

LONDON BOROUGH OF BARNET: ELECTION ISSUE

**Prepared for John Hooton
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1. EXECUTIVE SUMMARY

- 1.1. I was appointed on 10th May in my capacity as a Returning Officer to be the external independent investigator into the events around the elections that took place in Barnet on 5th May 2016. It should be noted that my appointment was on that basis, namely as an independent individual and not in any representative capacity.
- 1.2. The terms of reference, which were agreed by Barnet with the Electoral Commission are set out in Section 2 of this report.
- 1.3. The elections on 5th May in Barnet received national attention due to the fact that some electors were unable to vote at the start of polling due to incomplete registers at Polling Stations. The electoral process should never be the story, but in Barnet it was.
- 1.4. This was very serious. The act of disenfranchisement is the removal of a fundamental right. For that to happen as a direct result of the system (and people) who's role it is to enfranchise and run elections raises legitimate, significant and serious concerns.
- 1.5. The report lays out what happened. In summary it was human error that caused incomplete registers to be printed and then distributed to the Polling Stations.
- 1.6. Subsequent inadequate checking and escalation processes which could have prevented this failed to do so.
- 1.7. I have made a number of recommendations, some of which relate specifically to the EU Referendum on 23rd in section 10 of this report.

2. TERMS OF REFERENCE AND CONDUCT OF THE INVESTIGATION

- 2.1 I was appointed on 10th May in my capacity as a Returning Officer by the Chief Operating Officer of the London Borough of Barnet to review areas of concern arising from the conduct of the elections in Barnet on 5th May 2016.
- 2.2 My terms of reference were to review / examine the following issues:
- how incorrect electoral registers were provided to Polling Stations at the start of the Mayoral and GLA elections on Thursday 5th May 2016
 - an assessment of the number of voters affected and the overall impact
 - how the error was addressed on the day of the poll, including:
 - the involvement of the GLRO;
 - the advice and guidance provided by the Electoral Commission; and
 - the arrangements that will be put in place so that this does not happen again
 - any steps that will be taken specifically for the EU Referendum in June, including liaison with the CCO and London RCO
 - any relevant recommendations, for example on process improvements.
- 2.3 For the avoidance of doubt, I should make it clear that this report focusses on these issues. Any issues relating to the conduct of individual members of staff will need to be addressed in accordance with the Council's HR policies and procedures and is outside the scope of this report.
- 2.4 Given the forthcoming EU Referendum on 23rd June, I was asked (given the terms of reference) to report the outcome of my investigation and findings in a timely fashion so that any matters particularly pertinent to the forthcoming Referendum could be actioned.
- 2.5 In terms of conducting the investigation, the following methodology was used. I identified 5 relevant people to interview face to face. I sought a range of documentation from Barnet, was supplied with that and I have taken that into account. I also spoke to a number of other individuals, bodies and organisations to obtain information relevant to this investigation, namely representatives of the Cabinet Office (the relevant Government department responsible for Elections), the Electoral Commission, the Greater London Returning Officer's Office, the Chief Counting Officer and the Regional Counting Officer for London for the EU Referendum, the Returning Officer at Camden, the MD of the company that supplied the electoral management system to Barnet (Xpress) and the Association of Electoral Administrators (AEA).
- 2.6 Presiding Officers were invited to give feedback to me, and I was supplied with the feedback from the 12 that did so all of which I took into account (I consequentially interviewed one Presiding Officer as their evidence was I felt particularly important).
- 2.7 I was supplied with a dossier of information obtained by Barnet from electors. I was grateful for that, read it all, and took it into account.
- 2.8 I was also supplied by Mr Andrew Dismore, the London Assembly Member for Barnet and Camden with copies of correspondence he had received from members of the public and a summary spreadsheet. Again, I was grateful for that, read it all and again took it into account.

2.9 I am grateful to all assisted me. All gave their time freely, no one was reticent or held back even though some were reliving events that they probably would have preferred not to. But all were clear that the facts needed to be established and lessons learnt.

3. BACKGROUND

This section of my report provides some background to the electoral landscape, and the situation in Barnet, and is included to assist in understanding the detail of the issues that arose in Barnet on May 5th and my recommendations.

Returning Officers

Each Council is required to appoint one of its officers as the Returning Officer for the purposes of running elections. The Council which has appointed that officer is required to provide the officer with sufficient resources to conduct the election and to pay the costs thereof.

The Returning Officer may appoint deputies to assist with the conduct of the election. Such deputies may be appointed with “full powers” (i.e. the power to undertake any duties which are formally the responsibility of the Returning Officer) or with “limited powers” (i.e. the powers specifically identified in the form of appointment).

