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Elections Scotland

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Annual Report of the Electoral
Management Board for Scotland
November 2012

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Convener's Foreward

This is the first Annual Report of the Electoral Management Board for Scotland (EMB), a body which I have had the privilege of leading through its initial phases. With a clear statutory responsibility under the Electoral Administration Act (Scotland) 2011 to co-ordinate Local Government elections, the work of the Board could be seen as dry and administrative. However its responsibilities in this first year have been ground-breaking, wide-ranging and challenging.

It is all too easy to see electoral administration as a clerical exercise, consisting of form-filling and paper processing. However those of us who are closely involved know it as something far different: a fascinating, highly pressured programme of interconnected projects with a strict, immovable deadline. Throughout Scotland a committed cadre of professionals devote many hours to delivering polls in which the voter can have full confidence. Indeed, this is where the focus of the professional lies: the voter. Elections are not just "projects". They are the means by which we achieve democracy. While politicians can often be subject to challenge, the integrity of the electoral process itself should be beyond reproach and this is the central principle on which the work of the Board is founded.

The Board's first major task was to co-ordinate the Local Government elections in 2012, striving to achieve consistency across the country and to support best practice among the electoral community. Inevitably there were challenges, however there was also the immense satisfaction of seeing successful polls delivered throughout Scotland and results in which the voter could have full confidence. The real strength of the Board is its ability to draw on decades of expertise in the administration of elections, bringing together a group of electoral professionals with a passion for ensuring that fair, transparent and secure polls are secured and the experience and commitment to deliver them. It has been a privilege to work with this group and I would offer my sincere thanks for the significant contribution they have made to the Board's work in its first year.

This report focuses on the role and activities of the Board during the year and sets out the way in which it is looking to develop its responsibilities in the future. The context, however, is much wider than the Board itself and the report needs to be read in terms of the voter. As Convener I am confident that the Board's work contributed to more efficient, secure and clear elections and promoted the interests of the voter. In future years our task is to look to serve the voter better by identifying areas where there is scope for improvement.

In conclusion, May 2012 saw the EMB co-ordinate the delivery of its first elections. We now look forward to future polls, elections and referendums, learning the lessons of this year, building on successful foundations and continuing to preserve the integrity of the electoral process.



Mary Pitcaithly
Convener of the Electoral Management Board for Scotland
November 2012

The Electoral Management Board for Scotland (EMB) was created by the Local Electoral Administration (Scotland) Act 2011, which gave the Board "the general function of co-ordinating the administration of Local Government elections in Scotland." Consisting of Returning Officers, their Deputies and Electoral Registration Officers, the EMB is under the leadership of a Convener who is appointed by Ministers. Specialist advice is supplied by professional organisations of electoral experts, the Scottish and UK Governments and the Electoral Commission.

The Convener has a power of direction over Returning Officers and Electoral Registration Officers, to promote best practice in the administration of elections and support the electoral community. The focus of activity is ensuring that the interests of the voter are at the centre of all decision making. A range of activities were undertaken during the year to support Returning Officers and Electoral Registration Officers in the delivery of the Local Government elections. This included training, the production of guidance material, negotiation with suppliers and the provision of consistent forms. These were widely appreciated by both the electoral professionals and suppliers including Royal Mail and the eCounting contractor.

The EMB has identified a number of lessons to be learned from the experience of these elections.

- The changes to the timetable bringing forward the deadline for nominations was widely appreciated, allowing more time to prepare and print ballot papers. This needs to be continued for future polls.
- There is still scope to revise the deadlines for registration to reduce pressures on the production and dispatch of postal votes. Postal votes represent a significant and still growing element of all votes cast.
- Rejection rates for postal votes are a concern and a communications strategy is required to help voters understand how they should complete the ballots and postal vote statements to ensure that their vote will not be rejected. This may include consideration of refreshing the signatures used as identifiers and a voter education programme.
- The rules for the delivery of nomination papers should be reviewed in light of the Aberdeen mannequin case, to prevent the abuse of the democratic process. At the very least, the EMB would wish to initiate a debate around the nomination process to consider developing a more secure and modern approach. There might be options, for example, to require the candidate to deliver nomination paper personally or to provide proof of identity or residency.
- Overall, the experience of the electronic count was positive, with good candidate and agent feedback, responsive support from the contractor and commitment from election staff. Minor delays were experienced at some count centres but these issues were quickly resolved.
- **In summary, this was a set of elections which were well-run and in which the elector can have full confidence in the results.** There were none of the issues that were faced in 2007 around ballot paper printing or the eCounting systems.

