

Ray Morgan
Chief Executive of Woking Borough
Council and Returning Officer for the
Woking parliamentary constituency
Civic Offices
Gloucester Square
Woking
Surrey
GU21 6YL

Ray.morgan@woking.gov.uk

Copied to the appellant [REDACTED]

16 November 2016

Dear Mr Morgan,

**Section 18D of the Representation of the People Act 1983:
Notice of the Electoral Commission's decision on representations concerning
the review of polling places in the Woking parliamentary constituency**

I am writing to you in your capacity as the Chief Executive and Returning Officer of Woking Borough Council ("the Council").

On 25 January 2016 the Electoral Commission ("the Commission") received written representations from [REDACTED], a resident of the St John's East polling district in Woking, in relation to the review of polling districts and polling places undertaken by the Council during September – October 2015. The representations related to the decision of the Council to retain the use of the Al-Asr Centre as the polling place for the St John's East polling district in the Woking parliamentary constituency. The representation was based on the grounds that the Council did not conduct the review so as to:

- a) Meet the reasonable requirements of the electors in the constituency or any body of those electors, or
- b) Take sufficient account of the accessibility to disabled persons of polling stations within a designated polling place.

The Commission has received and considered the Council's written comments on the representation and other information provided by the Council. The Commission also conducted a visit to the Al-Asr Centre and the previous polling place, Goldsworth Primary School, on 14 September 2016. The Commission has now completed its review of this matter in accordance with section 18D of the Representation of the People Act 1983 ("the Act").

Summary of Decision

The Commission has found that review was conducted so as to meet the reasonable requirements of electors and also that the review did take sufficient account of the accessibility to disabled persons of polling stations within the designated polling place.

Therefore the Commission is not directing any change to the polling place.

However, the Commission recommends that the Council considers designating, by means of appropriate signs, at least one of the off-road car parking spaces at the Al-Asr Centre as reserved parking for disabled voters on polling day.

DECISION

Statutory obligations to undertake a review of polling districts and places

The statutory requirements imposed on councils and returning officers to review and keep under review polling districts and places are found in sections 18B to 18D of, and Schedule A1 to, the Act and in the Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006 (see Appendix A below).

Section 18C(2) of the Act places a duty on the council of a district in England to carry out a review of each polling district and polling place in its area during the period of 16 months beginning with 1st October 2013 and during the period of 16 months beginning with 1st October of every fifth year after that date.

The council is under an ongoing duty to keep the polling districts and polling places in an area under review. Under section 18C(3) of the Act a council may carry out a review of some or all of the polling districts or polling places in its area outside of the compulsory review periods set out at section 18(2) of the Act.

Scope of the Commission's consideration of the representations

The Commission has a duty under section 18D of the Act to consider representations from certain categories of persons listed in section 18D(1) and which fall within the grounds set out in section 18D(2).

The scope of the Commission's consideration of the review is to establish, having regard to all the relevant information, whether either of those two grounds are made out. In doing so the Commission has had regard to the requirements summarised in Appendix A below and to the Commission's published guidance.

In considering the representation, the Commission is required to have regard to observations made by the returning officer (section 18D(3) and (4)).

If the Commission determines that the review process has not been conducted properly, it may, if it thinks fit, direct the council to make any alterations to the polling place designated by the review which the Commission thinks necessary in the circumstances (section 18D(4)(a)).

The review

The Council conducted a review of polling districts and polling places in Woking between September and November 2015. Although the Council was required to and did carry out a review in the 16 month period beginning with 1st October 2013, a council may under section 18C(3) of the Act conduct a review of polling districts or polling places at any time.

The decision to conduct the 2015 review was taken following the review of ward boundaries by the Local Government Boundary Commission for England, as a result of which the number of wards in Woking were to be reduced from 17 to 10.

In the St John's East polling district, the outcome of the review was to retain the use of the current polling place – the Al-Asr Centre.

The representations

On 25 January 2016 the Commission received a representation from ██████████ in relation to the Council's review of the polling districts and polling places in the Woking parliamentary constituency in 2015. ██████████ enclosed a copy of his emailed representation to the Council in relation to the review dated 22 September 2015, which the Commission has also taken into account.

██████████ provided information as to his eligibility to make representations. The Commission determined that his representations were made by an eligible party under section 18D(1)(c) as a person (other than the Returning Officer) who made representations under Schedule A1. The Commission also decided that the representations fell within both of the eligible grounds under section 18D(2), namely:

1. That the review was not conducted so as to meet the reasonable requirements of the electors or any body of the electors in that:
 - a) There is insufficient parking, on or off-street, which will cause a particular difficulty for elderly and disabled voters.
 - b) The Al-Asr Centre is located too far away from the western part of the polling district.
 - c) The Al-Asr Centre does not have suitable facilities for voting as the interior is too small and there is insufficient room for tellers in the building.
 - d) It is inappropriate to use a building as a polling place when it could be used as a mortuary on polling day.