The Returning Officer plays a central role in the democratic process. Their role is to ensure that the election is administered effectively and that, as a result, the experience of voters and those standing for election is a positive one.

The duties of a Returning Officer are separate from the duties held by that individual as a local government officer. A Returning Officer is not responsible to the local authority but is a separate legal entity to that of the Council which appointed him/her and is directly accountable to the courts as an independent statutory office holder.

While the Returning Officer can appoint one or more persons to discharge any or all of the Returning Officer’s functions, the Returning Officer cannot delegate their personal responsibility for delivering the election.

The Returning Officer is not fettered by the Council’s normal procedures in terms of conducting the election or subject to direction or instruction from members of the Council in respect of the discharge of the responsibilities falling to the statutory office. This reflects the position enshrined in statute that an independent officer is responsible for the proper conduct of the election “without fear or favour”.

Management arrangements for Electoral Services in Barnet

The Elections Office is responsible for the various logistical issues relating to the arrangements for polling day such as booking venues for use as Polling Stations, equipping those Polling Stations, recruiting and appointing staff.

On May 5th, the management arrangements for electoral services at the Council were through a line management arrangement which started with the Chief Executive (Returning Officer). Reporting to him was the Assurance Director, to her the Head of Electoral Services and to him the Electoral Registration Manager. There are then a number of Electoral Services Officers, some of whom focus more on electoral registration, but with them all able to work on registration / election duties as required

After May 5th, the Chief Operations Officer was appointed as Interim Chief Executive and at annual council on Tuesday 24th May also as Returning Officer. As a result, he will be the Counting Officer for the EU Referendum on 23rd June.

Staffing - training/briefing sessions

It is good practice for Polling Station staff to receive training and/or briefing on their role and responsibilities. Quite correctly, this did take place in Barnet for this election. This is, of course, particularly true for such staff undertaking a role for the first time. This practice is firmly recommended in the Electoral Commission's guidance and is covered in some detail in terms of arranging and delivering that training. In addition, the Commission produces a range of materials to support the training including "A Handbook for Polling Station staff". This includes reference to the need for Presiding Officers to check that they have the correct equipment and supplies including (amongst other things) that they have the correct register.

Project Planning and Risk Management

Attention to detail is critical to good electoral administration. This should include a structured and methodical approach to project planning and risk management. To quote the Electoral Commission:

"Running an election is a complex logistical operation with statutory obligations and personal liability for the Returning Officer, involving considerable financial and physical resources, and delivered against extremely tight and inflexible timescales."

Resources for Electoral Services

To operate effectively, a function of this nature needs to be properly resourced with well-trained staff who have a sufficient level of knowledge and expertise. This equally applies to those who have management responsibility for the service. Additionally, at key times of the year, such as the lead in periods for elections, adequate support arrangements need to be in place.

Checking

It is a cardinal rule in electoral administration to "check, check and check again". Human beings make mistakes. People who work in elections offices are humans and make mistakes. We all do. But a robust regime of checking (ideally each time by different people) will reduce if not remove that risk.

Escalation

When issues are raised or things go wrong, in any organisation or process there needs to be a place – and a system – for addressing that. Escalation needs to be proportionate, but a systemic process needs to be in place

The EU Referendum

The Chief Counting Officer (CCO)

The Chair of the Electoral Commission, Jenny Watson, is the CCO with responsibility for the management of the EU Referendum. The CCO is personally responsible for certifying the overall result of the Referendum. The CCO has the power to give general or specific directions to COs relating to the discharge of their functions in the Referendum, including directions requiring COs to take specified preparatory steps or to provide any information that they have or are entitled to have.

Regional Counting Officers (RCO)

The CCO has appointed an RCO for each electoral region in Great Britain. The RCO (London) is the Returning Officer and Chief Executive at Lewisham. The RCO is responsible for co-ordinating the planning and administration of the poll across their electoral region and for managing the collation of the local totals into a total for the electoral region, which will be fed into the UK-wide result.

Counting Officers (CO)

In Great Britain, the appointment as Counting Officer flows automatically from the appointment as local government Returning Officer. For the purposes of the Referendum in Great Britain, the local authority area is known as the voting area.

The CO is responsible for ensuring that the Referendum is administered effectively in their voting area and that, as a result, the experience of voters and campaigners is a positive one.