Executive Summary

This experience has formed a solid foundation on which the EMB will build as it develops its future work programme. The rationale for the EMB and the basis on which it operates apply as strongly to the parliamentary elections and referendums as they do for the Local Government elections. The EMB would argue that its remit should be extended in law to cover these other electoral events.

Fundamental to this will be the provision of additional resources to support the Board's work, particularly regarding the responsibilities for the national Referendum. It is likely that additional formal and full-time resourcing will be needed for the EMB as it moves forward. This will especially be the case if the Convener takes on the role of Chief Counting Officer responsible for the planning, conduct and administration of a national Referendum in 2014, as is anticipated in the Edinburgh Agreement of 15 October 2012. Some resources were made available by Government for the operation of the EMB in this first year, but these will need to be augmented if the Board is to build on this and develop as it needs to in the future, in the service of the voter.

Background to the Electoral Management Board for Scotland (EMB)

The Electoral Management Board for Scotland (EMB) was created by the Local Electoral Administration (Scotland) Act 2011, which gave the Board “the general function of co-ordinating the administration of Local Government elections in Scotland.” This involves two specific roles:

- (a) assisting local authorities and other persons in carrying out their functions in relation to Local Government elections; and
- (b) promoting best practice in Local Government elections by providing information, advice or training (or otherwise).

The Board is composed of eight members; five are Returning Officers (or their Deputies) and three are Electoral Registration Officers. These are appointed by a Convener, who is in turn appointed by Scottish Ministers following a process of open competition. Advisors from the professional associations working in electoral administration, SOLAR and the AEA, also attend the Board meetings. The Electoral Commission, the Scottish Government, Scotland Office and COSLA also have representatives at each meeting, acting as official advisors to provide support and advice.

The EMB’s prime focus is ensuring that the interests of the voter are kept at the centre of all elections planning and administration. Much use is made of the close community of electoral professionals in Scotland and it seeks to operate by consensus rather than formal direction, wherever possible. However, the Convener does have a power to issue directions to Returning Officers and Electoral Registration Officers in relation to their duties around Local Government elections if required. This power was used in 2012 with respect to the timing of the Count.

Outline of the Report

This report provides a review of the work of the EMB during its first year of operation. It looks at the establishment of the Board in 2011, from roots as an interim Board that provided support to the electoral community for the European elections of 2009, the UK Parliamentary elections of 2010 and the combined electoral events of 2011 (the Scottish Parliamentary elections and the UK Referendum).

The focus of this report is the way in which the EMB fulfilled its statutory duties related to the Scottish Local Government elections of 3 May 2012. The role of the EMB with respect to the planning and conduct of these elections will be covered with a particular emphasis on the way in which this was done through the guidance and direction issued by the Board. The report concludes with a brief overview of the EMB’s plans to develop its work in the coming year and the resources that will be needed to fulfil this work programme.

History of the Interim Electoral Management Board for Scotland

The EMB was set up on an interim basis in November 2008 as an initiative of the four professional associations responsible for electoral activity in Scotland: SOLAR, the SAA, SOLACE and the AEA, with the support and promotion of the Electoral Commission.

This Interim Board was a reaction by the Electoral Community to the issues that arose in the delivery of the combined elections of May 2007 when the Scottish Parliamentary elections were combined with the Local Government elections. In particular, it was a response to the Electoral Commission's report **Electoral Administration in Scotland 2008**, which in itself was the culmination of a deliberative process following those 2007 elections.

Operating on clear principles of promoting a consistent national approach to electoral administration and simplifying decision making - both with the aim of ensuring that the interests of voters were kept at the heart of all electoral activity - the IEMB supported the Regional Returning Officer for Scotland in the delivery of the European Parliamentary Elections in 2009.

