

# **Report to Overview and Scrutiny Committee**

**Date of Meeting: 3 September 2009**



**Report of:** Constitution & Member Services  
Standing Scrutiny Panel

**Chairman:** Councillor Mrs M McEwen/Returning Officer

**Subject:** Elections – June 2009

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## **Recommendation:**

**To note this review of elections held on 4 June 2009.**

### **1. Introduction**

We have reviewed the following elections which were held on 4 June 2009:

- (a) seven County electoral divisions (returning one County Councillor for each);
- (b) one District Council by-election for the District Ward of Waltham Abbey Honey Lane (returning one District Councillor);
- (c) one Parish Council by-election for the Parish Ward of Buckhurst Hill (East) (returning one Parish Councillor);
- (d) election of seven members of the European Parliament for the Eastern Region of the UK.

### **2. Responsibility**

Responsibility for the four elections was as follows:

- (a) Essex County Council – I Willett as Deputy Returning Officer (on behalf of the County Returning Officer);
- (b) District Council by-election – I Willett as Returning Officer;
- (c) Parish Council by-election – I Willett as Returning Officer;
- (d) European Parliamentary Election – I Willett as Local Returning Officer on behalf of Mr D Monks, Regional Returning Officer (Huntingdonshire District Council).

### **3. Electoral Statistics**

- 3.1 We have been advised that voter turnout at the various elections ranged between 46% of those entitled to vote in the Epping and Theydon Bois Electoral Division to 32% in respect of the Waltham Abbey electoral division.
- 3.2 The total number of postal votes issued for these elections was 8,167 compared with 5,408 in 2008. The increase is partly explained by the fact that in 2008 the whole district was not holding elections whereas in 2009 electors were entitled to vote across the whole district. Of the total number of postal votes issued the return rate was 70% (compared with 75% in 2008).

### **4. Nomination Process**

- 4.1 The statutory timescale provided for the receipt of nominations for candidates by not later than 4 pm on 7 May 2009. The statutory requirement for the publication of the statements of persons nominated was for this to be achieved by no later than noon on Monday 11 May 2009. However, recognising comments which have been made in previous years a provisional list was published on the Council's website on 8 May 2009 subject to a proviso concerning final checking of the candidates list by Essex County Council.
- 4.2 We noted that the nomination process in respect of the European Parliament elections was solely the responsibility of the Regional Returning Officer.

### **5. Polling Stations**

- 5.1 The majority of polling stations used were those which have been established for many years. However there were one or two exceptions this year which are outlined below:

#### **(a) Field Station at Gunpowder Park, Waltham Abbey**

Traditionally, the polling station for the Sewardstone area was Sewardstone Village Hall, Daws Hill but this ceased to be used two years ago because of the poor state of repair of this building. In 2008, the polling station was transferred to the Lee Valley Caravan Park in Sewardstone Road but subsequently alterations were made to the premises which made it impossible to use the premises as a polling station. In 2009 therefore a new venue was found at the field station at Gunpowder Park and there were no complaints notified to the Returning Officer about this new venue. One slight problem was encountered with the failure of the car park lighting but this will be attended to before any further elections are held.

#### **(b) Sheering**

For many years a portakabin was used to accommodate a polling station in the village of Sheering, there being no suitable public buildings elsewhere for polling purposes. However, in 2008 the polling station was situated in the local public house and has proved generally convenient and popular with voters. However one elector has complained about the public house not being a suitable venue for polling purposes because the polling station was not adequately screened off from the rest of the public house. The cost of a portakabin for Sheering is still regarded as prohibitive (£3,000 plus) and it is intended to base the polling station in the public house in future but there will be further discussion with the proprietors about the screening arrangements.

**(c) Theydon Bois**

Traditionally the polling station has been situated in Theydon Bois Village Hall. In 2009 this was not possible because an amateur dramatic society had booked the hall for a production in the evening which made it impossible for the polling station to continue to operate up to the close of voting at 10 pm. As a result the polling station transferred to St Mary's Church Hall in Theydon Bois which is very close to the village hall itself. No complaints have been received about the new premises and it may be that if the Village Hall is to be used for an evening count in future, then St Mary's Hall will continue to be used for polling purposes during the day.