The CO is personally responsible for the conduct of the Referendum in their voting area including:

- provision and equipment of Polling Stations
- printing of the ballot papers
- appointment of Polling Station staff
- conduct of the poll
- management of the postal vote process
- the verification and counting of the votes
- transmission of the local totals to the RCO

The duties of a CO like those of a Returning Officer are separate from the COs duties as a local government officer. COs are not responsible to the local authority but are directly accountable to the courts as an independent statutory office holder

The Law Commission's review of Electoral Law

The world of elections is complex. Elections will always raise issues, such as voters believing they should have been on the register, postal voters saying they haven't had their postal vote etc. Such is a normal election, if there is such a thing. The Returning Officer has powers to correct clerical errors where they arise, and of course sometimes they do. Sometimes the issue is not of the system's making however. So it is important to be clear that running an election everywhere brings with it issues, conflicts and challenges.

The legal framework adds to the complexity. Such complexity makes the task of running a "successful" and indeed lawful election that much more complex.

The Law Commission's "Electoral Law: Summary of Interim report" (February 2016) sums to situation up briefly:

9. *Electoral law is complex, voluminous and fragmented. After 1997, many more types of election and local Referendums were created, while recourse to national Referendums grew. Each type of election or Referendum is generally governed by its bespoke legislation.*
- 10 *More than 17 statutes and some 30 pieces of secondary legislation govern the area of electoral law that is considered by this reform project. Some of their content is repeated, almost word for word, from the "classical" law which is contained in the Representation of the People Act 1983 ("the 1983 Act"), which governs UK Parliamentary elections and some aspects of local government elections in England, Wales and Scotland.*
- 11 *All of the newly created elections use a voting system other than first past the post, for which the classical law contained in the 1983 Act was designed. Accordingly, some of the classical law had to be adapted to account for the different voting system. We call efforts to adapt a classical rule to a new voting system "transpositions". These have not been consistent, even for elections which use the same voting system. This greatly contributes to the problems of volume and complexity.*
- 12 *This poses problems not only for those consulting the law, but also for implementing new or changed policies. Introducing a new election requires replicating every aspect of the existing electoral law, while introducing new*

policy requires many different pieces of legislation for each election type. This is undesirable when, in fact, a large number of rules are shared by all elections. It is not a good and efficient use of Government and Parliamentary resources to draft, and to scrutinise the same change of policy, or new policy, in up to 19 pieces of primary and secondary legislation. Nor is it helpful to those who use electoral law to have such a plethora of sources, and the inevitable differences that creep into the detail of electoral administration of particular electoral events.”

Performance data for Barnet’s Electoral Functions

The Electoral Administration Act 2006 gave the Electoral Commission powers to set standards of performance for Electoral Registration Officers and Returning Officers in Great Britain.

To quote the Electoral Commission:

Prior to the development of this performance standards framework, information on the performance of EROs and ROs had not been collected or analysed consistently nationwide, and there was no mechanism available to assess the performance of EROs and ROs. By setting these standards, the Commission is now able to collect performance information from EROs and ROs in order to assess progress against the key objectives of ‘complete and accurate electoral registers supported by a well-run electoral registration process’ and ‘well-run elections’.

The Electoral Commission publish on-line an annual assessment of the performance of Returning Officers in Great Britain. Their report assesses how well Returning Officers deliver elections each year and shows comparative data:

<http://www.electoralcommission.org.uk/find-information-by-subject/performance-standards/performance-in-running-elections-and-referendums>

Similarly, the Electoral Commission publishes on-line annual assessments of the performance of the Electoral Registration Officers in Great Britain. This report assesses how well Electoral Registration Officers deliver their duty to maintain accurate and complete electoral registers and shows comparative data:

<http://www.electoralcommission.org.uk/find-information-by-subject/performance-standards/performance-in-running-electoral-registration>

I reviewed this data for Barnet to provide a context as to their past performance of the election function and electoral registration function using this data, given that this is data compiled by the body (the Electoral Commission) tasked with making that assessment.

Barnet have met all (except one) of the Returning Officer and Electoral Registration Officer performance standards since 2009. The only exception relates to timing of despatch of poll cards at the 2012 GLA elections where, because of inconsistencies in guidance provided by the Commission and the GLRO, different date parameters were given in respect of poll card deliveries. As a result, Barnet failed to meet the Commission’s performance standard but did meet the requirements of the GLRO.