2. That the review was not conducted so as to take sufficient account of the accessibility of disabled voters to the polling place as the Al-Asr Centre is not sufficiently accessible to disabled voters, in particular that

- a) there is limited level access at the Al-Asr Centre.

The Commission wrote to the Council on 26 February 2016 requesting information on the review. A response was received on 9 March 2016 from [REDACTED] (Electoral Services Manager for the Council). Following consideration of this information, the Commission raised a number of further queries with the Council, answers to which were provided on 13 May 2016, 14 and 28 July and 30 August 2016. A visit to the Al-Asr Centre and Goldsworth Primary School was undertaken by [REDACTED], the Commission's Regional Manager for Eastern and South East England, on 14 September. You and [REDACTED] also attended on this visit and provided your views.

Decision

1. Did the Council conduct the review so as to meet the reasonable requirements of the electors in the constituency or any body of those electors for the purposes of section 18D(2)(a) of the Act?

a) Parking

[REDACTED] raised concerns about limited parking at the Al-Asr Centre. [REDACTED] stated that the Centre is not served by sufficient off-road parking as there "are realistically no designated parking spaces for the Centre" nor is there adequate on-road parking as there are parking restrictions in force along the road outside the Centre (Goldsworth Road). He adds that there is already a high level of demand for parking in the vicinity and that there could be problems on polling day with electors having to cross busy roads in order to get to the Centre from their parked car.

In their responses of 9 March, 13 May and 14 July the Council stated that parking enforcement in the vicinity of the polling place is suspended on election days, providing approximately an additional 20 spaces, and that voters have been advised of this. The Council added that the Al-Asr Centre has a small on-site car park and this is also available for the use of electors.

In the further response of 13 May 2016 the Council confirmed that since the Al-Asr Centre was designated as polling place in 2014 there have been two occasions where parking has caused a difficulty on polling day. In 2014 an issue was caused by a van which was parked illegally and on 5 May 2016 there was a single complaint about lack of parking at the polling station, but no further details were available.

The Commission's visit of 14 September 2016 noted that parking at the Al-Asr Centre is limited. There is a driveway at the Centre with space for two or three cars; otherwise parking would be on the Goldsworth Road, a busy single carriage arterial road close to the centre of Woking, although there is a pedestrian crossing close to the Centre. You confirmed that there is no specifically designated parking for

disabled voters and it is apparent that if a number of cars were parked it would require a few minutes' walk to attend the polling place.

What constitutes sufficient parking to meet the reasonable requirements of electors will depend on the circumstances of each polling district and place. In the case of the Al-Asr Centre polling place, the Commission is satisfied that the parking facilities meet the reasonable requirements of electors in the constituency. The Commission has decided that the combination of a small number of off-road spaces, together with on-road parking being made available for electors by the removal of parking restrictions, in this case meets electors' reasonable requirements (albeit that voters may have a short walk to the polling place from their car). However, the Commission notes that there are no spaces reserved exclusively for disabled electors on polling day and that this could mean that a disabled elector is forced to park at a distance from the Centre. Therefore, the Commission recommends that the Council considers reserving at least one of the off-road parking spaces on the Al-Asr Centre driveway for the exclusive use of disabled voters on polling day by way of signage.

b) Location

██████████ also raises a concern regarding the location of the Al-Asr Centre within the polling district. ██████████ stated that electors residing in the western part of the polling district will need to walk a long distance to reach the Al-Asr Centre, which is in the east of the polling district. In so doing electors must cross a 40mph road and a five way roundabout, which lacks pedestrian crossing facilities.

The Al-Asr Centre is not centrally located in the polling district. The distance from the western border of the polling district to the Al-Asr Centre is just under a mile, which is walkable by an averagely fit person in a little over 15 minutes. There is also a bus service that links the western part of the polling district with the Al-Asr Centre. You informed the Commission that most voters travelling from that side of the polling district would do so by car. As outlined above, there is parking available for voters at and in the vicinity of the polling station, although there is no designated disabled parking (the polling place's parking facilities are dealt with above).

Although the polling place is not centrally located in the polling district, the Commission considers that its location meets electors' reasonable requirements. The polling place can be reached by car, bus or on foot from the western side of the polling district.

c) Size

██████████ also commented on the small size of the polling place and the absence of any space for tellers, who as a result have to sit outside.

