

Report to the Constitution and Member Services Standing Scrutiny Panel



Date of meeting: 7 January 2013

Portfolio Holder: Leader
(Local Returning Officer's Report)

Subject: Police and Crime Commissioner Election – 15 November 2012

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Recommendation:

To consider this review of the Police and Crime Commissioner Election held in this District on 15 November 2012.

Background

1. The Police Reform and Social Responsibility Act gained Royal Assent on 15 September 2011. The Act abolished police authorities in England and Wales (other than London), replacing them with a directly elected Police and Crime Commissioner in each police force area. The first elections for Commissioners were held on 15 November 2012. The Act also established Police and Crime Panels in each police force area, drawn from local councillors. This Council is represented on the Police and Crime Panel for Essex by Councillor Sartin with Councillor Waller as a deputy.
2. The Commissioner must issue a police and crime plan, set the budget (and therefore the policing precept) and produce an annual report. The Panel will scrutinise and advise the Commissioner.

Arrangements for the Election

3. The legislation and regulations for this election provided for the appointment of a Police Area Returning Officer (PARO) for each police area. The role of the PARO was to ensure that the election was administered to a consistent standard across the police area, particularly in the areas that impacted on the voters' experience, eg. the issue of poll cards and postal votes, the staffing of polling stations, the verification and counting of votes. The appointed PARO for the Essex police area was Steve Packham, Chief Executive of Chelmsford City Council. The PARO was given the power to give directions to Local Returning Officers (LRO) during the election period. LROs were responsible in their voting area for the conduct of the poll, the printing of ballot papers, the issue and receipt of postal ballot papers, the verification of ballot paper accounts and the counting of votes.

4. Mr Packham held meetings with LROs and Electoral Administrators and corresponded by email during the election period to clarify the respective roles and duties, issue advice and directions, and generally ensure a consistent approach across the County. In addition he arranged a test of communications between Chelmsford and the local count centres prior to election day. A delay in the necessary statutory regulations being made was not helpful but was overcome.
5. LROs prepared Project Plans and a Risk Registers for the elections which were reviewed and updated during the election period. In addition returns were submitted to the Electoral Commission at regular intervals regarding compliance with their guidance and actions in the Project Plan.
6. In the Epping Forest District a Project Team comprising the Local Returning Officer and three Deputy Local Returning Officers met regularly between January and November 2012 to ensure that processes were undertaken at the appropriate time. In addition to discussing all the usual elements of an election, bearing in mind the timing of this election, a severe weather mitigation plan was prepared which set out measures to be taken in the event of widespread adverse weather such as snow, ice or flooding on election day. Mock counts involving senior staff were also held to draw attention to potential issues including doubtful ballot papers and to determine ways in which such issues should be resolved. Training and briefing sessions were held for polling station staff.

The Voting System

7. The legislation required that elections with three or more candidates used the supplementary vote system. In Essex there were six candidates. The system requires two columns on the ballot paper – one for voters to mark their first choice and one to mark a second choice. Voters are expected to mark one “X” in each column, although they are not required to make a second choice if they do not wish to.
8. All the first choices are then counted, and if a candidate has received 50%+ of the votes cast they are elected. If no candidate receives 50%+ of the votes cast, the top two candidates continue to a second round and all other candidates are eliminated. The second-choice votes of everyone whose first choice has been eliminated are then counted. Any votes for the remaining candidates are then added to their first-round totals. Whichever candidate has the most votes after these second-preferences have been allocated is declared the winner.
9. At the conclusion of the count of first preferences across Essex no candidate had achieved 50%+ of the votes cast and it was necessary to undertake the second stage of the count (counting of the second-choice votes of everyone whose first choice had been eliminated).

Turnout

10. Turnout was disappointing. The electorate for the whole of Essex for this election was 1,313,745 and a total of 171,617 ballot papers were counted (turnout of 13.06%). In the Epping Forest District the electorate was 98,862 and 10,221 ballot papers were counted (10.34% turnout) which included 4,245 postal votes. This represented the third lowest turnout of the 14 districts/boroughs in the County. The majority of polling stations in the Epping Forest District issued less than 100 ballot papers during the 15 hours they were open. Across the country turnout figures ranged between 11.6% and 19.5%, although the latter figure in Northamptonshire was probably helped by a higher turnout for the Corby by-election which was held at the same time.

Poll Cards

11. Poll cards were delivered by canvassers or Royal Mail within the time frame specified by the PARO.
12. There was adverse publicity in the local press regarding some poll cards for a block of flats in Waltham Abbey being left on the windowsill in the lobby rather than being put through individual letter boxes. There were health and safety reasons for the canvasser not entering the property further than the front door. However, canvassers should return poll cards which they cannot post in the addressee's letter box so that alternative delivery arrangements can be made and as this did not happen on that occasion a public apology was given. The complainant referred the matter to the Electoral Commission but having been assured that this had been a one-off incident and that processes were in place to ensure the correct delivery of poll cards the Commission did not pursue the matter. The correct procedures will be emphasised to canvassers before they deliver poll cards for the next election.