It also offered support in terms of common forms and other guidance in the UK Parliamentary Elections in 2010. 2011 saw the IEMB support the Regional Counting Officer, in the delivery of the UK Referendum on voting systems for the Westminster Parliament which, in Scotland, was combined with the Scottish Parliamentary elections.

The Local The Local Electoral Administration (Scotland) Act 2011

In 2011 the Local Electoral Administration (Scotland) Act moved the EMB from its Interim state to a more formal standing. The aim of the Act was to continue the process of improving electoral administration following the difficulties faced in the 2007 joint Local Government and Scottish Parliamentary elections. The Bill established the Electoral Management Board for Scotland on a statutory basis for its work in relation to Local Government elections in Scotland, provided for the Convener of the Board to be appointed by Scottish Ministers and created a power of direction for the Convener over local Returning Officers and Electoral Registration Officers.

The Act further required that the Board prepare and submit to Parliament an annual report on the carrying out of its functions. The Local Electoral Administration (Scotland) Act 2011 requires that the Convener must, "as soon as practicable after the end of each financial year, prepare a report on the carrying out of the Board's functions during the year", laying this before Parliament and sending a copy to the Scottish Ministers.

This allows scrutiny of the work of the Convener and Board by Parliament, but preserves the independence of arrangements for delivering the administration of elections in accordance with the legislative framework. This first report covers the work of the EMB since its establishment and will necessarily focus on its work in the preparation for and delivery of the Local Government elections of May 2012.

It should be noted that this Act only gives the EMB a role in respect of Local Government elections. As yet there is no remit for the three Parliamentary elections: European, UK and Scottish; nor is there any remit for referendums. The rationale for the EMB and the basis on which it operates applies as strongly to these remaining polls as it does for the Local Government elections and, as is mentioned later the EMB would argue that its remit should be extended in law to cover these other electoral events.

The Convener of the Board, Mary Pitcaithly, Chief Executive of Falkirk Council and Returning Officer for Falkirk, was appointed in April 2011 by Scottish Ministers following a process of open competition among Returning Officers for Scottish Local Government elections.

Board members were then appointed by the Convener, to represent the 32 Returning Officers, their depute Returning Officers where appointed, and the 15 Electoral Registration Officers from across Scotland. In addition to the Convener, there can be up to eight other members of whom five are to be Returning or Depute Returning Officers and three Electoral Registration Officers.

Details of the Board members are given at the conclusion of this report. They were selected to ensure a broad representation of authorities - large and small, urban and rural - and to bring relevant and varied expertise.

Supporting the formal members of the Board, a number of election professionals attend the meetings to provide additional expert input to the deliberations. These include representatives from

- The Electoral Commission;
- The Scottish Government;
- The Scotland Office;
- The Association of Electoral Administrators (AEA);
- The Society of Local Authority Lawyers and Administrators in Scotland (SOLAR); and
- COSLA.

Individual Returning Officers and Electoral Registration Officers remain legally accountable as individuals for the delivery of their responsibilities but are subject to directions from the Convener.

Remit and

Function of the EMB

The Board has the general function of co-ordinating the administration of Local Government elections in Scotland. That includes:

- (a) assisting local authorities and other persons in carrying out their functions in relation to Local Government elections: and
- (b) promoting best practice in Local Government elections by providing information, advice or training (or otherwise).

A detailed remit and terms of reference were determined by the Board and reflect the Interim body's principles of ensuring that the interests of voters are kept at the heart of all electoral activity. While the role of the Board is to encourage greater co-ordination and a more consistent approach to electoral administration among Returning Officers and Electoral Registration Officers, the Convener does not have direct responsibility for managing the administration of elections at a local authority level.

The Convener and the Board oversee the delivery of those aspects of the electoral process only where central co-ordination is beneficial. Where necessary to ensure co-ordination, the Convener was able to exercise powers of direction over local Returning Officers and Electoral Registration Officers. In practice this power is exercised only in limited circumstances and where other options for resolving issues have been explored and exhausted.

The Local

Government Elections of 3 May 2012

As the first nationwide Local Government elections since 2007, the EMB recognised that the conduct of the 3 May 2012 elections would be viewed in the context of the challenges of 2007. The difficulties associated with those polls, and particularly the electronic count, were narrated in the Gould report and gave rise to subsequent developments, including the decoupling of Scottish Parliament and Local Government Elections and ultimately the creation of the EMB.