The Council letter of 9 March 2016 stated that the Centre was visited by ██████████ (Electoral & IS Manager) to assess its suitability as a polling place. ██████████ used the Electoral Commission's check sheet as a guide and determined that the size and facilities were suitable for such use. The Council provided a plan of the layout of the polling place to the Commission. It has been considered by

Commission staff experienced in observing electoral processes and it is agreed that there is nothing about the size or layout of the Al-Asr Centre which makes it unsuitable for use as a polling station. There are no size recommendations for a polling place, but the plan of the Al-Asr Centre appears to reflect sufficient space for the premises' function as a polling place. The Commission's visit of 14 September 2016 confirmed that the layout and size of the Al-Asr Centre are appropriate for use as a polling place.

There is no obligation for the Returning Officer to provide facilities for tellers and the Presiding Officer of a polling place may not permit tellers to enter polling stations except in order to cast their own vote, vote as a proxy for someone else or assist a disabled voter. In practice a Presiding Officer may allow tellers to take up a position inside a polling place, for example in a vestibule next to the entrance to the building, but outside the polling station (and may particularly wish to do so in the event of inclement weather). The plan provided by the Council with their letter of 9 March 2016 demonstrates sufficient space to allow tellers to shelter within the vestibule in such circumstances, although they must stay entirely outside the polling station. The Commission visit confirmed that the layout of the Al-Asr Centre allows for tellers to sit within the vestibule whilst preventing them from being able to see or hear inside the polling station.

Having considered the size of the building, the Commission is satisfied that the polling place meets the reasonable requirements of the electors in the constituency.

d) Use of a building which could be used as a mortuary on polling day

In his letter of appeal ██████ raised the issue of the Al-Asr Centre being used for funeral preparations on election days. The Council response of 13 May 2016 notes that the Council is not aware of the Al-Asr Centre being used for this purpose. During our visit to the Al-Asr Centre ██████, Imam at the Centre, confirmed that funeral arrangements do not take place there as it has neither the space nor facilities to carry out such activities. There is therefore no possibility of such activities interfering with the use of the Centre as a polling place.

2. Did the Council conduct the review so as to take sufficient account of the accessibility to disabled persons of polling stations within a designated polling place for the purposes of section 18D(2)(b)?

█████ states that the Al-Asr Centre has limited level access and is only accessible via a slope from the street to the main entrance, presenting a hindrance to elderly and disabled voters.

In its letter of 9 March the Council confirmed that local disability groups were consulted during both the 2013/4 and 2015 reviews. Copies of the letters sent out and the list of groups contacted have been provided to the Commission. The Council received no representations during either the polling place review in 2013/4 or the review in 2015 from groups or persons with an interest in disability or from disabled voters.

The Commission's visit confirmed that there is a slightly raised entrance through the main door to the polling place. A ramp is in use on polling day and wheelchair users are able to enter and exit via this door. The Council's response on 9 March 2016 stated that [REDACTED], in considering the suitability of the Al-Asr Centre for use as a polling place, instructed the Council's buildings and facilities team to assess the premises for accessibility by disabled voters. Following a review a permanent access ramp was installed. A complaint was received by the Council relating to the access ramp, as a result of which an additional ramp was supplied to the Al-Asr Centre in 2015. There have been no further complaints raised around disabled access to the Al-Asr Centre. The Commission has seen no evidence of disabled persons being unable to access the Al-Asr Centre for the purposes of voting.

Given the steps taken by the Council to consult on disability access and to both assess the building's access and make improvements, together with the absence of any complaints since the latest ramp was provided, the Commission is satisfied that the Council did conduct the review so as to take sufficient account of the accessibility to disabled persons to a polling station situated within the polling place.

Other issues raised in the representation

The availability of other buildings

[REDACTED] suggested that the previous polling place, Goldsworth Primary School, the Kingsway Centre or the Surrey History Centre would be more suitable as a polling place. In particular, he considered that the larger size, superior on-site parking facilities and central location of the School made it a preferable polling place, compared to the Al-Asr Centre.

The only grounds available for making representations under section 18D of the Act are that the Council's review did not (a) meet the reasonable requirements of the electors in the constituency (or any body of those electors) or (b) take sufficient account of the accessibility to disabled persons of polling stations within a designated polling place. It is therefore not open to the Commission to consider whether another polling place may be more suitable for electors, instead we must solely determine whether the review was conducted so as to meet electors' reasonable requirements and to take sufficient account of disabled access.