Polling Stations

13. In the Epping Forest District, there were 80 polling districts making 72 polling stations in 65 established Polling Stations on 15 November 2012. This required the appointment of 72 Presiding Officers and approximately 120 Poll Clerks. Sufficient staff were appointed including standby staff some of whom had to be called upon at short notice. Fortunately weather conditions on election day were good and did not prevent any staff from getting to their polling station.
14. No adverse comments have been received from electors or agents about access or other conditions at any of the polling stations. However, it was necessary on election day to call out the Council's direct labour to provide heating and lighting at the Faversham Hall, Chigwell Row Polling Station. This is a Council-owned building which is currently only used for election purposes. The future of the building is uncertain but if it is used as a polling station in future the Returning Officer will liaise with colleagues in the Housing Directorate to ensure that the heating and lighting are tested prior to election day.
15. The difficulty with polling station arrangements in Chigwell Row is the lack of any ready alternative to Faversham Hall.

Postal Votes

16. The total number of postal vote packets issued was 8,331. Only three packs failed to reach the electors in the post and had to be re-issued. 4,245 (50.95%) were returned.
17. It was a requirement that arrangements were made for a final sweep of Royal Mail Sorting Offices on polling day at a cost in the Epping Forest District of £718 (inc VAT) in order to locate and obtain postal votes still in the postal system. This resulted in two postal votes being received. In order for the sweep to be undertaken, in addition to the cost of the sweep itself it was also necessary to obtain a postal vote licence from Royal Mail which amounted to £500. The cost of retrieving the two votes was therefore over £600 per vote. Although these costs are met centrally, representations have been made previously about the value of such sweeps and these will be repeated although it appears that they continue to be favoured by the Government and the Electoral Commission. Certainly if in the future there are any steps proposed to require sweeps

for local elections these should be resisted strongly as such costs will fall on the relevant council.

18. 25 postal votes were handed in at polling stations. In the Council's post on the days immediately following polling day a total of 35 postal vote packages were received, some of those may have been in the Royal Mail system on polling day. A few were returned as undelivered because electors had moved or died and the Elections Office had not been notified.
19. The issue and opening sessions for postal votes generally went smoothly despite a problem at opening sessions with one of the scanners used for checking personal identifiers (signature and date of birth). This scanner on occasions jammed and after being cleared failed to record a number of postal vote statements on the print outs although they were recorded as having been received in the system. This resulted in a mismatch between the number of ballot papers and statements received. Fortunately the problem was realised at the first opening session and steps were taken to overcome the issue which persisted at the other opening sessions. The error has been reported to the Council's software supplier, Express who are investigating the matter and will be reporting back. There was no evidence of any postal vote fraud although 128 postal votes which the scanning process questioned were rejected after manual inspection for various reasons – no ballot paper, no postal voting statement, mismatched signature or date of birth or both.

Ballot Papers

20. The proof of the ballot paper was scrutinised carefully and all ballot papers were printed in the correct format. In addition a manual check was made of each printed ballot paper prior to being allocated to Presiding Officers to ensure that books were printed correctly and that all papers included the official mark and ballot paper number. All of the papers were printed by the Council's Reprographics Section and as with previous elections they provided an excellent service bearing in mind the tight timescale for printing. Anecdotally, use of an in house print unit may have offered some cost advantages in comparison with councils using external printers.
21. There were no reports from Polling Stations of printing errors on the papers which suggests that the checks made before polling day were accurate.

Spoilt Papers

22. There were 219 rejected ballot papers at stage 1 of the count and 702 at the second stage. This is higher than normal but appears to have been due in the main to electors deliberately spoiling their ballot paper in protest about the election rather than a failure of understanding a voting system not previously used in this District.

Count

23. Verification and counting of ballot papers took place at Theydon Bois Village Hall. Under a direction from PARO, verification took place at the close of poll on 15 November 2012 and counting from 10.30am on Friday 16 November 2012. Both processes went smoothly although there was a communication fault at verification which initially prevented information from being sent to Chelmsford in the required format and at the count there were long periods of inactivity waiting for other districts/boroughs to complete their processes.

Police Liaison

24. In view of the subject of the election, the Police decided across the country that they would not be making the usual visits to Polling Stations but would attend if called out. The Police also advised that they would not be present at the counts. In this District, Presiding Officers were advised to telephone 999 in the event of an emergency and the Elections Office for advice in relation to other issues not requiring immediate Police presence. In this District there were no incidents on either election day or at the count which necessitated Police presence.

