



22 June 2016

Dear 

Review of Polling Places for Elmbridge – Polling Place Thames Ditton Central (CA)

1. I am writing to you in your capacity as Chief Executive and Returning Officer (“RO”) for Elmbridge Borough Council (“the Council”).
2. On 23 March 2016 the Electoral Commission (“the Commission”) received a written representation from , in relation to the review of polling districts and polling places undertaken by the Council in 2016. The representation related to the decision of the Council to move the Thames Ditton Central ward (“CA”) polling station from the Vera Fletcher Hall (“VFH”) to the Thames Ditton Centre for the Community (“TDCC”). The representation was based on the following eligible ground:
 - the review was not conducted so as to meet the reasonable requirements of the electors or any body of the electors. This is because the location of VFH is well known by electors, VFH is more convenient for those electors who commute by train, VFH is better served by buses and VFH is convenient for electors visiting the nearby infant school and two nurseries. In addition the consultation period was very short, the RO failed to take account of the large number of objections and the polling place review was not brought before a committee or sub-committee of the council.

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3. The Commission has received and considered the Council's written observations on the representations and other information provided by the Council. 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").
4. The Commission's decision is summarised and set out in detail below. A copy of this decision has also been sent to [REDACTED]

Summary of Decision

5. We found that the review was conducted in such a way as to meet electors' reasonable requirements.

Relevant legislation and guidance

6. In England the council of every district or London borough must divide its area into polling districts (section 18A(1) and (2) RPA 1983).
7. In addition, such councils must designate the polling places for the polling districts in its area (section 18B(3)(a) RPA 1983). Except in certain circumstances, each polling district must have a polling place in that polling district (section 18B(1), (2) and (4)(d) RPA 1983).
8. Such councils must keep their polling districts and polling places under review (sections 18A(2)(b) and 18B(3)(b) RPA 1983). In Elmbridge a polling place review was carried out following a Local Government Boundary Commission review which reduced the number of wards in Elmbridge.
9. The statutory rules that apply to polling place reviews and the procedure that must be followed are set out in Appendix 1. We have published guidance to assist councils in Great Britain with reviews:
 - Guidance on the review of polling districts and polling places
 - Checklist: Review of polling districts and polling places
10. Following the completion of the review, representations can be made to the Electoral Commission on the grounds that the review was not conducted so as to:

- Meet the reasonable requirements of electors (or any body of electors) in the constituency, and / or
 - Take sufficient account of disabled access to polling stations (section 18D(2) RPA 1983)
11. Only certain categories of persons and bodies may make representations to us. One such category is not less than 30 electors in the constituency (section 18D(1)(b) RPA 1983).
 12. The returning officer for the constituency may make observations on any such representations (section 18D(3) RPA 1983).
 13. We must consider such representations and observations and may, if we think fit:
 - a) Direct the relevant authority to make any alterations to the polling places designated by the review which the Commission think necessary in the circumstances;
 - b) If the authority fails to make the alterations before the end of the period of two months starting on the day the direction is given, make the alterations ourselves (section 18D(4) RPA 1983).

Elmbridge Borough Council's review of polling districts and polling places

14. In 2015 the Local Government Boundary Commission for England (LGBCE) conducted an electoral review in Elmbridge. This concluded on 5 January 2016 and recommended that Elmbridge Council be reduced in size and its 22 wards reduced to 16.
15. Following receipt of the LGBCE's review of the Borough of Elmbridge the Council conducted a review of polling districts and polling places so the new arrangements could be in place before the Police and Crime Commissioner and Council elections on 5 May 2016.
16. The Council held a public consultation into the Polling District and Polling Place Review between 23 February and 10 March 2016. The RO required the review to be finished by 10 March so poll cards could be printed and sent out for elections on 5 May. By law the notice of election for the PCC and local elections had to be published not later than 30 March (25 working days before the day of the poll), and poll cards sent out as soon as practicable after publication of the notice of election.