The Board met on 29 May 2012 for an initial review of the elections and was satisfied that Returning Officers across Scotland delivered safe, transparent elections in which the electors could have full confidence.

The polls went well and while there were, as always, minor issues which arose in the administration, politicians, the media and the Electoral Commission all commented on the robust and successful election process. The Electoral Commission's report in particular draws attention to the EMB's role:

"89% of voters were confident that the Scottish Council elections on May 3 were well-run. 98% of people who voted at a polling station said they were very or fairly satisfied with the process. A similar proportion of postal voters (97%) were very or fairly satisfied.

The Electoral Management Board for Scotland had a new duty at these polls to co-ordinate the administration of the elections. The report finds that **the work undertaken by the Board led to improvements for voters**, with all Returning Officers meeting the Commission's standards for well-run polls. **"**

The statutory role of the EMB - co-ordination through support and promotion of best practice - was achieved in a number of ways leading up to these elections. The focus was always on the interests of the voter, and included delivering appropriate consistency and efficiency through a clear single point of contact with suppliers.

Specific tasks that were undertaken included:

- the Elections Convener escalation procedure among ROs to allow discussion of local issues, considering options for solutions to prevent similar problems elsewhere or nationally in the immediate run-up to polling day;
- consideration by the Elections Convener of regular performance monitoring reports from the Electoral Commission, with action on any issues identified;
- national advocacy by practitioners to practitioners of consistent good standards of service to voters, candidates and agents;
- provision of guidance and supplementary guidance further to that provided by the Electoral Commission for example on ballot box seals and the adjudication of doubtful ballots;
- development and advocacy of guidance to ROs on the provision of information to candidates and agents on count centres;
- consultation on the timing of counts leading to the Election Convener's Direction on the Timing of Counts;
- contribution to the development of a consistent approach to the preparation of post-election data;
- leading the eCounting Project Board to plan and oversee the delivery of the eCounting solution;
- the work of the EMB's forms sub-group to develop consistent and good quality non-statutory forms to complement the work undertaken by the Commission on statutory forms; and
- the EMB's Communications Network working with, and separately from, the Electoral Commission to ensure public awareness messages were consistently delivered.

While its main contacts were through Returning Officers and Electoral Registration Officers, the Board also worked closely with the Electoral Commission, the eCounting Project Board and the Scottish Government.

Regular participation in the Political Parties Panel (PPP) facilitated by the Electoral Commission were also useful in creating well informed candidates and agents able to participate fully in all aspects of the electoral process.

In recent years there has been much debate around the most appropriate timing for election counts. This has been driven by the increased volume of tasks that must be completed by Returning Officers at the close of poll and before the count. For example, the processing of postal votes, particularly those received on the day of poll, is a major issue with the volume of postal votes increasing each year.

The timing of counts has been a controversial issue in the past, with some stakeholders (mainly politicians and the media) keen to retain overnight counts. Following a consultation exercise with a range of stakeholders, the Convener issued a Direction in February regarding the timing of the Counts for these polls:

Having considered the issues surrounding the timing of counts and undertaken a consultation exercise with various interested groups, I am directing all Returning Officers in Scotland that no ballot box is to be opened and no vote counted before 8am on Friday 4 May 2012.

The Convener explained this Direction as follows:

- "** each Returning Officer must:
- act in accordance with legislation;
 - give absolute priority to the interests of the voter;
 - maintain and where possible enhance voters' confidence in the democratic process; and
 - conduct the counts transparently, accurately and securely.

As Convener of the EMB and following a detailed reflection on the issues, I believe that given the circumstances of the 3 May 2012 elections, these aims are best served by a "next day count".

This timing will **achieve a national consistency**, allow for the processing of postal votes handed in to polling stations without the pressure of an immediate count and facilitate more effective risk management with respect to the electronic counting system. It will also allow more attentive scrutiny from observers and ensure that staff are operating at optimal effectiveness while making crucial decisions in the service of local democracy. **Importantly this approach to the count also recognises the recommendations made by Gould in the wake of the 2007 elections, that accuracy would best be served by a move away from overnight counts."**

The full direction is included in the appendix. This was a direction based on the specific circumstances of these elections.

