controls, the Scottish Government and UK Government would need to consider the most appropriate way of amending the current PPERA controls.

## Review of the regulation of candidate spending at other UK elections

3.34 As part of our current technical review of the party and election finance rules that we regulate, we are considering the case for changes to the rules on candidate spending at elections in the UK other than Scottish council elections. We expect to report on the outcome of this review in early 2013, and would be happy to discuss our findings, and any implications they may have for the future regulation of campaigning at Scottish council elections with the Scottish Government.

### Eligibility to stand for election

3.35 Of the respondents to our candidates and agents' survey, 93% indicated that the nominations process was straightforward. We received, however, a number of enquiries relating to the nomination rules before the election, asking whether or not individual candidates were eligible to stand for election. ROs also told us they received an increased number of queries on this issue compared with previous elections. From enquiries we noted there appears to have been an increase in the number of people employed in companies that deliver council services at arms-length. Potential candidates who work for one of these companies are not always clear whether they would be required to resign their employment if they were successful in being elected to any local authority for which the arms-length body delivers services. We recommend that the Scottish Government clarifies the legislation on this point and we will work with them to achieve this objective.

3.36 Although we publish guidance for candidates and agents on the qualification and disqualification rules, neither we nor ROs can give definitive guidance on whether or not individual candidates are eligible to stand for election as we cannot be aware of all their personal circumstances. Candidates are required to sign their nomination paper confirming that they are qualified and not disqualified (for a range of specific reasons) from standing for election. It is an offence knowingly to make a false statement on a nomination form.

## Campaigning in the election

3.37 A high proportion of the queries we received related to campaigning issues. The number of candidates campaigning and the local nature of the elections inevitably means that campaigning will be strongly-fought and sometimes heated. In our published guidance to candidates, we provided information on the process candidates should follow if they believed an election-related offence had been committed by another candidate.

3.38 A number of the complaints we received related to instances where candidates felt that statements made about their character or their political views constituted illegal practices. The Commission does not regulate the



content of campaign material, nor do we comment on the legality of any particular electoral material beyond what was covered in our guidance, where we outline the nature of offences relating to false statements. Where appropriate we recommended that complainants contact their local police Single Point of Contact (SPOC) if they believed that an offence might have been committed.

3.39 We also received a number of complaints regarding errors relating to the requirement on candidates to include imprints on their election publicity. All printed election material must carry an imprint with details of the name and address of the printer and promoter of the material, as well as the name and address of the person, organisation or group on whose behalf the material has been printed.

3.40 The intention of the imprint requirements is to enable anyone to contact or trace the source of the material, in case of any issue about its content. A breach of the imprint requirements, where it is unclear who has produced the material, is potentially a criminal offence and a complaint has to be made to the police. As with complaints regarding false statements, our guidance outlined the process for doing this.

3.41 We also received representations that the imprint requirement for material published on behalf of candidates who were standing in different wards was unclear. Some parties felt they needed to list the name and address of every candidate standing in the area covered by the material in order to comply with the law. Others believed including the details of the agent was sufficient. We will work with the Scottish Government to provide clarity in legislation and in our guidance.

## 4 No undue influence

4.1 There should be no undue influence in the way our elections and political finance system work. This chapter looks at how far people were concerned about electoral fraud at the elections and to what extent malpractice or fraud was reported.

### What people thought about fraud

4.2 Our public opinion research asked people how much they understood about electoral fraud. Of the respondents, 37% of Scottish people said they knew a lot or a little about fraud relating to elections and voting, with 34% saying they knew hardly anything and 29% nothing at all.

4.3 A further 82% said they thought voting in general was safe from fraud and abuse. More people think that voting in a polling station is safe (89%), compared with just over half (57%) who think voting by post is safe.