4. HOW WERE INCOMPLETE REGISTERS AT POLLING STATIONS?

- 4.1 On 29th April 2016, an officer in the election services team at Barnet printed off the electoral registers for placing in ballot boxes ready for collection by Presiding Officers on Wednesday 4th May for polling day on 5th May.
- 4.2 All election offices and Returning officers make use of electoral management systems (software packages) to assist in the delivery of the electoral process, both elections and electoral registration. Barnet uses Xpress Software Solutions (Xpress) as do many other Councils / Returning Officers.
- 4.3 The officer accessed the relevant part of the Xpress to print the registers to be supplied to Polling Stations, and then opted to access an option enabling certain voters to be removed from the register.
- 4.4 Not all registered voters can vote in all elections. In these elections in Barnet, overseas voters could not vote.
- 4.5 There are two options: those voters can be removed from the register to be supplied to Polling Stations. Alternatively, if this option is not exercised, they will appear crossed through (and hence still unable to vote) but visible on the face of the register.
- 4.6 In my experience, the more common practice is to include all types of electors in the registers supplied to Polling Stations, but simply have crossings through for those that are not eligible to vote in a particular election. I believe this practice helps Polling Station staff, as it is easier to explain to someone that they are not eligible to vote (name crossed through for good reason) than to try to explain why they do not show on the register at all
- 4.7 The decision to remove overseas voters from the register did not of itself create the problem.
- 4.8 But in opening this screen and exercising the option to enable certain voters to be removed from the register, the system / screen then provided a further option, namely "Only include the above (i.e. exclude standard electors and only include the electors marked)".
- 4.9 The Officer ticked this box as a result of which "standard" or ordinary electors were not included in the printed registers and only those in the list of marked voters (now excluding overseas) were printed. Therefore the only electors who were included on the registers supplied initially to Polling Stations were:
- New Electors
 - Over 70 Electors
 - Lords
 - Euro(local)
 - Overseas Lord
 - Postal Voters
 - Young Electors
 - Crown Servants
 - Service
 - Euro(Local + Euro)
 - Voluntary Mental
 - Proxy Voters
- 4.10 The registers were then put aside ready for inclusion in the ballot boxes. They were not checked by anyone else in the elections office.
- 4.11 When the ballot boxes were collected by Presiding Officers on the evening of Wednesday 4th May (the day before Polling Day), the logistical arrangements

for collection had changed, with the result that Presiding officers were unable to check the contents then and there as fully as they had in previous years. They were told they did not need to check the ballot box contents as that had been done by the staff in the elections office. The focus of that check had been – is there a register in the box rather than is it the correct register. Whilst documentation such as the ballot papers had been checked, the Registers had not been checked other than there was one in the ballot box. On collection, the Presiding Officers saw the elections staff and showed them all one by one their contents and signed off that they had the correct contents in their ballot boxes.

- 4.12 Despite this, one Presiding Officer on the Wednesday night did check his register and had sufficient concerns to call in. In normal circumstances, the Presiding Officer would have contacted their designated Polling Station Inspector, but due to health / family circumstances, the Polling Station Inspector was not available. Accordingly a member of the elections team – the same person who had printed the registers – took on that role and took the call.
- 4.13 The Presiding Officer raised the issue but was advised that the register was correct and not incomplete. The issue was not escalated further. The Presiding Officer was so concerned that they raised the issue again early the following morning (Polling Day), and did after some discussion receive a replacement complete register before 7:00AM.
- 4.14 The remaining incomplete registers were opened by Presiding Officers on the morning of May 5th prior to opening their Polling Stations.

5. RECOVERY

- 5.1 On arrival at the elections office at 6:00AM on 5th May, a senior member of the elections team was advised of the telephone call between a Presiding Officer and a member of the elections team the previous night. The senior officer was also advised that the Presiding Officer had called again that morning.
- 5.2 Following a discussion in the office, it was agreed that the elections officer would take a fresh register to that Presiding Officer which the officer did (and in doing so look at what the Presiding Officer had concerns about). This was done.
- 5.3 The elections officer called from the Polling Station to confirm that electors did appear to missing from the printed copy originally supplied.
- 5.4 By this point it was 7:00 AM, Polling Stations had opened and calls were coming in from Presiding Officers about electors not on the register. The Senior Member of the team, having heard several calls of the same nature realised that there was major issue. As a result he said that Presiding Officers should be instructed that if an elector had a Poll card, they should record the elector number and issue a ballot paper. Presiding Officers would need to call in and check for those without Poll Cards.
- 5.5 The senior officer then started to print fresh registers, call in staff to assist and advised the Returning Officer of the problem and what he was doing about it at 7:19 AM. He also arranged for fresh registers to be taken to the closest Polling Stations for checking. This was done and confirmed. As a result, the activity in the office focussed on the production and delivery of fresh registers to all Polling Stations. The Returning Officer arranged for additional staff to deliver the registers and also advised the election agents of situation and plan.
- 5.6 By 7:45, the issue was in the media, and information was given to the Barnet Communications Team to both address the queries and clarify what was being done. By 8:00 AM, members of the team were in contact with the Electoral Commission and the GLRO. Part of the conversation with the Commission related to the possibility of using the emergency proxy regime and a way of enfranchising those who had not been able to vote earlier in the day, and would not personally be able to return to their Polling Station that day. Subsequently, that was confirmed by the Commission, and subsequently the communications team arranged for appropriate publicity to be given on this option. This was taken up by around 38 voters.
- 5.7 In parallel, the Returning Officer sought advice from Leading Counsel, advising him of the issues and steps taken / proposed to be taken. Leading Counsel advised that he considered the steps taken were correct and there was nothing further that could or should be done within the law. The Returning Officer had identified the problem, and was ensuring correct registers were supplied to the stations. He agreed with the approach of allowing those with Poll Cards to vote. This reflected also the legal advice obtained by the GLRO.
- 5.8 The time when fresh registers were delivered to each of the polling stations can be seen in Appendix 1.

