

**ELECTION MAY 2007****Report By: Head of Legal and Democratic Services****Wards Affected**

County-wide

**Purpose**

1. To outline and consider the recent problems arising from the elections and prepare an action plan, designed to improve the service and process based on the lessons learnt from previous elections.

**Financial Implications**

2. The Council contracted a supplier to deliver aspects of the election. The Council is in dispute with the supplier at the present time over costs involved. The proposed action plan will have costs associated with training and re-evaluation of posts

**Background**

3. Strategic Monitoring Committee has requested a report following the composition of the administration following the Local Government Elections in May 2007. The Committee has been informed of the ongoing dispute with the supplier contracted by the Council. The Returning Officer was assured by the supplier that a full report would be made available following issues arising from the election. No report was forthcoming despite reminders to the supplier. It was anticipated that the outstanding issues with the supplier would have been resolved within a reasonable amount of time. Unfortunately this has not proved to be the case. The Committee was informed that any report would need to look at the overall picture and to a large degree the impact of changes in legislation immediately prior to the election which impacted on both the Council's Electoral Registration Officers and its supplier.
4. Unfortunately due to the continuing potential for possible litigation involving the Council and its supplier it is still not possible to give as full a picture as was hoped for. However, because of the lapse of time, it is prudent to provide a report at this stage to the Committee in relation to the impact on Electoral Registration, the electorate and candidates.
5. The County of Herefordshire is made up of 2 constituencies (Hereford and Leominster), 40 unitary wards (58 Councillors) and 245 Parishes (1231 Councillors). This covers 139,296 people on the Herefordshire Electoral Register of whom according to figures from the supplier over 19,000 had elected to vote by post.
6. The Electoral Registration Office is responsible for the running and organisation of the elections process from beginning to end from dealing with electoral registration of residents in Herefordshire to running Polling Day and the Count.

7. The Council's Electoral Registration Office is supported by a full time Electoral Registration Services Manager and it has a staff of 2.5 full time equivalents.
8. The election in May 2007 arose in respect of all 58 district council seats – 57 of which were contested – and Parish Councils. Herefordshire has a significantly high proportion of Parish Councils for its size and over 1200 parish councillors. 32 parish councils were contested and this was a significant increase over the previous election where only 17 parish councils were contested. This had an impact both at the nomination stage and count following the district council count.
9. This framework has been in place for some time and over that time a number of issues and concerns have developed in the electoral process as a whole that are organisational, strategic and in many cases historical such as:
  - a) Electoral nomination
  - b) Polling stations and ballot boxes
  - c) The count
  - d) Postal Votes
  - e) Changes in legislation
  - f) Lack of resources
  - g) Costs of election
10. It is within this background that the specific problems of 3 May 2007 have to be seen.
11. It is nationally accepted that there were significant problems in particular with postal votes. The problems experienced in Herefordshire were similar to those elsewhere in England. The necessary but late statutory changes which arose out of the lessons from the Birmingham City Council elections were bound to have a knock on effect on the process by increasing the workload without the necessary time frame for testing and implementation. Government was advised to carry out a pilot on personal identifier requirements but did not do so.
12. However, a number of the problems in Herefordshire seem related to the third party contractors who had various delivery difficulties causing delays in sending out postal votes and ultimately resulting in some 500 voters not receiving their postal ballot papers in time although separate arrangements were in place to enable those affected to vote at their local polling station. The Council is in dispute with the contractor.
13. Another problem appears to have been the distinction between Parish and District Council ballot papers causing the latter to be found in the former counts and leading to a few instances where these were rejected.
14. Nominations

Parishes. The publication of the notice of election triggers the start of the election period. The notice of election was required to be published by 27th March 2007 with the last day for nominations to be submitted by the 4th April 2007. Electoral

Registrars have as practice and custom with Parish Clerks arranged that the Clerks place on a notice board that is open to the public nominations for forthcoming elections. Parish Clerks were informed that such notices needed to be posted in a conspicuous place. Unfortunately a small number (two notified) of parish councils did not place nominations in a conspicuous place and did not inform the Electoral Registration Office. The legal responsibility for notices of election nominations is placed on the Returning Officer and his officers. However, the practice entered into with Parish Clerks was in order to minimise the cost of elections to parish councils.

