

From: Graham Gibbens, Chairman of the Electoral and Boundary Review Committee
Ben Watts, General Counsel and County Returning Officer

To: Electoral and Boundary Review Committee – 11 December 2017

Subject: Review of 2017 Kent County Council Election

Classification: Unrestricted

Summary: This report reviews the actions of the County Returning Officer in the planning, provision and operation of the County Council election on 4 May 2017.

1. Appointment of the County Returning Officer

- (1) At its meeting on 12 February 2015, the County Council approved the new Strategic and Corporate Services Directorate structure which included the establishment of the new role of General Counsel, in the probable event of the delivery of Legal Services being transferred to a company trading as an Alternative Business Structure.
- (2) The new role of General Counsel included responsibility for discharging the duties of the County Returning Officer and leading and directing the implementation of Council elections in close partnership with Borough and District Councils.
- (3) At Personnel Committee on 8 June 2016, the Committee endorsed the interim appointment of Ben Watts to the post of General Counsel. The General Counsel became responsible for discharging the duties of the County Returning Officer on 15 October 2016. On 15 December 2016 Personnel Committee permanently appointed Ben Watts to the post of General Counsel.

2. Election Planning

- (1) Upon his interim appointment, the General Counsel began to develop a team from within Democratic Services which included the new Head of Democratic Services who had experience of delivering elections from his previous authority. The County Returning Officer (CRO) and his staff have begun to work closely with Deputy Returning Officers (DROs) and Electoral Services Managers in the 12 District Councils in relation to planning and co-ordinating the County Council Election to be held on Thursday 4 May 2017.
- (2) Introductory meetings were held with the Chairman of the Kent Association of Electoral Registration Officers and Staff (Kent AEROS) on 6 September 2016 and the Members of the Kent Association of Electoral Registration Officers and Staff (Kent AEROS) on 11 October 2016. The CRO also attended a meeting of the Joint Kent Chief Executives on 3

November 2016. These were extremely positive meetings in terms of the CRO introducing himself to the District Councils and to listen to the feedback from the District Councils in relation to 2013 election and the expectations on the CRO going forward. The CRO also sent a brief survey to the District Councils to provide a confidential opportunity for them to inform the decisions that the CRO needed to make around planning for the election.

- (3) In February 2017, the CRO appointed the Chief Executives¹ of the 12 District Councils in Kent as DROs and in doing so, required DROs to prepare and submit a project plan and risk register. KCC's Election Team produced planning documents, including a project plan, risk register, guidance and directions, which were shared with DROs and discussed on 1 February as part of a project team meeting with the Electoral Services Managers. The documents were kept under review and updated throughout the planning process and were issued to ensure the consistent delivery of the poll.

3. Nominations

- (1) The nominations process, including the informal checking of nomination papers, was delivered by the DROs and Electoral Services Managers in the 12 District Councils. Nomination forms were delivered to the candidates' local district council offices.
- (2) In light of the allegations of potential electoral fraud at the 2013 election, which were subject to judicial proceedings in February 2017, all nominations were sent to KCC to check for duplications, prior to the publication of the Statement of Persons Nominated. 393 nominations were received and there were no duplicate nominations.
- (3) The above measures helped to demonstrate how the CRO met the following Electoral Commission's performance standards:
 - (i) The development and implementation of robust project management processes;
 - (ii) Evaluation of the planning and delivery of previous polls and identification of lessons learnt;
 - (iii) Ensuring that candidates have the opportunity to have their nomination papers informally checked prior to their formal submission (Electoral Commission 2013).

4. Implementation of new boundaries

- (1) The Local Government Boundary Commission for England carried out an electoral review of the County of Kent between December 2014 and June 2016. The Kent (Electoral Changes) Order 2016, to implement recommendations made by the Local Government Boundary Commission for England for new boundaries in Kent, was made on 7

¹ With the exception of Ashford Borough Council, Terry Mortimer, Director - Law & Governance, was appointed as DRO.

June 2016 and was published on 8 June 2016 by Parliament. The new arrangements for 81 County Councillors to represent 63 single-member electoral divisions and nine two-member electoral divisions across Kent came into force on 4 May 2017.

- (2) On 28 March 2017 the CRO was notified by the Electoral Services Managers at Dartford Borough Council and Thanet District Council that they had become aware of a new division boundary not being correctly applied with a polling district being placed in the wrong electoral division. At the time the error was discovered, no nominations had been received that had been subscribed by electors in the wrong electoral division.
- (3) In consultation with the Association of Electoral Administrators (AEA) and the Electoral Commission, the CRO directed the Electoral Services Managers at Dartford Borough Council and Thanet District Council to correct the electoral registers; to reissue poll cards with the correct electoral division; and to advise all candidates and political parties of the error and supply them with the correct version of the register.
- (4) The CRO also wrote to all DROs and Electoral Services Managers to request that they recheck the new division boundaries; no other boundaries were found not to have been correctly applied.

