



Cabinet Office

**The Government's response to the Electoral Commission's
Report on the May 2016 Mayor of London and London Assembly
elections**

2nd March 2017

Foreword

I am pleased to publish this response to the reports of the Electoral Commission, Association of Electoral Administrators (AEA) and London Assembly on the Mayoral and London Assembly elections in May 2016. I am grateful to administrators for their efforts in running these polls and I am pleased to note the Electoral Commission's conclusion that the polls throughout London were, on the whole, well-run and continue to command the trust of the electorate. It is important that all eligible electors are able to have their say and the smooth running of these polls is central to facilitating an effective democracy. Furthermore, it is essential that Government continues to maintain regular contact with organisations such as the Electoral Commission, AEA and London Assembly which have important views to feed into the development of policy and the delivery of electoral services.

In addition to the actions covered in this report, the Government is taking further steps to improve our elections and develop a democracy that works for all. I recently completed a tour of every region and nation of the United Kingdom to hear about the barriers that prevent some groups from participating in the democratic system and making their voice heard by registering to vote. The Government has also issued a response to Sir Eric Pickles' report on electoral fraud and is currently working on measures to improve the integrity of our elections including pilots to test the use of identification in polling stations; is working with the Law Commission to streamline and clarify our electoral law to make it more easily applicable for electoral administrators; and will continue to encourage voter registration by making it easy to apply using the online registration service. As I made clear in my speech to the AEA in February this year, we are committed to ensuring that administrators, electors, parties and other personnel all have the tools they need to deliver our elections.

These reports lay out a number of recommendations specific to the London polls. I am grateful to all of the organisations that contribute to

the effective running and monitoring of these polls, and I hope we can continue to work together to deliver a democracy that works for all.

Chris Skidmore
Minister for the Constitution

Introduction

1.1. The Government is grateful to the Electoral Commission for its report, *The May 2016 Mayor of London and London Assembly elections*, published in September 2016.

1.2. The report outlined that the elections were well-run and that the electorate retains a high degree of confidence in the electoral system, although it also identified shortcomings that lead to the error with polling station registers in Barnet and communication problems pertaining to progress of the electronic count during the election. Nevertheless, we are pleased to note the Electoral Commission's conclusion that, despite the specific challenges faced, the elections were generally delivered successfully. We welcome the report's conclusions and recommendations and this response seeks to address each of these in turn.

1.3. Concurrent to this publication, the Government has also replied to the Electoral Commission's report *The May 2016 Police and Crime Commissioner elections* (published in September 2016). Where recommendations made by the Electoral Commission's reports have been similar, we have answered them in our response to the Police and Crime Commissioner elections, in order to avoid duplication.

1.4. The Government has also taken this opportunity to respond to the recommendations made by the Association of Electoral Administrators (AEA) in its report *Pushed to the absolute limit: 2016 - the electoral year never to forget*, also published in September 2016, as well as those in the London Assembly's report on *The 2016 Mayoral and London Assembly Elections* from November 2016, where they are relevant to the London polls and have not been addressed in other reports. We address recommendations made by the AEA and London Assembly in the body of this response where they are relevant to the GLA polls. Responses to further recommendations made by the AEA and London Assembly which are not directly relevant to GLA elections are set out in an Annex to our response to the PCC elections.

1.5. The Government has separately published its response to the recommendations made by Sir Eric Pickles in his independent report on tackling electoral fraud.

1.6. Where possible, we have grouped recommendations in this report so that similar themes are discussed together.

Roles and responsibilities for managing and delivering the Greater London Authority (GLA) elections

We note the Electoral Commission's recommendation on Borough Returning Officers, namely that:

The role of Borough Returning Officer be recognised in the legal framework for future GLA elections (EC1)

The roles of the Greater London Returning Officer (GLRO) and Constituency Returning Officer (CRO) are defined in the statutory framework. Borough Returning Officers (BROs) in each London Borough and the City of London supported the GLRO and CROs in running certain functions of the elections, including the administration of polling stations within each local authority area, and the issue and receipt of postal votes. However, the role of BRO is not recognised in legislation and there have been occasions at previous elections where communications between CROs and BROs have not been as straightforward as they should be, with some BROs calling for clarification of the roles. The Commission recommended (in response to the draft GLA elections rules in August 2007 and again following the 2008 and 2012 elections) that the role of BRO be recognised in the legal framework for the GLA elections in 2016. However, the government did not amend the rules to reflect this. Although this lack of recognition did not seem to cause significant problems at the 2016 elections, the Commission

again recommends that the role of BRO be recognised in the legal framework for future GLA elections.