The Forms Group

A subgroup of the EMB, the Forms group, worked with the Electoral Commission to produce a set of election forms and notices for use by all Returning Officers, supporting a consistent approach to nominations and formal public notices. This created an efficient uniform approach across all areas and gave a consistent message to the voter.

Doubtful Ballot Papers

Following consultation with and debate among the Electoral Community, the Board developed and issued guidance to Returning Officers on the adjudication of doubtful papers to supplement the material provided by the Electoral Commission.

Recounts

Guidance was also given to Returning Officers on how to deal with any demands for recounts. With an electronic count there were concerns about the approach to recounts within and between count centres and these guidelines were vital to preserve confidence and consistency.

Creating Informed Candidates and Agents

The Board issued a set of material to Returning Officers that aimed to create informed candidates and agents. Given the nature of an electronic count, observers, including candidates and agents, needed to have a good understanding of the processes in order to provide appropriate scrutiny. A set of guidance was therefore provided to address signage, scripts for announcements and printed material to ensure that those in attendance had a full overview of the processes and approach at the count. These documents were widely used and helped to deliver a uniform and responsive service to candidates, agents and others in every count centre.

Post Election Data

Material and templates were circulated to explain how to produce the various post election data, with information on voting preferences in each ward, as required in the legislation.

Liaison with Suppliers

Key national suppliers including Royal Mail and Logica, who supplied the electronic counting solution for these elections, were also called to attend the EMB. The Board was the single point of contact with suppliers and emphasised the importance of their tasks and identified how to resolve any points of concern. This ensured consistent good quality service across Scotland.

Training for Returning Officers

The EMB assisted in a number of training sessions around the country for Returning Officers, in partnership with the Electoral Commission. These commenced with a national conference in December 2011, attended by 110 delegates, which ensured that general planning was being advanced across all authorities.

Specific topics were covered in later workshops.

One series of sessions focussed on the verification of personal identifiers for absent voters, with specialist training provided by the Police Forensic Science Service on the verification of signatures.

Attendance figures for the spring briefings were as follows:

Perth	Friday 10 February	37 delegates
Kilmarnock	Thursday 16 February	21 delegates
Glasgow	Thursday 23 February	41 delegates
Edinburgh	Thursday 1 March	47 delegates

Every Returning Officer was represented.

Comments from suppliers

“The EMB:

- **Provided clear leadership** and an accountable point of contact into the stakeholder group. For instance, any ambiguities or differences in opinion regarding the complex elections laws and regulations could be referred to the EMB for clarification
- Provided a **point of escalation**. For instance, the process of agreeing the User Agreements was far more onerous than anyone predicted. The EMB was a forum where Councils could discuss the finer details of the contract without influence from SG or us. It was also a useful mechanism for us to apply gentle pressure to those Councils slow in signing up.
- **Early identification and effective management of risks**. The EMB assisted by acting as another responsible party, constantly identifying risks and highlighting them to the project. A good example would be the identification of the importance of close integration and working with the postal pack providers. ”

(Comments from **Logica**, the eCount Supplier)

“The EMB single point of contact was extremely helpful:

- The **EMB meeting was an ideal opportunity to understand the needs of the various Local Authorities**, and ensure that the appropriate Royal Mail products were in place to meet those needs.
- **The EMB was effectively one single unit, coming together to manage a special event**. This collaborative approach ensured that all parties understood the bigger picture and were working towards a common goal.
- As the logistics provider, it was useful for Royal Mail to be part of the wider debates regarding the mechanics of the election process. This gave us a much broader understanding of the issues involved. For example, in previous election campaigns, we had experienced issues with printers releasing poll cards and ballot packs on different days than agreed with the local authorities. **The EMB was the correct forum to raise this issue and allowed the authorities to manage their print suppliers more successfully**. This is a good example of the EMB sharing collective experience across the entire pipeline, to improve overall performance going forward. As a result, the planning approach from Royal Mail (particularly from the larger printers like Lettershop and Adare) was far more structured, controlled and measurable.
- **The EMB provides Royal Mail with a forum to highlight potential issues from our processing and logistics perspective** of the key postings and sweep activities of the Local Authorities. For example, we were able to provide a clear idea of the timescales for primary or secondary sweeps and likely volumes and distances etc. This could inform the decisions on whether a LA really needed a secondary sweep, and also helped them understand why our cut off times were earlier in different parts of the country.
- **The EMB was a chance for the Local Authorities to air their concerns regarding changes in Royal Mail or the postal markets in general**. For example, the proposed price rises during the last election would have a clear impact on the Local Authority costings for their Poll Card campaign. We were able to articulate the impact of the price rises and the timescales they would take effect from.
- **The EMB provides a network of contacts that can be used to discuss issues, solve problems and share experience**. Having a friendly face to turn to makes things easier!