The reasonable requirements of electors in a constituency depend on a number of factors such as local topography and demographics. In general, the Commission considers that these requirements will be likely to be met if a council designates polling places which are reasonably convenient and accessible to all voters in a polling district, including those who are elderly or disabled. As outlined above, we have concluded that in this case the review met those requirements.

Arrangements for change of polling place at short notice

[REDACTED] also raised the question of what arrangements are in place should the Al-Asr Centre cease to be available for use as a polling place at short notice. In the response of 13 May 2016 the Council confirmed that should the Al-Asr Centre

become available at short notice, alternative polling places would be considered, including Goldsworth Primary School or St John's Memorial Hall (although this would be outside the polling district). Similar arrangements for short notice alternative polling places have been made in all Woking polling districts.

Administration of elections

██████████ also raised concerns around the administration of elections generally in Woking. Such concerns fall outside the remit of this polling place review appeal.

Conclusion

For the reasons outlined above the Commission is satisfied that the 2015 review of the St John's East polling district and its polling place in the Woking parliamentary constituency was conducted so as to meet the reasonable requirements of the electors in the constituency (including of those electors) and was also conducted so as to take sufficient account of disabled access to polling stations.

Yours sincerely

Ailsa Irvine
Head of Guidance

Appendix A – Relevant law

1. District councils such as the Council are required to divide their area into polling districts for the purposes of parliamentary elections and to designate polling places for these districts (section 18A and 18B of the Act). Councils must also keep their polling districts and polling places under review.
2. Section 18C(2) of the Act places a duty on the council of a district in England to carry out a review of each polling district and polling place in its area during the period of 16 months beginning with 1st October 2013 and during the period of 16 months beginning with 1st October of every fifth year after that date. Under section 18C(3) of the Act a council may carry out a review of some or all of the polling districts or polling places in the area at other times.
3. District Councils must comply with the requirements set out in sections 18A and 18B. This includes the following requirements:
 - In England, each parish is to be a separate polling district (section 18A(3)(b)).
 - The council must designate a polling place for each polling district unless the size or other circumstances of a polling district are such that the situation of the polling district are such that the situation of the polling stations does not materially affect the convenience of the electors or any body of them (section 18B(1) and (2)).
 - The council must seek to ensure that all electors in a constituency in its area have such reasonable facilities for voting as are practicable in the circumstances (section 18A(3)(a) and section 18B(4)(a)).
 - The council must seek to ensure that so far as is reasonable and practicable every polling place for which it is responsible is accessible to electors who are disabled (section 18B(4)(b)).
 - The council must have regard to the accessibility to disabled persons of potential polling stations in any place which it is considering designating as a polling place or the designation of which as a polling place it is reviewing (section 18B(4)(c)).
 - The polling place for a polling district must be an area in the district, unless special circumstances make it desirable to designate an area wholly or partly outside the district (section 18B(4)(d)).

- The polling place for a polling district must be small enough to indicate to electors in different parts of the district how they will be able to reach the polling station (section 18B(4)(e)).
4. When carrying out the review, councils must comply with the requirements set out in Schedule A1 of the Act:
- The council must publish notice of the holding of a review (paragraph 1).
 - The council must consult the returning officer for every parliamentary election held in a constituency which is wholly or partly in its area (paragraph 2).
 - Every such returning officer must make representations to the authority. The representations must include information as to the location of polling stations (existing or proposed) within polling places (existing or proposed) (paragraph 3).
 - Representations made by a returning officer must be published within 30 days of receipt by posting a copy of them at the council's office and in at least one conspicuous place in their area and, if the authority maintains a website, by placing a copy on the authority's website (paragraph 3 and regulation 3 of the Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006).
 - The council must seek representations from such persons as it thinks have particular expertise in relation to access to premises or facilities for persons who have different forms of disability. Such persons must have an opportunity to make representations and to comment on the returning officer's representations (paragraph 4).
 - Any elector in a constituency situated in whole or in part in the authority's area may make representations (paragraph 5).
 - Representations made by any person in connection with a review of polling places may include proposals for specified alternative polling places (paragraph 6).
 - On completion of a review the authority must give reasons for its decisions in the review and must publish:

- a) All correspondence sent to a returning officer in connection with the review;
- b) All correspondence sent to any person whom the authority thinks has a particular expertise in relation to access to premises or facilities for persons who have different forms of disability;
- c) All representations made by any person in connection with the review;
- d) The minutes of any meeting held by the authority to consider any revision to the designation of polling districts or polling places within its area as a result of the review;
- e) Details of the designation of polling districts or polling places within its area as a result of the review;
- f) Details of the places where the results of the review have been published (paragraph 7 and regulation 4 of the Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006).