17. The RO wrote to elected members on 6 January 2016 explaining the arrangements for the polls on 5 May, the publication date of the electoral register on 1 March and that there would be a full Polling District and Polling Places Review for the borough. The date of the consultation was not provided in that letter.
18. On 23 February an email was sent to elected members for Thames Ditton ward informing them that a Polling District and Polling Place Review would be published later that day with details of the proposed polling places for the three Thames Ditton polling districts and in particular the proposal that VFH would no longer be used as a polling place in the CA polling district. The Returning Officer explained that although VFH is convenient for some voters the review proposed moving the polling place for CA polling district because the size and internal layout at VFH raised concerns about the secrecy of the poll and had resulted in queuing the previous year. In addition he said that TDCC was preferred because of the availability of car parking and because the size and layout of TDCC would enable him to create 3 polling stations inside the polling place which would ensure there was sufficient capacity for CA polling district in the borough elections and EU referendum in 2016 and other polls in the future. The RO had decided that there was a need for 3 polling stations in CA polling district because the number of electors was towards the upper limit that should be accommodated by 2 polling stations (following Commission guidance), and the need for 3 polling stations was demonstrated by the queueing experienced at VFH at previous polls.
19. Details of the consultation were published on the Council website and elsewhere and elected members and other organisations were informed.
20. There were over 80 responses to the consultation, of which all but two objected to the change; one approved the change and one consultee expressed no preference.
21. In particular [REDACTED] of Thames Ditton and Weston Green Residents' Association, whose representations to the Commission prompted this review, objected to the proposal to move the polling place from VFH to TDCC on the grounds that he did not accept that this would maximise voter convenience, as VFH is more centrally located, well known to voters, more convenient for the

substantial number of voters who are commuters, more convenient for bus users and also for voters visiting Thames Ditton Infants School.

22. Councillor Tannia Shipley, Chair of Elmbridge Council Older People's Advisory Body objected because of the disruption to the Thames Ditton Centre for over 50s which operates at TDCC on Thursdays and the lack of parking space in the car park which is already well used by visitors to a number of local organisations.
23. Councillor Peter Hickman objected as the number of electors likely to vote in person in the CA polling district would not require the use of a third polling station and VFH is comparable in size with polling places in other polling districts and therefore there was no need to move to TDCC.
24. Having conducted the review the RO published his decision. He confirmed the proposal to move the polling place for Thames Ditton central (CA) polling district to TDCC. The reason given is:

The Returning Officer has determined that the Polling Place for Polling District CA will be located at Thames Ditton Centre for the Community, Mercer Close, Thames Ditton. The Returning Officer has determined that the Thames Ditton Centre for the Community is both a suitable and available venue for use as a Polling Place and specifically because:

- *it is commodious and has a better configuration for polling purposes;*
- *better parking provision for voters immediately outside the Polling Place;*
- *located within Polling District CA;*
- *close to local schools and facilities; and*
- *whilst it is accepted that Vera Fletcher Hall is located near to Thames Ditton railway station, the Thames Ditton Centre for the Community is approximately 0.35 miles from Thames Ditton railway station. The commuter catchment area is likely to extend beyond the immediate proximity to the station entrance.*

25. In an email to councillors on 14 March the returning officer said that he had decided to use TDCC and the critical factors were that although both TDCC and VFH were well placed in the polling district and close to local schools and facilities, VFH had the advantage of convenience for rail commuters, but TDCC had the advantage of being more commodious and better configured as well as

having off street parking. The RO preferred TDCC as it avoided problems over lack of parking and the better layout enabled him to accommodate 3 polling stations which was not possible at VFH.

26. The final decision was made by the RO and chief executive under the powers delegated to him under the constitution of Elmbridge Borough Council which says at Part 3.4(a)(i)

a. Chief Executive:

i. Elections: To act as Electoral Registration Officer in the maintaining of the Electoral Register and as Returning Officer in the conduct of Local Government Elections and to exercise the functions and powers relating thereto (including the fixing and revision of fees payable at elections and the administration of Polling Places and Polling Stations), all in accordance with the provisions of the Representation of the People Act 1983 and the specified functions set out in Part D of Schedule 1 to the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

27. A letter was also sent to electors on 1 March 2016 informing voters of the reduction in the number of councillors and that their polling place may have changed as a result of the Review. A map of the polling place was also included on the poll cards.

Representation from 30 or more electors

28. On 23 March 2016 the Commission received a representation from more than 30 electors. The representation was submitted to us on their behalf by [REDACTED]. In particular the representation was made that locating the polling place at TDCC would not meet the reasonable requirements of the electors in that VFH maximises voter convenience as it is more centrally located, well known to voters, convenient for the large numbers of voters who commute from Thames Ditton station, is better located for bus services and is more convenient for electors travelling to the infants school and two nurseries.
29. In addition [REDACTED] does not accept the Council's reasons for no longer using VFH which he understands to be that there are issues with parking, building capacity, queuing and safety risks. [REDACTED] also has concerns with the process by which the decision to move the polling place to TDCC was carried out, in particular the short time allowed for the consultation, the failure to take

note of the large number of objections and the decision making process as the decision was not taken by a committee or a sub-committee of the Council.