- **The EMB also arrange a formal wash up event with all key stakeholders in Scotland, to review performance in detail and highlight areas for attention in future election campaigns. This is extremely useful** and the Royal Mail team are now a key contributor on this day. This is a **perfect opportunity** to gain real feedback from the Local Authorities and **capture learning points** for the next campaign.
- **The collaborative approach taken in Scotland through the EMB (and the Political Parties Panel) has been recognised across Royal Mail as national best practice.** This collaborative relationship approach has proved its worth in Scotland, delivering successful election campaigns over recent years. This approach is now actively encouraged in both England and Wales. **"**

(Comments from the **Royal Mail**)

"

- Single point of contact
 - o EMB acted as a single point of contact for escalation items.
 - o Provided resolutions to queries, information and advice when requested.
- Conveying information to all Returning Officers in Scotland
 - o Provided a single source for the distribution of information to all Returning Officers.
 - o EMB was used as a mechanism for circulating responses to issues and clarifications.
- Gathering feedback
 - o EMB provided an important communication channel to enable all of the stakeholders to voice their views and receive information.
- Setting precedent
 - o EMB had an important function in setting precedent such as setting timing of the count this ensured uniformity within the count aspect of project delivery. **"**

(Comments from **Opt2Vote** (now Idox) joint supplier of the eCounting Solution)

“ I welcomed the support and framework of the EMB in supporting me in my role. The legal status of the EMB now gives integrity to the co-ordination in Scotland amongst administrators and Returning Officers which, although it has been in place for a number of years in a less official capacity, provides **robust and credible support and direction.**

The direction to count next day was welcomed, it was timely and the form of direction was clear. It is hoped that directions in the same vein in the future will be forthcoming to provide consensus and remove the requirement for debates by politicians or the media which take away from the administrators acting in the interests of the voter and the efficient management of counting votes. **”**

“ I thought the EMB support, advice & guidance were first class. I thought EMB really came into its own for these elections. The next day Count Direction was especially helpful. It is clear from the feedback sessions that everyone concerned across the Country delivered a safe, accurate & quick Count. That was certainly partly down to the Direction. Whilst my core election team were not finished until 4am on Friday morning, the brief opportunity we had to get home for a sleep or shower made it all the easier to deliver the accurate Counts from 9am (as it was in our case). In addition, I do not think RO Declarations were delayed much , even although it was a "next day" Count. We all started so much fresher on the Friday morning.

I found all the advice & guidance notes particularly helpful. I look forward to future communications from EMB as we move forward towards the next cycle of elections and wish everyone involved the very best of luck and good wishes. Excellent support all round as far as I am concerned. **”**

“ I view the EMB as a very significant and important body in the electoral landscape in Scotland and certainly as a Returning Officer I have and do very much value the role and approach that the EMB have taken on both in its interim role and now in its established formalised state.

I do believe that the most recent election in May of this year was a successful event and certainly from my own perspective as Returning Officer matters ran in the way and to the standard that I would have hoped. My belief is that this was broadly the picture across the country.