4.4 Of those surveyed, 3% thought that 'a lot' of fraud or abuse took place at the local elections. A quarter (25%) thought that 'a little' took place and a third (36%) thought that fraud happened 'hardly at all'. A further 12% thought that fraud didn't happen at all on 3 May and a quarter (24%) said they didn't know. Respondents in Scotland and Wales, however, were more likely to say it didn't happen at all than those in London and at local elections in England.

4.5 In our survey, those that said that fraud or abuse happened 'a lot' or 'a little' were then given a list of options and asked which best described why they thought fraud took place at the elections. The most common answer given was that 'identity fraud is on the increase' (42%), followed by 'a general impression that fraud is a problem' (29%). No respondent said they had first-hand experience of fraud and 1% said they had heard from someone else that fraud took place.

4.6 In our candidates and agents survey 85% said they thought voting was safe from fraud or abuse. A further 12% said there was a lot or a little fraud, which is lower than the 22% of candidates in England and Wales.

4.7 All survey respondents were given a list of options and asked how effective each one would be in preventing electoral fraud. Of the respondents, 89% said a requirement to show some form of identification at their polling station would be very or quite effective at preventing fraud. A further 74% thought that 'people being required to sign in order to check their identity before being given their ballot paper in the polling station' would be effective. Just under half of those surveyed (47%) thought that stopping postal voting on demand would be an effective measure to stop fraud.

# Preventing and detecting malpractice

4.8 In order to meet our performance standards, ROs are required to confirm that their election plans detail the processes they have in place to identify any patterns of activity that might indicate potential integrity issues and what steps are to be taken to deal with any problems that might arise. All ROs confirmed that their election plans contained such details.

4.9 In partnership with the Association of Chief Police Officers in Scotland (ACPOS), ahead of the elections we issued a revised 2012 version of *Guidance on preventing and detecting electoral malpractice* to police forces in Scotland, as well as copies of our pocket guide for police officers on duty during the election period. These documents continue to form part of our response to a demonstrated need for more information and support for police forces in this specialised area of law.

4.10 We continue to monitor adherence to our *Code of conduct for political parties, candidates, canvassers and campaigners on the handling of postal vote applications*, which we reissued for the 2012 elections. The pocket guide issued to police officers was included as an appendix to the Code. We also provided parties and ROs with copies of our pocket guide to the postal vote Code of Conduct which could be referred to by party activists during the election period.

4.11 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 for electoral malpractice and allegations of offences. In addition, we continue to work with ACPOS to assist in the coordination of integrity activities across Scotland. As part of this, we held a joint briefing in Perth in March for all force SPOCs, which EMB representatives attended, designed to highlight the coming elections and ensure effective activity was undertaken.

## Specific issues

4.12 We work with ACPOS and the Police National Information and Coordination Centre (PNICC) to ensure a consistent and complete record of cases of alleged electoral malpractice throughout the year. Each police force sends ACPOS a monthly return detailing any cases of alleged malpractice which is then forwarded to PNICC. We will continue to track these cases, and will report on the outcome of these in our annual report on electoral malpractice, which will be published in early 2013.

4.13 However, our initial research shows that the number of cases of alleged electoral malpractice investigated by police forces for the 2012 council elections in Scotland so far was higher than at the elections in 2011. The number of allegations reported in Scotland constituted a low proportion of the total number of cases reported across Great Britain. The vast majority of cases involved

relatively minor allegations, and related mainly to perceived false statements in candidates' election materials and alleged imprint offences.

4.14 In Aberdeen, a mannequin was nominated as a candidate in the Hazlehead/Ashley/Queens Cross ward. It is an offence to knowingly make a false statement in a nomination paper about a candidate's qualifications to be elected. A person was arrested and charged by police and a report has been submitted to the Procurator Fiscal. We will report on the outcome in our annual report on allegations of electoral malpractice.

4.15 We will continue to work with parties and candidates, the police and prosecutors to ensure that they understand their responsibilities in preventing, responding to, and dealing with, concerns about electoral fraud.