Complaints and Queries Received in the Elections Office and at Polling Stations

25. There were few telephone calls made to the Elections Office on 15 November by electors. The majority that were received sought information about the candidates and/or the role of the Police and Crime Commissioner. There were no calls from persons who had been unable to vote because their name was not on the Electoral Register.
26. In polling stations, comments were made about the timing of the election, the necessity for a Police and Crime Commissioner, general support for the Police and many wry comments about the turnout. There was also comment about the absence of leaflet drops by candidates resulting in a lack of knowledge about those standing for election.

Finance

27. The Home Office was required to fund "stand-alone" Police and Crime Commissioner elections outright (there were no other elections held in the Epping Forest on 15 November 2012). However, due to the way in which payments are made it is necessary for the Council to advance money to the Local Returning Officer which is then refunded on receipt of funds from the Home Office.
28. A total sum of £203,000 was included in the Council's budget as an advance to the Local Returning Officer. This sum matched the allowance figure for the election specified by the Home Office. A sum of approximately 75% of the Home Office's allowance figure for the Epping Forest District (£148,000) was paid by the Home Office to the Local Returning Officer one month before the election. The Local Returning Officer is then required to submit a claim to account for the amount actually spent and claim any additional funding required above the sum previously provided. The Elections Claims Unit scrutinise the returns and pay any outstanding monies owed, referring any excessive, questionable or borderline claims with the Home Office for consideration in consultation with Cabinet Office before any such claim is settled. At the time of preparation of this report the claim for the second payment was still being finalised. However, it appears that total expenditure is likely to be in the region of £170,000. An oral update on the position will be made at the meeting.

Feedback from Election Agents and Others

29. Views on the running of the election and the count in this District were sought from appointed sub-agents for the candidates.

(a) Conservative Candidate

30. Valerie Metcalfe, a sub-agent for the Conservative candidate, attended one of the postal vote opening sessions and the count. She has commented "as usual the actual administration of the election process was absolutely fine, and as you say other

comments re. wording on the ballot paper etc is not exactly within your control..... I have taken this up with Eleanor Laing. The only thing of interest to me was that different Presiding Officers in different polling stations seemed to take a varied approach to your instructions to inform electors that they had a choice of a 2nd vote, rather than it appearing compulsory... But just to be clear, I thought that the elections were 'run effectively' . Sadly because of the somewhat enforced lengthy and disjointed nature of the Count across the County, there was no appropriate occasion for the staff at EFDC to be thanked for their efforts with these elections, so I would like to put on record my thanks on behalf of the Conservative Candidate and Campaign for the hard work and efficiency of everyone involved”.

Comments on Mrs Metcalfe's views

31. The reference to the wording on the ballot paper relates to the instruction:

“Vote once × in column 1 for your first choice; and
Vote once × in column 2 for your second choice.”
32. PAROs and LROs could not change this wording. It seems clear that some voters interpreted these instructions as meaning that they had to vote for a first and a second choice candidate for their vote to be valid. In fact under the supplementary vote system it is entirely up to voters whether they want to vote once or twice.
33. Presiding Officers received a briefing the day before the election at which it was emphasised that voters should be informed when handed a ballot paper that they should vote by placing a × in the first column against their preferred candidate and could, if they wished, place a × in the second column for their second preference.
34. Checks made with a number of Presiding Officers have confirmed that they gave the correct instruction but it is possible that some may instead have instructed voters strictly in accordance with the wording on the ballot paper.
35. The interpretation of the wording on the ballot paper has been an issue across the country particularly in police areas where the candidate with most votes after the first stage count failed to get elected when second preferences were taken into account.
36. The lengthy nature of the count was inevitable given that completion of the various stages was dependent on the processes being completed at all of the fourteen count centres across the county.

(b) Oral Comments made at the Count

37. Some adverse comments were made about the fact that the final result was known to agents at the local count at Theydon Bois through tweets before the Local Returning Officer received official notification from Chelmsford. This is a sign of the times but for future elections of this nature consideration could be given to the PARO placing an embargo on the media and agents from communicating the result until all LROs have been notified.

(c) Essex Association of Electoral Administrators

38. At a meeting of Essex Association of Electoral Administrators reference was made to polling station staff tweeting or sending Facebook messages during the hours of poll advising of the number of votes cast at their station in order to establish who had the lowest number of voters. Although this did not appear to be an issue in this District the matter will be taken forward with staff advised that they must not communicate face to face or via social networks during the hours of poll any information about the number of votes cast.