30. We wrote to the RO and Chief Executive for Elmbridge to ask for his observations on the above representation. The RO and Chief Executive said that he remained of the view that TDCC was the best venue in the CA polling district. This is because the polling place had to serve over 3800 electors in an area with high turnouts, it was well located close to the residential population, adjacent to the library and near a junior school, day nursery and health centre. It has a car park which the Council controls so the RO can ensure there is parking available, is fully accessible and will easily accommodate three polling stations which he planned to use as the polling district is already close to the 2000 maximum per polling station recommended by the Commission for the EU referendum.
31. The RO acknowledged that VFH is well placed and convenient for commuters and there was a large response at the consultation in favour of keeping it; but balanced against that its location on a busy road with few daytime parking spaces due to commuter parking which has resulted in complaints in the past. In addition the hall is relatively narrow and cramped with 2 polling stations, and this has resulted in queuing down the middle of the hall near the voting booths potentially undermining the secrecy of the vote and queues outside and along the footway. VFH is too small to accommodate a third polling station, and as there is a better venue in the polling district he decided to use this.

Decision

32. Our role under section 18D RPA 1983 is to consider whether Elmbridge Council's review was conducted so as to meet the reasonable requirements of the electors in the constituency or any body of those electors¹. A review includes everything from the publication of the notice of review until the decision and its publication (along with reasons and prescribed documents). In this case the representation from not less than 30 electors is based on the argument that the decision, which was made by the RO and Chief Executive under powers delegated to him under Elmbridge Council's constitution, did not meet the reasonable requirements of

¹ There is an additional ground relating to the accessibility to disabled persons of polling stations within a designated polling place but this is not raised in this appeal.

the electors because the new location for the polling place is less convenient to a large number of voters than the old location at VFH.

33. We have considered the information provided in the representation from not less than 30 electors and the additional information in the emails dated 23 March, 24 and 27 April from [REDACTED] and the information provided by the RO on 12 April, 11 and 26 May 2016.

Procedural matters

34. The local authority is required to keep polling places in its area under review and seek to ensure that all electors in a constituency in its area have such reasonable facilities for voting as are practicable in the circumstances (sections 18B(3)(b) and (4)(a)). The polling place review and decision to move the polling place from VFH to TDCC was made by the chief executive and RO and was not brought before a committee or sub-committee of the Council. In his representation [REDACTED] raised concerns about process as the polling place review was not brought before the Council or a committee of the Council for its decision in accordance with Commission guidance (paragraph 2). Although the Commission guidance says that *“the local authority must decide on the most appropriate polling districts and polling places, which must be approved by the council”* the chief executive and RO was able to carry out the review without obtaining approval from the Council because of the powers delegated to him under the Council’s constitution.
35. The LGBCE concluded their review on 5 January and this recommended a reduction in the number of wards from 22 to 16 and a reduction in councillors from 60 to 48. Following this the Council had to review the polling districts and polling places before commencing the consultation, which had to be completed in time for the review to be finalised and poll cards sent out before the polls on 7 May. The Commission guidance does not specify how long the consultation should last, but says that the authority should consult widely and seek out the views of interested groups including electors, candidates and agents, political parties and members of the council. We find that although the consultation period was short it was sufficient, and the Council received a number of representations. A large number of consultees objected to the change. We find that the council did not disregard these representations, but answered the objections in the reasons given which are set out in paragraph 24 above.

Substantive matters

36. We have found that both VFH and TDCC are located in the polling district and so both meet the legal requirement that the polling place must be in the district unless there are special circumstances. VFH is on the west side of the polling district and TDCC is in the south. Both locations are within residential areas and within walking distance for some residents but not all. Neither location is in the centre of the CA polling district.
37. VFH was the polling place before the polling place review and is therefore more familiar to voters. Letters have been sent to all residents alerting them that some polling places have moved following the review and a map is included on the poll card.
38. We have found that VFH is more convenient for that part of the electorate who commute by rail. Approximately 1500-1900 people use Thames Ditton station each weekday and VFH is close to the station and convenient for them. We do not know how many of these commuters are electors in CA. TDCC is likely to be less convenient for electors who commute by rail. It is approximately a 10 minute walk from the station to TDCC. There is parking at TDCC where commuters who drive to Thames Ditton station could park before or after their commute. VFH is better served by buses with 513, 514 and 515 routes stopping near VFH. In contrast buses on the 514 and 515 routes stop further away from TDCC, approximately 1/3 mile walk.
39. We have found that TDCC is more convenient for those voters who drive to the polling place. Parking at VFH is on the street and because commuters park in the roads around the station it is difficult to find parking spaces until commuters leave at around 7pm. There are 4 disabled parking bays near VFH and in the past 3 of these have been suspended and reserved for all voters; while this is convenient for non-disabled voters, it significantly reduces the accessibility of the polling place to disabled voters. Electors at VFH have complained in the past because of the lack of parking. It might be possible to suspend parking in the street, but this is under the control of Surrey County Council and not Elmbridge Borough Council and so cannot be guaranteed. In contrast TDCC has an off street car park that is controlled by Elmbridge Borough Council who are therefore able to reserve