The Commission were supported in this proposition by the Association for Electoral Administrators (AEA), which recommended:

That the Cabinet Office bring forward amendments to the relevant legislation to recognise the role of the Borough Returning Officer at elections of the London Mayor and Assembly. (AEA1)

Currently, at GLA elections, the Constituency Returning Officer is responsible for the administration of the poll in each Assembly constituency. The recommendation seeks in effect to provide for two officers to have legal responsibility for running a poll at a local level at GLA elections. This would be a novel situation and we would be concerned that it could blur the clear lines of accountability to the Constituency Returning Officer. Therefore, we are not minded to legislate on this issue though we will wish to discuss it with the AEA, Electoral Commission and Greater London Returning Officer to see whether the concerns raised can be addressed within the existing legal framework for GLA elections.

[The Count and E-Counting](#)

We note the recommendation by the Electoral Commission, and reiterated by the London Assembly Election Review Panel, that the integrity and transparency of e-counting systems should be reviewed:

Further consideration should be given to the effectiveness, value for money and risks of using e-counting systems. (EC8)

This is the fifth set of Mayor of London and London Assembly elections that have used an e-counting system. In our report on the 2012 elections, we recommended that

the cost benefit analysis that was carried out prior to letting the contract for e-counting in 2012 should be updated and published which was done. We again recommend that this analysis, which should include a robust and detailed consideration of counting by hand, is updated and published for comment by summer 2017. Given that elections currently scheduled for 2020 would entail a mixture of manual and electronic counting the Commission would welcome the opportunity to contribute to the analysis. The GLA's Election Review Panel is conducting a review of all aspects of the Mayor of London and London Assembly elections and for the e-counting part of this review we recommend that consideration is given to the risks arising from the technical and specialist nature of e-counting systems by asking the following questions: How much of the technical detail of the e-counting system does the GLRO personally need to understand? Who else in the GLRO's direct team is responsible for understanding and managing the operation of the e-counting system? How much control did the GLRO actually have over the e-counting system? How comfortable would the GLRO be with a similar degree of understanding and control for future elections? What was the overall risk assessment made by the GLRO about using the e-counting system? Was this risk anticipated, were the controls appropriate and applied effectively? Has this changed the GLRO's overall risk assessment about the use of e-counting in future elections?

The specification for an e-counting service must include how objectives related to transparency can be addressed. This should include random manual sampling. (GLA 8)

Whilst not a recommendation for Government, we agree that there should be transparency around all electoral systems and that there should be mechanisms, such as random manual sampling, which provide a level of verification to the results from the electronic process.

Manual checks were used at a previous GLA poll which the Government supported and we support the London Assembly's position on using these in future polls.

We note that members of the London Assembly remain concerned that there is no process for holding a re-count for the aggregated Mayoral vote, and who suggest that the Greater London Returning Officer should have a power to order one where the overall result is close.

The Government does not support this suggestion. Under the current system where a poll at the constituency level is close, the local Returning Officer can order a recount to ensure the final count is accurate. The result of the poll is agreed between parties and confirmed before the final total becomes clear.

It is, therefore, unnecessary to call a general recount even in the event of a close overall result because the validity of the polls at a granular level has already been established.

A power to order a general recount would, therefore, undermine the certainty of individual constituency polls and the overall result. Furthermore, it would involve additional costs in keeping administrative staff and resources on hand should a recount be called. As such, the Government is not minded to change this aspect of the law.

Party names and campaigning

We note the recommendation from the Electoral Commission that the Government should:

Improve transparency of non-party campaign spending at London Mayoral and London Assembly contests (EC 13)

We recommend that the UK Government improve the rules on non-party campaign spending at London Mayoral and London Assembly contests before the next elections expected in 2020, including introducing greater transparency about who is campaigning and how much they are spending.

The Government acknowledges the concerns raised by the Commission about the existing rules on third-party campaigning at the London Mayoral and London Authority polls. We would welcome constructive discussions with the Commission on measures to improve the transparency of campaigners' spending at these polls.

[Standing for election, campaigners and the campaigns](#)

We note the Electoral Commission's proposal that the transparency of candidate spending returns should be improved:

Publication of candidate spending returns (EC 11)

To improve transparency and accessibility of candidate spending returns, we have previously recommended that Returning Officers should be required to publish spending returns online as well as through the existing methods of public inspection. We recommend that spending returns of London Mayoral candidates and London Assembly candidates should be published online in future. We support recommendation 12-5 of the Law Commissions' review of Electoral Law which proposes a method for implementing this change through legislation.