5. General Election

- (1) A General Election being called during preparations and/or being held on the same day as the KCC election was identified as a significant risk as part of the planning process due to the adverse impact of the DROs operating two election timetables concurrently.
- (2) As mitigation to this risk, the CRO advised DROs to ensure preparations were kept ahead of schedule to reduce impact by releasing staff resources and undertake KCC tasks at the earliest possible time (subject to statutory restrictions).
- (3) A General Election was announced by the Prime Minister on 18 April 2017. The AEA's review of the 2017 local government elections and the UK Parliamentary general election reported that:
 - The announcement came *“at a crucial stage of the timetable for the May polls. This unexpected news threw up the unprecedented challenge of making arrangements for the delivery of the UKPGE whilst continuing with the safe delivery of the elections that were taking place on Thursday 4 May.”*
 - With the General Election being held so soon after the May polls, *“there was an obvious overlap in campaigning, introducing confusion for the electorate. In addition, different franchises applied to the two sets of polls, which presented communication challenges with those electors.”*

- The AEA had become increasingly concerned for the health and wellbeing of its members with the *“complexity of running back to back polls in 2016 and then again in 2017.”*

6. Polling Day

- (1) Polling day went well and there were no reports of any significant problems. The CRO and Head of Democratic Services were both contactable from 3 – 5 May at all times for DROs and other election staff in case assistance or advice was required, but nothing of significance arose. All of the ballot boxes were secured by the District Councils after the close of poll either at the relevant District count venue or a holding venue prior to transport to the count centre the following morning.

(7) Count and Verification

- (1) The CRO requested that arrangements should be made in each Borough and District Council area for the County Council Election verification and the count to begin at 10am on Friday 5 May 2017.
- (2) Whilst the CRO was conscious of the eagerness of both elected Members and political parties for the election results to be announced as soon as possible after the close of poll, he was mindful of:
 - (i) Those Councils with two-Member electoral divisions, which can take significantly longer to count than those Councils with all single divisions;
 - (ii) The health, safety and welfare of key election staff, some of whom could be on duty for 24 hours or more if there was an overnight count; and
 - (iv) The need for complete accuracy, which is enhanced by having fresh counting staff the following day.
- (3) All the results were declared by 15:30; the majority of results were declared at around 13:00.
- (4) A KCC officer from the Governance & Law team attended each count venue for the purposes of inputting the election results onto KCC's Modern.gov system as soon as possible after the result for each division was announced. KCC officers reported that they were made to feel welcome by District council staff and enjoyed being part of the election process.

(8) Election Result System

- (1) Following the failure of the election result system at the 2013 election supplied by a third party, the Council's existing Committee Management System, Modern.gov, was successfully used to input and display the results for the 2017 election.
- (2) An interactive election results map was developed by Digital Services. The map was populated using the data from Modern.gov and was

displayed on the Council's website, in the media hub at the Seminar Lecture Theatre and at count venues, at the discretion of DROs. The live election results page was viewed 46,273 times.

- (3) The results were also published via the Council's Twitter and Facebook feeds.

(9) Public Awareness

- (1) The Council's role was to promote registration & voting, to encourage candidates to stand, and to publish the statutory electoral notices in relation to the Kent County Council election.
- (2) Social media messaging began on 20 March 2017 and continued until 5 May 2017 on Twitter and Facebook. On Twitter, there were 125 posts, which had an average potential reach of 60,860, including 499 retweets, 211 likes, 27 mentions and 1940 clicks. On Facebook, there were 13 posts, which had an average potential reach of 1,698, including 20 likes, 9 comments, 212 clicks and 58 shares. A variety of Electoral Commission images were shared. We also created a unique animated video to promote registration & voting in Kent which was very well received, with the voiceover being provided by our apprentice.
- (3) The Council's election pages on the website were also updated and provided division maps and street indexes, statutory notices and information for candidates regarding standing and campaigning. There were 178,439 unique page views of the election pages between 20 March and 12 May.
- (4) Electoral Service Managers and DROs reported that members of the public had raised concerns about a lack of information regarding candidates and their manifestos. The Council also received over 30 complaints regarding lack of information about the candidates and their manifestos on its website. As it was the role of the candidates to promote themselves as part of their campaign, the Council responded to the complaints by highlighting that the Council's role was to publish the statutory electoral notices such as the Statement of Persons Nominated which detailed the names and addresses of candidates (including their political parties).