spaces for voters' parking. Parking was reserved for voters at the May 2016 polls and the RO told us that this worked.

40. We have found that both VFH and TDCC are convenient for some local facilities and less convenient for others; VFH is more convenient for visitors to the infants school and two nurseries, and TDCC more convenient for visitors to the junior school, one nursery, the library and health centre.
41. We have found that the building capacity of TDCC is greater than VFH and is likely to reduce queuing for electors and help ensure the secrecy of the vote. In particular there is only space for two polling stations at VFH which has resulted in queuing in previous elections; both inside the polling place, where voting booths could not be kept sufficiently separate from people queuing, and outside on the footway. In particular in 2015 the Polling Station Inspector's report said:

"The Vera Fletcher Hall was clearly very challenging on a number of fronts. The building is just not big enough to easily allow two stations. It did mean that when there were queues, the confidentiality of voting was compromised."

In contrast at TDCC there is sufficient space for three polling places which were used at the May 2016 elections and the RO intends to use at the EU referendum and future polls. It is Commission guidance that for the EU referendum that *"In any case where a polling station has more than 2,000 electors allocated to it, the CO must seek agreement from their RCO to their approach in that polling station, setting out how they intend to manage it so as to ensure that all electors allocated to it can vote easily and without delay"*. The CA polling district has over 3800 voters so this is towards the maximum number of voters that the Commission would expect to be served by 2 polling stations. In a polling district with a historically high turnout the Commission finds it reasonable to provide 3 polling stations with around 1250-1300 voters per station.

42. In conducting a review we would expect a council to take into account all factors and strike a balance. In this case we find that although VFH was more convenient for those electors in CA who commute by rail, this had to be balanced by the lack of adequate parking for those electors who travelled by car. Although the bus stop serving VFH was closer than the bus stop serving TDCC there was reasonable bus service provision to TDCC. There had been queuing at VFH at

previous elections and the polling place was overcrowded at times, with room for only 2 polling stations, whereas TDCC is more spacious and has room for 3 polling stations and this had worked well at the May 2016 polls.

43. Taking all these factors into account, the Commission's decision is that the Council did strike a reasonable balance which met electors' reasonable requirements.

Yours sincerely



Andrew Scallan CBE
Director of Electoral Administration

cc. [REDACTED]

Appendix 1: Rules and procedure governing reviews of polling districts and polling places

In England the council of every district or London borough must designate polling districts and polling places, and keep them under review, under sections 18A and 18B of the RPA1983.

Polling districts (section 18A)

In respect of polling districts, the authority 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.

Polling places (section 18B)

A polling place must be designated for each polling district in a constituency, unless the size or other circumstances of a 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.

The following rules apply-

- a) the authority 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;
- b) the authority 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;
- c) the authority must have regard to the accessibility to disabled persons of potential polling places in any place which it is considering as a polling place or the designation of which as a polling place it is reviewing;
- d) 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;
- e) 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.

Local authorities

The following procedure must be followed (Schedule A1 RPA 1983 and Review of Polling Districts and Polling Places (Parliamentary Elections) Regulations 2006):

- The authority must publish notice of the holding of a review.
- The authority must consult the returning officer for every parliamentary election held in a constituency which is wholly or partly in its area.
- Each 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). The authority must, within 30 days of receipt, publish representations made by a returning officer for the purposes of the review of polling districts or polling places –
 - a) by posing a copy of them at its office and in at least one conspicuous place in their area; and
 - b) if the authority maintains a website, by placing a copy on the authority's website
- The authority 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 comment on the returning officer's representations.
- Any elector in a constituency situated in whole or in part in the authority's area may make representations. Representations made by any person in connection with a review of polling places may include proposals for specified alternative polling places.
- On completion of a review the authority must give reasons for its decisions in the review and 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 particular expertise in relation to access to premises or facilities for persons who have different forms of disability;
 - c) all representations made by any persons 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.