6. IMPACT AND NUMBERS

- 6.1 Once the issue was clear to officers in the elections team, as well as taking steps to address the issue, Presiding Officers were requested to compile information on the situation. This included :
- What voters who attended were told
 - Whether those who were on the register were allowed to vote
 - Were those not on the register allowed to vote with a polling card and if so from what time
 - What information the Presiding Officers managed to collect as to those they turned away (including numbers)
 - The time that Presiding Officer received a “correct” register
 - Any other problems / issues
- 6.2 That information was compiled (unedited) into a spreadsheet for me. I have attached that as Appendix 1.
- 6.3 This information is not definitive, of course, but is the best indication of at least the scale of the impact.
- 6.4 I have also attached at Appendix 2 turnout figures for 2012 as compared to 2016.
- 6.5 No one would suggest that the impact of events of 5th May was anything but very serious. Disenfranchising even one person is unacceptable.
- 6.6 However the scale of the issue and the impact would appear to have been in the hundreds rather than the thousands as was initially reported.

7. THE INVOLVEMENT OF THE GREATER LONDON RETURNING OFFICER (GLRO)

- 7.1 The GLRO is appointed by the GLA and has overall responsibility for coordinating the elections across Greater London. The GLRO is a senior officer of the GLA, independent of the Authority and the Mayor in respect of their electoral functions.
- 7.2 Barnet first contacted the GLRO at 8:17AM after which there was a fairly constant stream of calls and updates. This included direct contact between Barnet's Returning Officer and the GLRO.
- 7.3 From the chronology supplied by the GLRO's office, I consider that the GLRO was advised of the issue, what was being done, and when in a timely and appropriate fashion. The Deputy GLRO advised me that they felt the same
- 7.4 Barnet advised the GLRO that they were seeking Leading Counsel's advice as to their options but especially around emergency proxy votes. The GLRO also sought advice from Leading Counsel. I consider that this was entirely appropriate given the GLRO's role
- 7.5 In my opinion, the GLRO was involved in a timely and effective manner.

8. ELECTORAL COMMISSION

- 8.1 The Electoral Commission were first made aware that there was an issue at 7.03 AM on 5th May as a result of a call made by a member of the public to their offices
- 8.2 They then spoke with one of the senior officers at Barnet and obtained details of the problem, and the intended actions
- 8.3 The Commission's initial advice was clear and reflected the decision that had been made in the elections office – get fresh registers out to Polling Stations as soon as you can. They were also in agreement with the approach relating to the use of poll cards to enable voters with them to vote.
- 8.4 The Commission were kept in touch with events as they developed.
- 8.5 During this time, the Commission suggested the possibility of using the emergency proxy provision as a way of enfranchising those who had not been able to vote earlier in the day, and would not personally be able to return to their Polling Station that day. The Returning Officer agreed, and subsequently the communications team at Barnet arranged for appropriate publicity to be given on this option. This was taken up by around 38 voters.
- 8.6 From the chronology supplied by the Commission, I consider that they were involved in a timely and effective manner. The Commission advised me that they felt the same
- 8.7 In my opinion, the Electoral Commission were involved in a timely and effective manner. I also believe their advice and guidance was robust and appropriate.
- 8.8 Given the issues that arose, I would suggest a more comprehensive checklist for Presiding Officers may be useful in the context of reviewing their Handbook for Polling Station Staff, if that is practicable and deliverable.

9. FINDINGS IN RELATION TO THE TERMS OF REFERENCE

I would wish to make some general points before turning to my specific findings as against the Terms of Reference I was set.

Planning and Risk Register

There was a project plan and risk register. In talking to the Electoral Commission, they felt that the standard over recent years as to the overall quality of planning was high. From my inspection it is clear that the relevant documentation was bespoke and reflected local issues and circumstances. However, whilst there was a plan and risk register, it clearly did not address the issues that occurred and so did not work.