Section 89 of the Representation of the People Act 1983 requires that returning officers make election expenses returns available for inspection "at his office or some other convenient place chosen by him". Whilst this does not expressly reference online provision, it does not exclude it. A change to that Act would be required if online publication were to be mandated as the Commission recommends.

Such a move would require careful consideration of the practicalities for returning officers. We will consider this alongside the AEA's recommendation for an online facility for submission of candidates' election expenses returns, which we address in our report on the May 2016 PCC elections.

We also note the AEA's recommendation that the restrictions on publishing candidate's home addresses should be extended across all polls. (AEA 7-5)

The Government recognises that the existing requirements in relation to the publication or otherwise of candidates' home addresses vary across different polls.

We will look to review the current arrangements to assess the scope for bringing greater consistency to this area of electoral law.

The Polling Station

We note the London Assembly's recommendation that:

For the 2020 GLA election London Elects should ensure that every polling station is prepared to record any incident in a log book, including any person's name and address if they are unable to vote for any reason of a failure of administration. The Electoral Commission should consider whether this should become standard practice across all elections. (GLA 4)

Although not a recommendation for Government, the Cabinet Office is concerned by the events at Barnet at the 2016 polls. The integrity of our elections is of paramount importance and we encourage electoral administrators and stakeholders to consider how similar issues can be avoided in the future. We would welcome the Electoral Commission's views on this matter.

Voter Understanding

We note the London Assembly's recommendation to the Greater London Returning Officer and Electoral Commission to conduct additional research into voter understanding:

In considering the guidance further, it would be helpful if the GLRO and the Electoral Commission jointly commission additional research to test voters' understanding further. It would also be helpful to further test guidance/explanation options with voters in seeking to improve clarity and reduce rejected votes. This research may be of value for the new Metro mayoral elections which will take place in May 2017. (GLA 3)

Although not a recommendation for Government, we would nevertheless be interested in the results of this research and its suggestions for future polls.

We also note the AEA's recommendation that:

The UK Government should review the provision of the distribution of the Greater London Authority booklet so that it is distributed to all households rather than all eligible electors.

The Government will consider the provision of information to the electorate as part of the planning process for the next scheduled Greater London Authority elections to take place in 2020.

The Government is concerned that the Supplementary Vote (SV) system currently used in these elections forces voters to try and guess which two candidates are likely to reach the final round in order to vote tactically. It also leads to a significantly higher number of spoiled ballots, disenfranchising people who have cast their vote in good faith. This has been illustrated by the independent Electoral Commission's

recent report into the 2015 General Election, which found that the percentage of votes rejected in the SV elections held on the same day as the General Election was up to 12 times higher than under FPTP.

The Government will therefore seek to improve voter understanding through the introduction of First Past the Post (FPTP) to GLA mayoral elections, in line with our manifesto commitment to introduce FPTP to all mayoral elections. The Government's view is that FPTP is well-established here. In each constituency, candidates are elected to represent the views of their constituents and in each case a candidate for whom more people voted than for any of the alternatives is elected. The current system also provides a clear and well-understood link between constituents and their representative.

Looking ahead

The Electoral Commission and GLA both outlined concerns over the level of combination in 2020, and alluded to the particular problems this presents for the London Assembly and Mayor of London Elections:

The next scheduled PCC elections in May 2020 will be held on the same day as scheduled local government elections in England, which include local council elections, directly elected local authority mayoral elections and combined authority mayoral elections. In London, there will be elections for the Mayor of London and members of the London Assembly. In addition, the next UK Parliamentary general election is scheduled to be held on the same day, Thursday 7 May 2020.

The London Assembly also made a similar recommendation.

In the light of the wide range of risks identified above that cannot be readily mitigated within the project plan for the election, the Government should review the risks of holding these polls on the same day. (GLA 11)

The Government recognises the issues posed by the coincidence and complexity of the polls scheduled for May 2020. The extraordinary Parliamentary General Election on 8th June 2017 now means that the next scheduled election will occur in 2022. This has reduced the challenge faced by administrators and those supporting them to deliver the poll but there will still be a significant number of polls taking place in May 2020 (including PCC, Mayors for Combined Authorities and GLA elections as well as local authority polls) and the Government will continue to work with administrators, the Electoral Commission and other organisations to ensure effective preparation and delivery.

Conclusion

The Government is pleased to see the generally favourable reports on the May 2016 polls in London, which indicate that the polls were effectively run and produced outcomes that have the confidence of the electors and other interested parties. The views of the Electoral Commission, AEA and London Assembly continue to inform the Government in reviewing and developing electoral policy. We look forward to working with these stakeholders to improve the integrity, security and effectiveness of our elections, and to delivering a democracy that works for all.