The committee will note that there is a very limited period of eight days between notices of election and submission of nominations. The advice to Parish Clerks will in future elections re-emphasise the need to contact the Electoral Registration Office if they are unable to comply with the legal requirements. In one of the parishes alluded to, the notice was placed in the Village Hall rather than on the notice board outside the Village Hall.

Electoral Registration staff had to process over 1500 nominations for the parish Council elections from the close of nominations on the Wednesday 4th April 2007 and to produce a statement of persons nominated by the Tuesday 10th April 2007 less than 4 full working days. Electoral Registration Officers were, if able, assisting potential candidates, dealing with enquiries and during this period were working from 7.00 a.m. to 11.30 p.m. and often beyond to ensure nomination statements could be published. This was despite additional support from other officers within Legal and Democratic Services assisting with this process. All nominations had to be checked in terms of the candidate and proposers.

District Council. The same time constraint applied to candidates for the District Council election and the same checks carried out. This appeared to go relatively smoothly but the same numbers were not involved as in the parishes. In addition candidates for District Council elections are also usually supported by an election agent who is an officer within the political party concerned.

15. Polling stations and ballot boxes

Polling stations. A polling station review has been conducted and the Cabinet agreed not to adopt the proposal set out in the review. A further review is taking place and a report to Cabinet is due in March 2008.

In relation to the May 2007 elections the booking of polling stations and the appointment of polling station staff was organised prior to the election taking place. However, a number of concerns arose namely that whilst contact can be made with both polling station venues and polling station staff a significant number of stations and a number of polling station staff did not confirm availability until late in the process. Presiding Officers are required to manage and ensure good conduct of the election within the precincts of the polling station and with the support of a poll clerk. Electoral Registration Officers had difficulty in recruiting the number required to assist with the election. It is proposed to keep in contact with Presiding Officers by twice yearly training and refreshers. Whilst there were a number of opportunities for polling station staff to receive training these dates were fairly close to polling day. A small number of polling stations appeared to be inappropriate or have access problems. This is one of the criteria in terms of the review in that access is required. The polling station with access issues was located in a school. Whilst schools are required by statute to be used as polling stations on occasions this has left the school to

nominate the location of the polling station within its school buildings. The poll took place on a normal school day.

Ballot boxes. Ballot boxes are collected by Presiding Officers usually 2 or 3 days before polling day and advice given to keep them secure. There were difficulties on collection of ballot boxes as a result of the problems incurred with postal votes and the rolling programme of registration on the register of electors. The ballot boxes are required to contain certain material including the register of electors and ballot papers for the polling station concerned. The delivery of ballot papers by the supplier was scheduled for 23rd April 2007 but due to delays by the supplier and the legal requirement that the electorate can register for an election up to the 18th April 2007 these were not received until 27th April 2007. Previously the electoral register that was finally published on 31st December in any given year would be the register for election purposes. The changes in legislation now allow registrations on the elections register to take place 11 days before polling day. This requires the electoral register to be updated in addition to postal votes and ballot papers. The Electoral Registration Officers were not able, despite their best endeavours to update all registers for ballot boxes within the timeframe set. However all ballot boxes issued eventually received an up to date copy of the Electoral Register. This necessitated Presiding Officers having to make another journey to collect their ballot boxes and for a number of ballot boxes to be delivered to Presiding Officers by council staff.

Despite these difficulties all polling stations were manned with appropriate ballot boxes.

At the close of poll Presiding Officers are required either to deliver ballot boxes to a set location and for them to be delivered to the count, or for the Presiding Officer to deliver to the count directly. The count took place following the close of polling stations at 10.00 p.m. on 3rd May 2007 at Halo Leisure Centre.