For the Referendum, it is essential that the issues identified in this report are addressed in the risk register and project plan. Going forward, robust planning and risk management arrangements addressing the key basic activity (such as checking) must be put in place.

Checking

This was clearly not done to an adequate level in the case of these elections with the consequential result. This approach needs to be built into all the future arrangements for electoral administration.

The printing of the registers was not checked within the elections office. The changed logistical arrangements for ballot box collection meant that Presiding Officers were told they did not need to check their contents of their ballot boxes as the office had done that.

Presiding Officers provide an essential part of the checking process. They should not only check that they have the right number of “things” in their ballot box , but should also look through those things and ensure they are correct (ballot papers, register etc).

This sort of basic activity is an essential part of the back office process of running elections. This needs to be built into the planning and risk registers and done.

Escalation

The initial call from the Presiding Officer should have (as a matter of process) been passed immediately to someone other than the person who printed the registers for consideration. There is also a need to ensure that matters raised such as this are escalated to the Returning Officer and Head of Electoral Services. There needs to be a systemic approach to escalation, robust and clear to all.

The Involvement of the Returning Officer

The Returning officer was first made aware of this issue at 7:19 AM on 5th May. In my view he should have been made aware of the call to the elections office on the 4th May (Wednesday night) from the Presiding Officer. Even on Polling Day, he should have been called first thing and alerted to the issue then.

Resources

The starting point of any discussion of resources for running elections is the legal framework which is clear. The Council which has appointed that Returning Officer is required to provide the Returning Officer with sufficient resources to conduct the election.

It is therefore a matter for the Returning Officer to state their needs.

There was a specific issue in these elections relevant to this issue that is pertinent. The normal practice at Barnet is that the Presiding Officers when they collect their ballot boxes check their contents then and there. For this election they did not. A factor in the decision not to do that was that the room that they had allocated for this task this year was not big enough to enable them to do that.

What was introduced this time was that the elections office staff checked that all the contents going into the ballot boxes was there for every station. This was communicated to the POs when they attended their training sessions.

Whatever the practice is for the collection of ballot boxes, the Presiding Officers must check the contents. If the practice at Barnet is that they are checked when they are picked up so that any issue can be raised with officers, then the space / rooms must be allocated to enable that to happen.

Going forward, the Returning Officer must enable Presiding Officers to carry out this important check. Many indicated that on opening their documentation on Thursday morning they were immediately aware that their registers were thinner than they would have expected.

There are other ways of enabling Presiding Officer to check and feedback any issues in advance of Polling Day, and many distribute their ballot boxes on the Tuesday, giving a full day for feedback (and to consider and address any issues).

The Returning Officer will wish to reflect on the best arrangements for Barnet, but also review the arrangements with pace so that for 23rd June, Presiding Officers can undertake this important role.

Xpress Software Solutions

As already mentioned, all election offices and Returning officers make use of electoral management systems (software packages) to assist in the delivery of the electoral process, both elections and electoral registration. Barnet uses Xpress as do many other Councils / Returning Officers.

There is no suggestion that the technology failed. The system printed what it was instructed to print and was not an issue in this election for the other 236 local authorities using the Xpress system, nor has it been before.

I have discussed with the Managing Director of Xpress the possibility of removing the "include/exclude option" completely. However, the extent to which this option is used by other councils is unclear and making changes to a very important part of the system this close to the Referendum when it will be used by all 237 Xpress clients is not advisable. Even with extensive testing, there is always a risk of error that could affect every Polling Station register, generating a much larger issue than that experienced on 5th May. In the circumstances, the prudent approach is to provide clear advice about the impact of using the Include/Exclude option and the need to check the printed registers before sending to the Polling Stations. Crucially, in checking the printed copies of the Polling Station registers it is important to ensure that the printed elector numbers run consecutively as this is a clear indication that all electors have been included.

Subsequent to 23rd June, Xpress will canvass all users to better understand the current use of the "include/exclude" option and establish if it can be presented in an alternative form. .

Findings in relation to Terms of Reference

1. **How incorrect electoral registers were provided to Polling Stations at the start of the Mayoral and GLA elections on Thursday 5th May 2016**
 - a. It was human error that caused incomplete registers to be printed and then distributed to the Polling Stations.
 - b. Subsequent inadequate / non-existent checking processes which could have prevented this failed to do so.