4.16 Whilst we are very pleased that the UK Government is bringing forward legislation to introduce Individual Electoral Registration (IER), which will make the process of registering to vote more secure, we are disappointed that they have not taken forward our recommendation to review the need for ID in polling stations. We now propose to take forward a review of the process of absent voting and voting in polling stations in light of the introduction of IER, focusing on any changes that may be needed to ensure confidence in the integrity of the system. We intend to publish this review in time for legislation to be brought forward during the life of the current UK Parliament.

# 5 Counting the votes

5.1 We want to ensure that voters and candidates are confident that count processes are transparent and produce secure, accurate results. The key objective of our performance standards on election counts is to ensure that the verification and count processes are administered consistently and effectively, and produce an accurate result that everyone can have confidence in. The standard requires:

- verification and count processes carried out in clear view of all those entitled to attend, with a clear and unambiguous audit trail and information provided to attendees on the processes to be followed
- count processes capable of producing an accurate result, with a clear audit trail
- verification and count procedures which are timely
- that appropriate resources are in place to ensure that outcome

5.2 All 32 Returning Officers (ROs) reported that they had such processes in place.

5.3 The Scottish Local Election Rules 2011 required the RO to make arrangements for the counting of votes as soon as practicable after the close of poll, and that the votes would be counted by electronic means. The use of e-counting in 2012 meant that political and media focus would be on the counting process, as a number of problems had occurred with the e-counting system in 2007 which were reported on by *The Gould report*. In the event, the use of e-counting on 4 May 2012 went well, with only minor issues occurring in a few count centres.

5.4 Following the council elections in 2007, the Commission recommended that a detailed analysis of the costs and benefits of both electronic and manual options for counting ballot papers at future elections be undertaken, prior to decisions being taken on whether to count votes by electronic means. The Interim Electoral Management Board (EMB) in 2008 commenced discussions with the Scottish Government with a view to securing resources for the electronic counting of votes at the then-scheduled 2011 elections to Scotland's councils. Following a detailed consideration of the matter, including a cost/benefit analysis, the Scottish Government announced in Spring 2009 that the next council elections would be electronically verified and counted. The final cost of the e-counting project is estimated to be in the region of £5.2 million.

5.5 An open procurement process was undertaken and the Scottish Government announced in October 2010 that Logica (and partner Opt2vote)

had been selected as the provider of the e-counting system for use at the council elections. Although the Scottish Government remained responsible for the contractual arrangements for the e-counting project, the ROs were represented on the Project Board by representatives of the EMB, including the Elections Convener. A user group of ROs and Depute Returning Officers (DROs) was also established, which provided detailed practical advice. There was also a Technical Assurance Group drawn from Scottish Government officials and local authority IT staff.

**5.6** The project was split into four stages. Stage 1 (September 2010 to February 2011) included trials held over a period of four weeks and attended by all 32 councils. At the conclusion of each trial, councils provided detailed feedback on system performance, usability and workflow. A number of other sessions were also held to allow the wider stakeholder community opportunity to view the system. These sessions were attended by stakeholders including councillors, the Electoral Commission, academics, the Open Rights Group and the Local Government & Communities Committee of the Scottish Parliament. Feedback from the stage 1 trials was positive, both from a council usability perspective and in terms of technical system performance.

**5.7** Stage 2 (February to May 2011) consisted of system acceptance testing to test the enhancements that had been implemented as a result of the feedback gathered from stage 1. This stage involved the scanning of 18,000 sample ballot papers.

**5.8** Stage 3 (August 2011) involved the delivery of a large-scale bulk test that had been designed to stress test the system by counting 164,000 sample ballot papers. This amounted to more ballot papers than were actually counted at any single count centre on 4 May. Stage 3 was designed by the Scottish Government to allow council staff to familiarise themselves with the e-counting system in advance of the election. It also gave other stakeholders, including the press and media, the opportunity to view a live test of the system and understand the e-count environment they would experience at the election. Stage 3 feedback was mainly positive and was helpful in identifying a number of small process changes that were required to streamline the system. A number of ROs, however, did indicate they felt a training opportunity had been lost as they had believed the stage 3 testing was to include an element of training.