(d) Electoral Commission Accredited Observer

39. Michael Summerville, Head of Electoral and Member Services, London Borough of Hackney is an accredited Electoral Commission observer to observe election proceedings. He attended the count at Theydon Bois and has subsequently sent an email to the Local Returning Officer stating "I thought you and your dedicated team did a fantastic job, very professional and smooth all the way through from start to finishIt is all good learning from my point of view to actually see first hand outside of our Mayoral elections the process at work....and I take away some learning points for future polls".

(e) PARO

40. Steve Packman has thanked all the LROs in Essex for the smooth running of the election.

Review by the Electoral Commission

41. The Electoral Commission have a statutory duty to report on the administration of all elections and will be doing this for the Police and Crime Commissioner elections. As part of their assessment, they will be looking at the factors that may have contributed to low turnout. This will include, for example, whether voters had enough information about the elections and the candidates standing to make an informed choice, and the unfamiliar time of year that the elections took place.
42. They will also consider the impact of the content and timing of the legislation that enabled these elections to take place. In doing so, they will look at the role of the Home Office – a Department not usually tasked with the running of elections.
43. The Commission will report their findings in early 2013, alongside recommendations for future Police and Crime Commissioner elections, and broader lessons for other polls.

Review of Procedures

44. A thorough evaluation has been undertaken of all of the processes outlined in the Project Plan taking account of feedback from agents etc.
45. As a result of the unfortunate issue concerning polling cards in Waltham Abbey the future instructions to canvassers will emphasise the need to post cards through an addressee's letter box or if this is not possible to return them to the Elections Office so that alternative arrangements for delivery can be made.
46. Poll cards and ballot papers were printed internally by the Reprographics Section within the specified timescales. Being in-house it was easy for officers to liaise with the printers and achieve speedy turnaround times for approving drafts etc.
47. Training was provided for Polling Station and Senior Count staff.
48. Using established polling stations ensured that the buildings were suitable. Following the elections in May 2012 the ramp leading to the Allnutts Institute Polling Station was repaired and this work overcame the issue. The use of Faversham Hall, Chigwell Row as a Polling Station will be reviewed before the next elections. If the building is used again the Council's Housing Directorate will be asked to test the heating and lighting prior to election day to ensure that the services are available on election day. In view of the continued uncertainty about the future of this building steps will be taken to try to identify a suitable alternative building in the locality.
49. Theydon Bois Village Hall again proved to be a good venue for the verification and count. Members will be aware that there is not a suitable alternative venue readily available in the District. Steps were taken to control the use of the car park on 16 November to ensure that parking spaces required for the nursery held at the Village Hall were reserved and not used by those attending the count. The North Essex Parking Partnership agreed not to issue notices to staff parked on single yellow lines in the locality if they displayed an agreed sign on the dashboard of their cars.
50. Arrangements for the security of ballot boxes at the close of verification, storage overnight and delivery to the count centre on the following day worked according to plan.
51. Once the ballot papers had been printed a system was put in place to ensure that they were securely stored and free from interference at all times. Staff checking books of ballot papers ensured that the papers were not left unsupervised at any time.
52. The Council's Public Relations and Marketing Officer supported by the Website Officer attended meetings as required and ensured that appropriate publicity was made available at all stages. Liaison was maintained with colleagues at Chelmsford City Council to ensure that there was no duplication of effort. The local media followed the Council's tweets which allowed them to update their own websites without having to be at the count. Building the webpage of coverage using Twitter and Flickr on Thursday night and Friday was particularly successful.

53. As in the past the value of Royal Mail Sorting Office sweeps on election day to capture postal votes still in the postal system has to be questioned in view of the very small number of postal votes which materialised from this exercise. However, it seems likely that this will remain a requirement of the Electoral Commission.
54. Arrangements are being made with the Council's election software supplier, Express to undertake a "health check" of the laptops and scanners used for postal vote purposes to establish and correct the fault which occurred with one of the scanners.
55. At briefing sessions, Polling Station staff are instructed to give non specific replies to questions to electors, candidates, agents etc about the level of turnout. This instruction will in future be extended to require that such information is not tweeted or put on Facebook during the hours of poll.
56. The issue of the result being available via Twitter and Facebook before the PARO had notified LROs is a matter which can only arise at future Police and Crime Commissioner elections or European Parliament elections where local counts are fed to a central count centre. The issue will be raised at the appropriate times with the Returning Officers appointed to co-ordinate such counts.
57. All of the statutory timescales were met.

Lessons Learned

58. Broadly speaking there were no key issues arising for the Local Returning Officer at the November 2012 elections. Generally all procedures were completed successfully and this is reflected in the comments made by appropriate stakeholders.

Members' Views

59. Members are invited to express views on the running of the Election held on 15 November 2012 which will also be taken into account for future elections.