Unfortunately an experienced Presiding Officer had taken a ballot box home rather than delivering it to the location where transport was waiting to collect and deliver to the count. The Electoral Registration Services Manager was contacted and made aware of the missing ballot box by the driver. Contact was made direct to the Presiding Officer and he was requested to deliver the ballot box immediately to the count. This was carried out and the ballot box delivered within approximately 15 minutes. The ballot box was checked, as with all ballot boxes on arrival, for signs of tampering.

#### 16. The Count

Parishes. The count for parish and town councils took place on Friday 4th May 2007 at Halo Leisure Centre in Hereford. Some 32 parishes were contested. During the parish council count some ballot papers for the District Council election had been discovered. Unfortunately they could not be counted as all the Declaration of Results had taken place and no other votes can be considered. This is extremely unfortunate and it can only be attributed to human error. Such ballot papers should have been identified from the verification of ballot papers from the ballot boxes from the count the night before. There may be a suggestion that the count which starts at 10.30 p.m. and did not finish until 5.00 a.m. should take place on the next working day and the count for parish council elections to take place on the following working day.

Priority to the parish council count is usually given to the town councils as these are where the majority of votes are cast. This can cause frustration to those waiting to hear the results of other parish councils. Consideration could be given that town councils are counted first followed by parish councils in strict alphabetical order.

District Councils. The count took place following the close of poll at Halo Leisure Centre Hereford on Thursday 3rd May 2007. Count staff were requested to attend from 9.30 p.m. and each table was allocated a count supervisor. Every effort was made throughout the evening to inform candidates of which tables were dealing with the count of a particular ward. Announcements were made over the announcement system provided by the leisure centre. Refreshments were made available to candidates and media. The count was partially delayed due to scanner failure of the supplier with regard to verification and also that postal votes could be lodged at any polling station. This is a delay which is likely to re-occur as a result.

Count supervisors were required to manage a table to verify the number of ballot papers to ensure that so far as reasonable it tallied with the Presiding Officer ballot paper account. The ballot paper account is a legal requirement as is the verification process. Once verification has taken place then the count can take place and the declaration of results made by the Returning Officer. In addition to ballot boxes the postal votes also had to be counted and verified.

A significant number of local authorities are now holding their counts on the next working day due to the lateness of verification and then the count being able to proceed speedily.

17. Postal Votes

The council had over 19,000 postal votes processed by its supplier. The supplier relied on sub-contractors to carry out its printing. Data supplied was not inputted correctly. Parish council ballot papers were supplied in the same colour as the Districts. Ballot papers were not received until 27th April 2007. Ballot papers for a ward and seven parishes were missing. Electoral Registration Officers informed them and re-prints were not received until Saturday 28th April 2007. Officers worked over the weekend to ensure delivery. On a subsequent issue of postal votes similar issues arose the outcome of which is approximately 500 postal votes were not able to be issued. The Returning Officer had to implement contingency plans to permit as many of the electorate to vote by instructing Presiding Officers and arranging for the media to inform the electorate of changes and how to exercise their vote. A further report on the outcome of outstanding issues with the supplier will be made available to the committee once the resolution of the potential litigation is achieved.

18. Changes in legislation

The Electoral Administration Act 2006 received the Royal Assent in July 2006. The regulations supporting the Act did not come into force until 1st January 2007.

The major changes from the legislation as a result of previous postal vote elections were numerous. There was a requirement that all existing and new postal voters had to supply two personal identifiers. These are the voter's signature and their date of birth. The personal identifiers have to appear on the postal vote security statement (PVS) that accompanies a postal vote. The Returning Officer has to then match the two sets of personal identifiers before the ballot paper is able to be added to the count.