**5.9** Stage 4, November 2011 onwards, involved the development of a local e-counting implementation plan for each council. This involved the design of their count centre and negotiation around the levels of equipment required. ROs were required to sign individual user agreement contracts with Logica under the overarching Scottish Government framework contract. Logica representatives have indicated that they believe this stage of the project, involving direct contact with and discussing detailed matters pertaining to individual councils, should be started earlier in future e-counting projects.

**5.10** Training of council users was a key activity during Stage 4. This was a two-stage process. Council staff received role specific training in March 2012. This

focused on each specific task in the e-count process, and ensured that staff were fully competent and understood how to operate the system. During the week of the election, council staff received refresher training and engaged in practice runs on their e-counting system set up in local count centres. Extensive training material (including online material) was made available to users.

## Timing of count

5.11 Following a consultation exercise with stakeholders, the Elections Convener of the EMB issued a direction to ROs in February 2012, requiring them not to open ballot boxes and directing that no vote should be counted, before 8am on Friday 4 May 2012. The Convener took the view that a 'next-day count' would be in the interests of the voter because it would achieve a national consistency, allow for the processing of postal votes handed in to polling stations without the pressure of an immediate count, and facilitate more effective risk management with respect to the electronic counting system. It would also enable staff to work more accurately, and observers to properly scrutinise the count process. Importantly this approach to the count also, in her view, recognised the recommendations made in *The Gould Report* in the wake of the 2007 elections that accuracy would best be served by a move away from overnight counts.

## Issues arising from e-counting

5.12 The verification and count processes for the elections took place on Friday 4 May, the day following polling day. Thirty-one count centres across Scotland were established. Two councils, Aberdeen and Aberdeenshire, shared a count centre although they held separate counts. The verification and count process could begin at 8am, and the first council to be fully declared was Orkney at 10.30am with the last, Highland, declaring its last result following a recount at 6.30pm. The finishing time of the various counts was dependent on a number of factors, such as varied actual start timings at counts due to local circumstances, the numbers of wards to be counted and the number of votes cast to be scanned, and the number of adjudications of ballots necessary. Our observers around the country noted no major issues in the administration of the counts.

5.13 A number of minor issues arose during the day in relation to the e-counting processes. These occurred in a small number of count centres which were resolved during the course of the counts by the ROs concerned.

5.14 We are pleased that the Project Board has discussed and evaluated the project by seeking views from the user group, the SOLAR Elections Working Group (which comprises senior elections officers from across Scotland), political parties and others. We understand the Project Board intends to produce a legacy document for its successor for the 2017 e-counting project to share the lessons learned from 2012.



## Transparency of the e-counting process

5.15 Given the problems which surrounded the use of e-counting in 2007, the confidence of voters in the process was an issue of concern at the 2012 council elections. The e-counting process itself, however, did not seem to have an impact on voters' confidence. Voters were asked in our public opinion research if using electronic machines to count votes makes the count more or less accurate. Of those surveyed, 40% said it makes it more accurate, one in ten said less accurate and 40% said it makes no difference. They were also asked whether using electronic machines to count the votes cast in all elections would give them more or less confidence in the voting process. Just over a quarter (26%) said more confident, 12% less so and 60% said it would make no difference. These figures were broadly the same for London voters, whose elections were also electronically counted.

5.16 Candidates and agents were asked for their views of the e-counting process in our post-event survey. The EMB had developed additional guidance for ROs to encourage the development of processes and information which made it easier for candidates and agents to understand what was happening in the count centre. Of those surveyed, 80% felt it was clear what was happening in the count centre during the verification and count procedures, and 87% agreed that there were staff on hand to answer questions if asked.