**(d) Buckhurst Hill**

One polling station regularly used in Buckhurst Hill is the former Roding Valley Centre but in 2008, because of transfer of ownership and other considerations, the polling station moved to St Stephen's Church Hall. However this year the polling station moved back to the former venue, under its new name of the Woollard Centre.

**(e) Bobbingworth**

Representations were received by the Returning Officer concerning the provision of a polling station in Bobbingworth. Over the last few years Bobbingworth voters have been directed to a joint polling station in Moreton Village Hall. This was because of the difficulty of finding a suitable site in Bobbingworth which would avoid hiring a portakabin and also the potential health and safety issues about a highway side location. 215 voters are on the register for Bobbingworth and it has been suggested that the local church in Bobbingworth has now become available for use as a polling station, whereas previously it was not. For such a relatively small number of voters however the value for money assessment of polling station arrangements in that part of the District are crucial. With Government very carefully scrutinising claims for election expenses, it is not thought that additional expenditure on a separate polling station would be well received in a parliamentary election.

**6. Postal Voting**

6.1 In accordance with the election timetable, postal ballots for all divisions within the district were despatched to electors on 20 May 2009. These postal votes were opened at various times up to election day.

6.2 There was no evidence of any postal fraud although a very small number of postal votes were rejected as a result of signature and/or dates of birth comparison. The software and scanners which are used for checking personal identifiers were considered to have worked very well at the postal voting sessions.

**7. Spoilt Ballot Papers**

7.1 The total number of ballot papers rejected in the European election was 280 and a large proportion of these were left blank by voters, which could be read as a lack of interest in European voting. No local pattern of ballots rejected can be discerned in 2009, whereas in 2008 there were two areas where the number of rejected papers seemed more than the average. The explanation for this lack of a local pattern in 2009 may be that all political parties had fielded candidates throughout the district.

**8. Police Liaison**

8.1 Arrangements with the Police for attendance at polling stations and storage of ballot boxes and at the count centre operated worked well. The Returning Officer has written to the officer in command complimenting his staff for their support.

## **9. Complaints and Queries Received in the Elections Office**

- 9.1 The majority of telephone calls made to the Elections Office were from electors complaining:
- (a) that they had not received poll cards;
- and
- (b) that they were not on the electoral register and were unable to vote.
- 9.2 These queries recur at every election and most are explained by voters losing their poll cards and sometimes forgetting to update their register entries at the appropriate time.
- 9.3 Several complaints were received on polling day regarding illegal signs being placed on lamp posts, traffic signs etc in various parts of the district but particularly Waltham Abbey, Theydon Bois and Loughton. This problem is referred to later in this report.

## **10. Count – Theydon Bois Village Hall (5 June and 7 June 2009)**

- 10.1 This year, it was decided to hold the count at Theydon Bois Village Hall because it is regarded as a convenient location with generous car parking space and good IT links. Using the Village Hall allows both a large room and small halls to be used for counting purposes.
- 10.2 A number of comments were made in 2007 and 2008 concerning the layout of counting tables. As a result, a new layout was designed in 2009 in the form of “cells” which had open access on one side for agents and candidates to observe the counting arrangements but with a physical barrier to prevent counting tables being completely surrounded by observers. The general feedback received about these arrangements was positive and once again the individual “bus stop” signs used to indicate which divisions or wards being counted at each table or group of tables seemed to be helpful.
- 10.3 One TV display screen was rented to display results during the County, District and Parish Council counts but this was not used during the European verification or count. In future years the Returning Officer will continue to consider the means by which progress with the various counts can be displayed in the hall.
- 10.4 The administration of the count was considered a success. The first count undertaken was to verify the number of ballots cast in respect of the European Parliamentary elections. The Regional Returning Officer had directed that the verification of the European ballot needed to be notified to him by 1 pm on 5 June 2009 but this task was completed by 11.20 am. The count then proceeded to the seven County Council electoral divisions, which commenced at 12.15 pm and was followed by the District and Parish by-election counts. The main hall and the smaller room were used for these counts.
- 10.5 The counting of the local ballot as part of the European Parliamentary election had been directed by the Regional Returning Officer to commence at 4 pm on Sunday 7 June 2009 with the direction that it be completed before 9 pm that evening. The count at the hall was completed at 7 pm and the result sent to the Regional Returning Officer shortly thereafter. The Regional Returning Officer complimented all the Local Returning Officers in the Eastern Region for their efforts in ensuring that the regional result was declared one hour earlier than the last Euro election. The Eastern Region also was second in the UK overall.