All councils had to collect the personal identifiers from existing postal voters and computer software was needed to assist with matching personal identifiers at the election. The full implementation of this system had not been piloted despite concerns raised by Electoral Registration Officers across England. The system was therefore untested and in effect the May election was the pilot for future elections as the Electoral Commission have confirmed that postal votes are here to stay. The expectation is that all postal votes will be 100% verified by the above system.

Another significant impact is the electorates right to register as an elector up to 11 days before the poll. This was time consuming and took officers away from activities in relation to polling day.

In effect the Electoral Commission have agreed that the late introduction of significant legislation in an election year was not appropriate. The Electoral Commission have issued a paper in December 2007 (attached at Appendix 2) on electoral administration in the United Kingdom and indicates that electoral administration in its current structure is at "breaking point" (page 6) and that there should be a "no change" period of at least one year until after May 2008 (page 9) to ensure such changes are properly resourced.

#### 19. Resources

It is clear both nationally and locally from the recent elections that there needs to be a fundamental review of the officers required to support elections within the Electoral Registration Office. The service was stretched to its limit. Officers within Electoral Registration worked excessive hours to deliver the election to the extent that on occasions they were unable to function effectively.

It was only as a result of the commitment of Electoral Registration Officers and additional support provided across Corporate and Customer Services that the election and count were able to take place on 3rd May 2007. Experiences in other areas indicate that counts were postponed because of difficulties with verification and indeed in Scotland where similar suppliers were used for verification of postal votes over 100,000 voters were disenfranchised.

Additional resource was identified for electoral registration prior to the election and Electoral Registration has recently been able to recruit an additional officer. However this may not be sufficient in light of the Electoral Commission's fundamental review of Electoral Registration Services. Actions contained within the Action Plan identified the need for resources and the re-evaluation of posts and looking at other measures to provide support around election time when the service is at breaking point.

#### 20. Costs of elections to Parish Councils

32 Parish Councils were contested in May 2007 which totalled 181 seats.

Parish Councils perception is that they should not be required to meet the costs of their elections. The Council has taken the view that the Parish Councils should bear the costs of their elections and this should be reflected in the precept set by the Parish Council. The Parish Councils have been informed of the cost to the Parish Council and it is suggested to them that they should assume that a vacancy may be contested in any one year. The Council and the Herefordshire Association of Local

Councils (HALC) have agreed that the costs to Parish Councils will be 50% of the total costs of the election. The Parish Councils have the option to set their precept either to bear the cost in one council tax year or to apply it proportionally between elections. It is not simply a case of billing and receiving payment within 30 days. The Council continues to work with HALC and other Parishes in this regard.

### **Action Plan 2007-2008**

21. Following the elections an internal review was carried out and the action plan attached at Appendix 1 drawn together. In particular the planning for a 'model election' which would provide a blueprint for any further elections. The Herefordshire Electoral Registration Office has pulled together a lot of the problems with the electoral process and as well as the lessons to be learnt from the 3 May 2007 experience.
22. The Action Plan 2007-2008 (Appendix 1) is fundamental and in development in so far as it is added to on a regular basis as new issues arise. It is intended to summarise the actions and activities required to improve the service based on previous elections experiences. For example, following discussions with HALC to receive its observations and agree where increased co-operation would improve delivery.
23. It is anticipated that the Action Plan 2007-2008 will be reported back to all Stakeholders on a regular basis and will be available on the Council's website

### **RECOMMENDATION**

- THAT**
- (i) the Action Plan 2007-2008 be noted and received**
  - (ii) for Strategic Monitoring Committee to consider further actions or improvements for consideration**
  - (iii) a further report from the Head of Legal and Democratic Services to Strategic Monitoring Committee on conclusion of legal issues with the supplier**

### **Appendices**

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| Appendix 1 – | Action Plan 2007-2008  |
| Appendix 2 - | Electoral Commission's Assessment of issues and challenges facing electoral administration in the UK (published December 2007) |

### **BACKGROUND PAPERS**

- None