2. **An assessment of the number of voters affected and the overall impact**
 - a. Information compiled by Barnet gives a number of between 500 – 600 Voters. However, there is no way of knowing how many of those turned away did return later in the day
 - b. Given the variables that could impact on this figure, it is perhaps safer to say that in terms of scale, the numbers affected would appear to have been in the hundreds rather than thousands

3. **How the error was addressed on the day of the poll**
 - a. I have laid out in my report what was done to address the error on the day.
 - b. In my view, the recovery was in the circumstances effective
 - c. A quick decision was made to re print and whilst delivery took some time, having personally driven around Barnet at 7:00AM on a Thursday morning, getting the registers out across all Polling Stations by 10:30AM was no mean feat.
 - d. There were issues in relation to communications between the elections office, Polling Station Inspectors and Presiding Officers. Communications on the morning of May 5th between these three groups was (at best) difficult and at times impossible. Given the issues raised at Polling Stations, Presiding officers were trying to call their Polling Station Inspectors. When unable to do so (as the Inspectors were calling their Polling Stations / the elections office) Presiding officers tried to contact the elections office. At the point of crisis, the system overloaded. Few of us have ever experienced such a situation, but the need to be able to give a message out to all Presiding Officers quickly is clearly of paramount importance. There is a need to have a fresh look at this, one option may a group text system. But the arrangements need revisiting. I should add that I doubt many other Returning officers have a sufficiently robust regime in place that could cope with the events experienced in Barnet on May 5th. They may wish to reflect upon this in their planning
 - e. There were also issues on the morning of 5th May for voters who tried to contact the elections office and rang the Council. They met recorded messages based on standard scripts which, given the circumstances did not address the issues the voters were facing and probably inflamed feelings / frustrations. In a situation like this, the ability to quickly change the script / recorded messages and provide more immediate 1:1 contact over the phone should be available.

4. **The involvement of the GLRO**
 - a. As set out in my report, I believe that the GLRO was involved in a timely and effective manner (as does the GLRO)

5. **The advice and guidance provided by the Electoral Commission**
 - a. As set out in my report, I believe that the Electoral Commission was involved in a timely and effective manner (as do the Commission). I also believe their advice and guidance was robust and appropriate.

- 6. The arrangements that will be put in place so that this does not happen again**
- a. I have laid out some recommendations both for the 23rd June and also beyond designed to avoid this happening again
 - b. That starts with the arrangements for 23rd June but also requires I believe after 23rd June a review by the Returning Officer as laid out in my recommendations
 - c. Xpress Software solutions will also ensure clear messaging goes out to all users before 23rd June and after 23rd June actively investigate the possibility of removing the functionality that enabled the printing of the incomplete registers
- 7. Any steps that will be taken specifically for the EU Referendum in June, including liaison with the CCO and London RCO**
- a. I have laid out some recommendations specifically for the 23rd June
 - b. It is clearly of critical importance that the Counting Officer at Barnet, the Regional Counting Officer (London) and the Chief Counting Officer work very closely between now and 23rd June. Having spoken to them all, I have no doubt that this will happen
 - c. I was struck by the attitude of the elections team, and not only their appreciation of the failings on 5th May, but their determination to address those and have robust arrangements ready for 23rd June. They are already well on their way to picking up many of the points I have highlighted.
 - d. It is however I believe inevitable that they and the process in Barnet leading up to and on 23rd June will come under intense scrutiny. The events on 5th May must have taken its toll on the staff (although I saw no evidence of that). Taking those factors into account, alongside the need to have and be able to re-assure the electorate in Barnet that the process for 23rd will be robust, I believe that additional capacity and oversight (oversight is a crucial aspect of this formulation) for 23rd June is necessary.
 - e. For that reason, I am recommending oversight and additional capacity is brought in as determined by the Regional Counting Officer(London).
- 8. Any relevant recommendations, for example on process improvements**
- a. These are set out in my recommendations and within the report.
 - b. I would however wish to emphasise the following areas that need addressing:
 - i. The process of checking / compliance within the elections team requires complete review, revision and codification. It must be clear to all and robust.
 - ii. There needs to be a systemic approach to escalation that is again clear to all and robust, and withstands last minute changes in personnel.
 - iii. The method of operation must ensure that the Returning Officer is involved at the earliest opportunity
 - iv. The Returning Officer should arrange for the preparation of a training and development plan for all staff with responsibilities for the electoral services function

10. RECOMMENDATIONS

For 23rd June:

1. The Regional Counting Officer (London) should identify a suitable Returning Officer to support the Barnet Counting Officer in overseeing the conduct of the EU referendum on 23rd June.
2. The Counting Officer (and the Returning Officer identified to oversee as set out above) should work with the Regional Counting Officer (London) who will set his requirements as to additional oversight, supervision, the content of risk and project plans and other requirements as he sees fit.
3. For the avoidance of doubt, rigorous and multiple checks must be made at all stages of the process and there must be a robust escalation process in place
4. Appropriate arrangements must be made to enable Presiding Officer to check the contents of their ballot boxes and advise the elections office in case of issue, such reports must be appropriately recorded, escalated where necessary and followed up.
5. The Counting Officer must be informed of any issues that he should be made aware of (in accordance with a new systemic escalation procedure) at once.
6. The Counting Officer shall ensure that robust systems are in place regarding communications between Presiding Officers, Polling Station Inspectors and the elections office on polling day
7. Xpress (the Election management Software supplier) should send out an appropriate communication to all Xpress users making them aware of the issue that occurred in Barnet on 5th May and the checks that should be taken to ensure this is not repeated on 23rd June.
8. The Chief Counting Officer should send out a similar communication to all Counting Officers (whether users of Xpress or not) so all are aware of the issue and can undertake additional appropriate checks to ensure all are printing full registers for Polling Stations.
9. The Chief Counting Officer should ensure that the Regional Counting Officer (London) has sufficient resources so as to support Barnet in whatever way he deems appropriate

Post 23rd June:

10. Xpress should consult with other Councils to establish what changes, if any should be made to remove the possibility of re-occurrence.
11. The Returning Officer should initiate a review of the way in which elections are delivered and how the electoral services function operates with a view to producing suitable recommendations on resources, future management, support arrangements, operating practices, compliance issues and responsibility/accountability for the electoral services function.

NOTE:

I do not wish to fetter how the review is undertaken, but I would offer some observations (rather than recommendations) on the review:

- The review would benefit from external challenge
- The Review this needs to take account of a range of concerns and issues relating to the operation of the election function in Barnet that I have been made aware of. I make no comment on the merits of those concerns. They may / may not have substance. No election is ever run without issues. It is the nature of an election. Issues arise that need addressing by the Returning Officer and his team. The electoral process is highly constrained by a legislative framework within which the Returning Officer must operate. But in my view these concerns need addressing. I would suggest that any review should facilitate the raising of concerns that predate this matter and fell outside my Terms of Reference. It needs to “clean the house / purge....”
- The review needs to clearly be led by the Returning Officer and reflect both their statutory role and the right of the returning officer to council resources
- The Returning Officer should as part of the review arrange for the preparation of a training and development plan for all staff with responsibilities for the electoral services function which shall be implemented, to include training on the use of the EMS(Xpress).
- The communication methods and channels between the elections office, Polling Station Inspectors and Presiding Officers (and vice versa) must be improved and function in situations such as that experienced on 5th May. For example, a group texting system may be an option.
- There are clearly some points raised by the facts of this matter that need to be addressed for 23rd as well as going forward. Printing of key documents, use of the EMS(Xpress) and checking are the key ones.
- I would also suggest a more comprehensive checklist for Presiding Officers may be useful. It may be worth discussing this with the Electoral Commission in case they are prepared to lead on this in the context of reviewing their Handbook for Polling Station Staff.

11. CONCLUSION

- 11.1 I would like to thank particularly all those to whom I spoke and those who supported me and my work from Barnet for their courtesy and assistance.
- 11.2 Unfortunately, this is not the first review of elections I have undertaken leading to a report of this nature. In an ideal world, this sort of activity should be unnecessary. The conduct of an election is a complex process and, by its very nature, requires almost total compliance with the law and with good practice guidance. In reality, that does not always happen.
- 11.3 It would be remiss of me not to recognise the work of many on 5th May to address the issue. The Presiding Officers in Polling Stations bore the brunt and given the communication difficulties that occurred, did I believe a sterling job in very difficult circumstances.
- 11.4 Looking to the future, this report contains recommendations some of which specifically relate to the forthcoming EU Referendum. A recurring theme throughout has been the need to restore confidence in the electoral process. I consider it essential that, if that objective is to be achieved, it will be necessary to move forward on the recommendations within this report without delay in so far as they relate to the Referendum, and thereafter pursue the other recommendations.
- 11.5 Attention to detail is critical to good electoral administration. The recommendations which I make relating to a comprehensive review include reference to operating practices and compliance. In my view, this needs to be implemented to ensure that the Council and its officers are not exposed to similar problems in the future and that the electoral system in Barnet operates with the rigour which the electorate are entitled to take as a given.
- 11.6 By definition, I have been asked to look at something that went very wrong. There was much that I saw read and heard that was good. I was particularly aware that the senior officers were very aware that something very serious had gone wrong and as a result fundamental review and change (neither of which would necessarily be easy or comfortable) was required. That is a positive step, and I wish them well on that journey.

Mark R Heath
27th May 2016