5.17 Candidates and agents (88%) particularly used signs, staff and announcements during the count by ROs (88% or more claimed to have used each of these sources of information). Fewer, at 70%, said they had used the booklets provided in the count centres, although this appears at least partly to be because fewer people saw them. Of those people who actually used each source of information, staff, announcements and booklets were all rated very or fairly useful by over 90% of respondents, and signs by just slightly fewer (87%). Within this generally high level of approval, signs were least likely to be rated as very useful. Large screens were also used in count centres to give information.

## Adjudication of doubtful ballot papers

5.18 When ballot papers were scanned, the software either identified them as 'good' papers, or put them into a queue to be adjudicated as 'doubtful'. Doubtful ballot papers were those papers on which the scanners could not determine the voter's intention, or where there were marks on the paper that were not expected. There were two stages to the adjudication process. The first stage was carried out by count staff, who viewed images of doubtful ballot papers on a monitor. They either allowed the ballot papers as good, or sent them for second stage adjudication, which was carried out by the RO or a depute. The adjudication process itself was clear, with each monitor having a corresponding outward facing screen for candidates, agents and observers to view. However, our observers did receive some comments that the screens being used could have been bigger to make it easier to see. In some count

centres larger screens were employed. We understand that the e-counting project board legacy document will address this point.

## E-counting at future council elections

5.19 The next ordinary elections for Scotland's councils are scheduled to take place in May 2017. Following the good practice in preparing for the 2012 elections, a thorough cost/benefit analysis of the proposal needs to be undertaken and made public before a decision is taken to e-count those elections. Adequate time for the planning process is vital, and this should begin at least three years in advance of the elections, as we understand is recommended in the E-Counting Project Board's legacy document. We are aware that both the EMB and the Scottish Government support this view based on their experience of the 2012 e-counting project. Aside from the all-out elections to Scottish Councils, the only other significant experience of e-counting technology for elections is at the London Mayoral and Assembly elections. We recommend that the EMB liaises with the Greater London Returning Officer to share learning.

5.20 During the 2012 e-counting project the Scottish Government was ultimately responsible for the project, despite the fact that ROs are responsible for their own elections. We reiterate our recommendation made in 2008<sup>22</sup> that the EMB should take responsibility for such matters on behalf of all 32 ROs, as in our view it is best placed to undertake this task, which is operational in nature and the responsibility of the ROs.

## Challenging an election result

5.21 There was only one ward in which the result of the election was in doubt. This was the result for the Langside ward of Glasgow City Council.

5.22 Following the declarations of the results, the RO for Glasgow identified that a ballot box containing 386 ballot papers for the Langside ward had been scanned but not included in the final result. The RO took advice from us and his own legal advice about how to proceed on 9 May. He then wrote to all the candidates in the ward on 10 May to set out what had occurred and what would happen next.

5.23 Following an established procedure, the RO applied to the Sheriff Court on 10 May for permission to open the packets of ballot papers to examine them and determine what the result should have been. If the wrong candidate had been declared elected, then the candidate who should have been elected would

---

<sup>22</sup> The Electoral Commission, *Electoral Administration in Scotland* (August 2008).

be able to present an election petition to have the correct result declared. The Sheriff Principal granted permission to open the packets on 11 May.

5.24 The RO invited all the candidates and agents to the examination of the ballot papers on 15 May. His staff first identified the ballot papers from the ballot box concerned. These were then electronically scanned and adjudicated. Then the remaining ballot papers for the ward were scanned and adjudicated. The examination showed that the correct candidates had been declared elected.

5.25 The Council has conducted an investigation into how the mistake was made. We continue to recommend that the ROs supply the result of the verification process to candidates before the count is concluded, as this might have enabled the mistake to be identified before the result was declared.

## After the declaration of results

5.26 We set standards and monitor performance to ensure the appropriate storage and disposal of documents, and to ensure that a full review of all procedures takes place to inform lessons learned and planning for future events. All 32 ROs confirmed that they had appropriate arrangements in place, with a clear audit trail to cover the packaging and forwarding of documents. This includes a legal duty to complete a statement as to postal ballot papers, which provides an audit trail for the postal voting process throughout the election and helps to ensure confidence in the results.