## **11. Meeting with Election Agents**

11.1 Election agents were invited to attend a debriefing on 15 June 2009 in order to express views on the running of the election and the count. One agent and one candidate (representing an agent) was able to attend that session but a number of other agents expressed their views either by telephone or by e-mail. The general response was favourable.

11.2 The following issues were raised and the suggestions made will be considered for future elections:

### **(a) Party Logo**

The UKIP candidate queried the faint imprint of the UKIP logo on the ballot paper. On further investigation, this was found to be a quirk of the printing process and will be addressed in future elections.

### **(b) Election results screen**

The UKIP candidate has objected to the graphic used in the count hall for posting the results of the elections. This graphic showed the Epping Forest District Council, Essex County Council logos on a background of part of the European Union flag. The candidate has stated that this was "entirely inappropriate" as the European Union has not assumed responsibility for the local government elections and any emblems should be UK national ones or Essex County Council ones. This will be borne in mind for the next EU Parliament election.

### **(c) Counting of individual ballot boxes**

The Liberal Democrats' agent has asked in future counts it be made clear which ballot boxes are being counted on particular tables. This point will be addressed in future counts.

### **(d) Car Parking at Theydon Bois Village Hall**

The Liberal Democrats' agent has commented that those persons arriving by car after the Euro verification on 5 June 2009 did find problems in finding a car parking space. Car parking at Theydon Bois Village Hall is however still considered a better venue than in this respect for instance at Waltham Abbey Town Hall.

### **(e) Publication of Election Results**

The Liberal Democrats' agent has drawn attention to a delay in the publication of election results at parish offices and other information centres. He commented that early publication of this information would help to engage the public more in the process. He was however complimentary about the electronic circulation of the results to those people who had on-line facilities. There was a comment that the local press did not publish the full results but produced only a column of winners.

### **(f) Candidates' Returns**

The Liberal Democrats agent expressed some concern about the constant changes to the return which has to be completed by candidates. Regrettably Returning Officers have to follow the model provided by the Government for these returns and they are being altered on a regular basis.

**(g) Counting Arrangements – Timetable**

The Liberal Democrats asked for better information on the timing of individual counts or provision of a contact telephone number at which timings for individual electoral divisions or ward counts might be obtained. It was agreed that the Returning Officer would look into this possibility.

**(h) Counting in the Small Hall**

At the meeting both the agent and the agent's representative commented that it would have helped those in attendance to know exactly which counts were being conducted in the small hall and also where and when the announcements were to be given as to the results. This will be looked into for future counts at this venue.

**(i) Parking at Polling Stations**

At the agents meeting reference was made to the difficulties which can occur when double yellow lines are along the kerbside outside polling stations. The Returning Officer agreed that this might be a matter which could be explored with the Head of Environment and Street Scene and the car parking contractor to see if anything can be done to avoid voters receiving parking tickets when they use their vehicles to visit polling stations.

**12. Illegal Posting of Election Notices**

12.1 A number of complaints were received on polling day regarding affixing of party election posters to traffic signs, lamp posts etc at various points in the district.

12.2 The Council responded very quickly by removing a large number of these signs on election day and it is understood that the Highway Authority did likewise. However, this speed of response may have limited the opportunities for further action in pursuing the individuals or groups who were responsible for this flyposting.

12.3 The powers available for dealing with flyposting of this kind are as follows:

**(a) Town and Country Planning Act 1990**

There is provision for an offending poster to be removed but if there is an identifiable address then two days' notice has to be given of doing so. The cost of removal can be pursued and there can be a prosecution which might result in a conviction of up to £2,500 in daily fines, post conviction.