Importantly, **the EMB provides a source of advice, standards and a drive for consistency, accuracy and public reassurance** which is hugely important both to our individual roles as Returning Officers but also in how we portray the importance and professionalism of Elections management across the country. **Flowing from this and critically important, the interest of the voter are prime in that.** **”**

- “ From my point of view the EMB successfully delivered on the following:-
- promoting a **consistent approach** in delivering elections generally cross the country
 - advice and support on key issues for the election.
 - providing updates on national (common) issues - the shared knowledge equipped us well for the tasks ahead.
 - **providing an opportunity for LAs to contribute collectively to national consultation** and co-ordination of views.
 - directive to count the votes the next day was welcomed and relieved many of us from political pressures to count through the night which would result in working excessive hours and we would be less efficient and effective as a result. I believe, one of the reasons the counts were successfully delivered was as a direct result of allowing key election personnel to concentrate on the close of poll arrangements and opening of postal votes on polling day before dealing with the count itself the next day.
 - influencing legislation - **opportunities were provided to LAs to contribute to legislative changes**, including the timetable (particularly in relation to the nomination period) was particularly helpful.
 - doubtful Ballot Papers - **Guidance given was appreciated but it would be helpful to work towards developing a more consistent approach** on adjudication of ballot papers - there was still some confusion among election administrators even after the event.
 - Re-count and Counting Agents documents were extremely helpful in setting the scene for those attending the count and allowed early communication of what to expect and what their role was in the count process.
 - as Chair of the EMB Sub Group (Forms Working Group) I appreciated the support and promotion of the Group’s forms which are a practical and direct way of sharing best practice among the LAs in Scotland.
 - dates set for issue of poll cards, purdah and postal votes was helpful in promoting consistent practice among LAs.
 - AVI Training - recognition of the need to provide further forensic science service training was helpful to those who were new to postal vote opening procedures.
 - joint working with EC, SOLAR Elections Working Group, Scottish Government, ACPOS, etc resulted in reduced duplication of information. ”

"The EMB in Scotland is a welcome addition to the electoral community which now provides us with a decision making body (made up from electoral professionals) who can take decisions at a national level. This has allowed for a much greater consistency across Scotland and has in our opinion improved the way elections are managed in Scotland.

The support and guidance which was available from the EMB during the planning of the Local Government elections was invaluable. In particular, coming together with other RO's at the joint briefings generated discussion across key areas of election administration such as doubtful ballot papers, absent voting, nomination process etc. The draft papers for the information at the count and post election data which the EMB provided were adapted for our own local needs and **feedback tells us that candidates and agents were very happy with the level of information provided to them.** "

"The timing of the count direction which was issued by the Convener was welcomed although in terms of project planning and venue hire we would have perhaps preferred this by the end of December. We had no negative comments from candidates and agents surrounding the direction to count the following morning..... there are also many benefits to counting the next day such as the ballot boxes being in order, all the unused ballot paper checking completed and no postal voting opening during the count which were all welcomed. There is no doubt that these contributed to the speed of the completion of the count once it had started.

There was only one area where we felt that the EMB could have improved and that was the communication of actions from EMB meetings. It would have been helpful if a quick action note could have been circulated directly after the meeting instead of having to wait for the more formal action note – this may help stop duplicate actions by local authorities who are perhaps not aware of items which the EMB are looking at and may be issuing guidance on.

We also believe that it would be helpful if the membership of any sub groups of the EMB could be rotated on a regular basis to promote new thinking and to ensure that all RO's and election team are given the opportunity to contribute to the work of the EMB. "

" Overall, the election team at East Dunbartonshire Council considers that the **EMB provides a valuable focal point for coordination and collaboration amongst Returning Officers** in Scotland. The Board drives an increasing amount of consistency in electoral management procedures which we find very useful when providing advice to candidates and agents.

As regards the support provided during the Council elections this year, there were several areas in which I would highlight that we felt the EMB support was particularly effective including:-

- a) Linkage with the Scottish Government in respect of the e-counting contract and feedback on the project and related training.
- b) **Regular information bulletins** provided to Returning Officers leading into and throughout the statutory election period.
- c) The national Direction for timing of counts was particularly helpful and was a large factor in ensuring that count processes were effective.
- d) The excellent suite of materials produced by the Forms Working Group. "

In its review, the EMB identified a number of areas which provide lessons for the conduct of future electoral events, especially Local Government elections.