5.27 The election plans of all 32 ROs identified that they planned to evaluate their election procedures post-election to identify lessons learnt and incorporate these into future election plans. At the time of compiling this report not all ROs had completed their post-election evaluations.

5.28 ROs had a new task this year of publishing detailed count information from each polling station within one week of the results being declared. In order to preserve the secrecy of the ballot, the data could not be released if less than 200 votes were cast at a polling station. In that case, the RO had to combine the data with that of at least one other polling station until the threshold of 200 votes was reached. ROs should consider whether this task could be incorporated into the e-counting software to assist the timely publication of this data at future elections.

# Appendix A: Research methodology

## Public opinion research

ICM interviewed a representative sample of 1,000 voters and non-voters in Scotland by telephone on 4–22 May 2012. Across Great Britain as a whole, 4,104 voters and non-voters were interviewed in the same period. The sample breakdown for other areas was: England (excluding London) 1,354, London 1,000 and Wales 750.

The profile of the contacted sample was designed to match that of the eligible population by key demographics such as sex, age and work status. In line with previous research, roughly equal numbers of voters and non-voters participated in the survey. Findings are statistically significant at the 95% confidence level or above.

Comparisons made between these polls and those held in previous years are indicative and should be treated with some caution.

## Public information campaign tracking survey

TNS BRMB conducted pre- and post-advertising campaign tracking research. Face-to-face interviews were conducted in-home, with a demographically and geographically representative sample of adults. In Scotland, 948 interviews took place from 22 February–1 March; 905 interviews from 25 April–2 May; and 968 interviews from 23–31 May. Exit interviews took place on 3 May and were conducted face-to-face outside 10 polling places across Scotland. Interviews were conducted with 312 people who had voted.

## Electoral data

Professor Hugh Bochel at the University of Lincoln, with Professor David Denver and Dr Martin Steven of Lancaster University, collected and collated data from Returning Officers (ROs) and Electoral Registration Officers (EROs) on the Commission's behalf. This included data relating to electoral registration, turnout, absent voting and rejected ballots.

## Candidates and agents survey

TNS BMRB carried out a survey of candidates and agents on using a postal methodology in Scotland. They sent out a total of 3,224 questionnaires. 1,301 completed questionnaires were returned to TNS BMRB during the period 4 May–6 June 2012 – a response rate of 40%. The sample profile achieved, by whether the respondent was a candidate or agent and by their party, was in line with that of all those issued with a survey, so no weighting was applied to the data.

## Returning Officers' and Electoral Registration Officers' feedback

The Commission issued an optional qualitative feedback form to ROs and EROs in Scotland. We held a post-election seminar for ROs, EROs and their staff in Scotland at which feedback was given, and attended meetings of the professional bodies for electoral administrators and the EMB, at which feedback on the election was obtained. We have also taken account of the topics covered in over 140 telephone and email queries logged during the election period. The feedback from ROs referred to in this report comes from all these sources.

**The Electoral Commission**

Lothian Chambers  
59-63 George IV Bridge  
Edinburgh EH1 1RN

Tel 0131 225 0200  
Fax 0131 225 0205  
[infoscotland@electoralcommission.org.uk](mailto:infoscotland@electoralcommission.org.uk)  
[www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)

**The Electoral Commission**

3 Bunhill Row  
London EC1Y 8YZ

Tel 020 7271 0500  
Fax 020 7271 0505  
[info@electoralcommission.org.uk](mailto:info@electoralcommission.org.uk)  
[www.electoralcommission.org.uk](http://www.electoralcommission.org.uk)

To contact our offices in Wales, Northern Ireland and the English regions, please see our website.

We are an independent body set up by the UK Parliament. We regulate party and election finance and set standards for well-run elections. We work to support a healthy democracy, where elections and referendums are based on our principles of trust, participation, and no undue influence.

Putting voters first