(10) Candidates' Expenses

- (1) In accordance with Sections 81 and 82 of the Representation of the People Act 1983, agents for candidates standing at local government elections are required to submit a spending return and declaration to the Returning Officer within 35 calendar days of the election results being declared. This deadline was 9 June 2017. A separate declaration by each candidate must be submitted within 7 working days of the spending return being submitted.
- (2) Whether or not a candidate has been elected, failure to submit a spending return or declaration without an authorised excuse is an

offence, even if it is a nil return indicating that no money was spent on the election campaign by a particular candidate.

- (3) As of 7 November 2017, three spending returns and candidates' declarations are outstanding out of a total of 393 candidates. The CRO has referred their failure to submit a return to the Electoral Commission who is considering what next steps should be taken. The remaining documentation is available for public inspection in accordance with the legislation.

(11) Election cost estimates and accounts

- (1) As part of their appointment, DROs were required to submit a cost estimates for their District's share of the election and were able to request an advanced payment equating to 75% of their estimate. The estimated cost for the 2017 election was £2,065,000; the total cost of the 2013 election was £1,691,809.74. The deadline for the submission of the final accounts was 3 November 2017. To date 10 District Councils have submitted their final accounts and these are in the process of being checked and audited before a final payment is made; two District Councils have applied for an extension until January 2018. It is not anticipated that the final cost of the County Council elections will exceed the estimate.

(12) Feedback from the District Councils

- (1) The CRO was keen to ensure that the 12 District Councils in Kent were given an opportunity to provide feedback on KCC's approach to co-ordinating the elections, so that lessons learned can be applied for future elections. The CRO wrote to the DROs and met with the Electoral Services Managers on 27 September 2017; the feedback received was overwhelmingly positive. A summary of feedback is outlined below:
 - (a) the planning documents particularly the directions and regular email updates were clear and useful;
 - (b) the CRO and his staff were approachable, responsive and supportive;
 - (c) the count beginning at 10:00 on the following day and the provision of a letter to schools regarding their use as polling stations were appreciated;
 - (d) the CRO should have a consistent approach regarding the provision of information to polling and postal vote agents and the 'no later than' statutory deadlines.

(13) County Returning Officer and KCC Election Team

- (1) The General Counsel found it challenging on occasion to discharge the duties of two statutory posts CRO and Monitoring Officer. The CRO also had not had the opportunity to shadow and be involved in the election planning process of a previous County election.

- (2) The CRO was supported by John Lynch (Head of Democratic Services), Lizzy Adam (Scrutiny Research Officer), Denise Fitch (Democratic Services Manager (Council) and Anna Taylor (Scrutiny Research Officer) as part of the KCC Election Team. The CRO wishes to record his thanks for the considerable efforts of the team in delivering a lawful election.
- (3) During the election process, Lizzy Adam, was appointed as the Deputy County Returning Officer (Deputy CRO) in recognition of the significant work and support she provided the CRO in carrying out his functions and enabling the delivery of a well-run election. The CRO, the elections team and colleagues from across the districts were grateful for the outstanding performance of this officer.
- (4) As part of the Deputy CRO's continuing development and effective succession planning, she is attending the Association of Electoral Administrators' Foundation Course to develop the Council's knowledge and skills on the legislation and regulations around electoral administration. The completion of the course will also enable the Deputy CRO to complete the Association of Electoral Administrators' Certificate (September 2019 - September 2020), the only professional qualification in electoral administration, in advance of the County Council election in 2021 which will assist with the planning and preparation for the successful running of the County Council election.
- (5) In advance of the 2021 election, it is important that the Council consider issues of succession planning and whether the role of CRO for a County election could be delivered differently. The development of the Deputy CRO is being progressed with a view to returning to this Committee in future years to explore whether alternative arrangements for 2021 might serve the Council better.

Recommendation: The Committee is invited to note and endorse the actions of the County Returning Officer in conducting the 2017 County Council election, as set out in the report.

Background Documents

County Council, 12 February 2015

<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=113&MId=5812&Ver=4>

Electoral Commission (2013) '*Performance standards for Returning Officers in Great Britain (01/11/2013)*',

http://www.electoralcommission.org.uk/_data/assets/pdf_file/0003/163821/New-performance-standards-for-ROs-November-2013.pdf

Personnel Committee, 8 June 2016

<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=129&MId=6143&Ver=4>

Personnel Committee, 15 December 2016

<https://democracy.kent.gov.uk/ieListDocuments.aspx?CId=129&MId=7515&Ver=4>

Association of Electoral Administrators (2017) *'It's time for urgent and positive Government action: The AEA's review of the 2017 local government elections and the UK Parliamentary general election (04/09/2017)'*, <https://www.aea-elections.co.uk/wp-content/uploads/2017/09/aea-post-election-report-mayjune-2017.pdf>

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