**(b) Highways Act 1980**

It is an offence to place any mark, picture, letter, sign etc on the highway or infrastructure. This is liable to a fine upon conviction. The alternative is for the Highway Authority to remove the offending item at once.

**(c) Clean Neighbourhoods and Environment Act 2005**

This Act enables costs to be recovered from any person who flyposted or caused the flyposting or where concerns are advertised. This Act also permits the service of "defacement notices" but these are not intended to deal with cases of new flyposting but rather longstanding flyposting which is unsightly or causing damage.

12.4 The more robust power rests with the Highway Authority although the District Council's powers are perfectly usable. However, in removing the signs so quickly, not having given notice, it now makes prosecutions or recovery of costs very difficult. This is not now an avenue that is available for 2009.

- 12.5 More than one political party was involved in this practice. One of the parties which was the subject of the posters has denied that it was their supporters who posted the material but a different group. With this in mind, this report is designed to be a public statement saying that if there is a repetition concerning this behaviour at any subsequent election, the due process will be followed and prosecutions and recovery of costs may result in respect of the parties concerned. However, what will need to be accepted is that if posting takes place immediately before or on polling day there may be a period of time in which those notices remain displayed. The Returning Officer is currently investigating whether this practice could be regarded as an offence under the Representation of the Peoples Act although it has to be said that the position is not clear at the moment.

### **13. Party Seals on Ballot Boxes**

- 13.1 One political party at recent elections has exercised its right to affix its own seal on ballot boxes immediately on the closure of the poll. This is a perfectly legitimate practice but is exercisable only by candidates, appointed electoral agents or appointed polling agents. The latter may be appointed for each polling station in a ward.

- 13.2 The role of the polling agent is to observe voting in the polling station with a view to detecting personation (ie one voter pretending to be another). In the 2009 election there were occasions where party workers sought to affix seals on ballot boxes in polling stations which they were not entitled to enter. The rule is that the candidate for the ward in question, the agent for the candidate in that ward or an appointed polling agent for that polling station are the only ones who may exercise the right to affix seals. One Presiding Officer challenged a party worker and this led to an unnecessary difficulty when identification was sought.

- 13.3 As a result, the Returning Officer is making representations to the Electoral Commission that in the latter's next guidance manual on the conduct of elections, candidates, agents and polling agents intending to enter polling stations for the purpose of fixing their seals to ballot boxes should be allowed to do so only after identification has been shown. It should be borne in mind that Presiding Officers cannot necessarily identify these persons and so as to avoid misunderstandings the production of identity is thought to be helpful to all involved.

### **14. Future Elections**

- 14.1 In 2010, the scheduled date for District Council elections (one third) is 6 May 2010. There are no Parish or Town Council elections in that year. However it is likely that in May 2010 or before there will be a general election and planning has already started as to the arrangements for that event.

- 14.2 The Returning Officer has already undertaken to hold the Parliamentary count on the same night as voting closes (ie Thursday) and this remains his intention. This will however mean that a further look will need to be taken at potential counting centres. Alternatively, consideration could be given to a local secondary school which would provide a much larger hall than is otherwise available in the district. However, school halls cannot be available on Friday for the District Council count so it is possible that a Parliamentary count held in a school would be followed on the next day by a District Council count at a venue such as Theydon Bois Village Hall.

- 14.3 Recent Government policy has been to combine elections wherever possible and it may be that the Parliamentary and the District Council elections will be combined on 6 May 2010 or on some other date to be advised.

- 14.4 We questioned the Returning Officer about holding the General Election count on the same day as polling. We noted that there now seemed to be growing support for Friday counts and wondered whether there was some inconsistency in holding a General Election count on Thursday.
- 14.5 The Returning Officer explained that he had accepted the argument that public interest probably dictated a Thursday count for General Election. However, he said that there needed to be assurance that sufficient staff would be available for counts on Thursday and Friday (for District Council elections) and that suitable accommodation was booked.