Legislation

1. Legislation was produced in good time, allowing effective planning. Gould recommended that all rules should be in place at least six months ahead of the polls and this was achieved. This was achieved for this election and the benefits were clear. This approach should be taken in all future electoral events.
2. The changes to the timetable bringing forward the deadline for nominations was widely appreciated, allowing more time to prepare and print ballot papers. Again, this needs to be continued for future polls.
3. There remains scope to revise the deadlines for registration to reduce pressures on the production and dispatch of postal votes. Postal votes represent a significant and still growing element of all votes cast
4. The rules for the delivery of nomination papers should be reviewed in light of the Aberdeen mannequin case, to prevent the misuse of the democratic process. At the least, the EMB would wish to initiate a debate around the nomination process to look at developing a more secure and modern approach. There might be options, for example, to require the candidate to deliver nomination papers personally or to provide some proof of identity or residency.
5. The seven day limit in the Rules for publishing the polling station voter preferences should be reviewed; the time needed to complete this task, particularly for areas with low turnouts where many boxes had to be amalgamated, was not always sufficient. In the first instance the EMB will raise this with the political parties.
6. A review is needed of the process of uploading the necessary ward result information on councils' websites, in order to achieve consistency of information displayed across councils. The amalgamation of polling station information took a long time, so the seven days limit in the Rules should be reviewed.
7. A review of the content of poll cards is needed due to the volume of information they now contain. The review should identify the main purpose of poll cards and when they should be issued in relation to the rest of the timetable.

Postal / Proxy Voting

1. Postal Voting in particular is now a major element of electoral administration due to both the volume of absent voters and the requirement to verify their identity. The EMB is aware that the rejection rates for postal votes are a concern and a strategy is needed to ensure voters understand how they need to complete the ballots and postal vote statements to ensure that their vote will not be rejected. This may include consideration of refreshing the signatures used as identifiers and various voter education tactics. Issues that arose in this area included:
 - a. Some confusion among voters regarding the power of attorney. This does not give right to sign postal vote statements (PVSs). Although the number of incidents is relatively small it is a concern in some areas and may increase with an aging and frail population.
 - b. There are significant numbers of PVSs rejected for mismatched date of birth and signatures, ranging from 0.6% to 4% across the country.
 - c. Concerns remain about the numbers of rejected PVSs due to household (e.g. husband/wife) mismatches and signatures of the elderly and the young varying - exacerbated by the five year collection frequency.
 - i. The Rules could be reviewed to give ROs limited discretion to deal with obvious mismatches of AVIs, e.g. husband and wife.
2. ROs appreciated the specific training that they had from the police forensic service on the checking of signatures

The Electronic Count (eCount) Process

1. Overall, the experience of the electronic count was positive, with good candidate and agent feedback, responsive support from the contractor and committed staff.
2. Minor delays were experienced at some count centres but these issues were quickly resolved.
3. The EMB is aware of various minor process issues but none of these issues was assessed as affecting the integrity of the system or the results of any contests.
4. One authority conducted a recount because the difference between the last two places was 0.01388 of a vote. The integrity of the system was confirmed when exactly same result was found on recount.
5. The project management of the procurement and delivery of the system was well managed.

Overall

Assessment of the 2012 Scottish Local Government Elections

A number of areas have been identified in which electoral processes can be improved in the future, especially with respect to postal voting and the election timetable as laid down in legislation.

However, overall this was a set of elections which were well-run and in which the elector can have full confidence in the results. There were none of the issues that were faced in 2007 around ballot paper printing or the eCounting systems.

Feedback from all stakeholders indicated that the EMB played a major role in ensuring that this successful outcome was achieved. The same stakeholders have expressed their appreciation of the work of the EMB and look for its support and coordination to be maintained and developed in future electoral events.

Future

Work of the Board

The EMB is now looking to its future work, continuing to coordinate the delivery of elections while ensuring that the interests of the voter are kept at the centre of all planning and delivery.

Remit: giving the EMB a formal role in other electoral events

A statutory remit only currently exists for the work of the Board in respect of Local Government elections. The electoral community has clearly expressed its support for and appreciation of the Board, however for it to be able to operate similarly for future electoral events its remit in this regard would need to be formally established by law. The Electoral Commission support this conclusion and their report into the polls carries the specific recommendations that

"We recommend that the EMB undertakes work now to strengthen their structures and processes for delivering the national coordination of polls, before any elections and referendums take place in 2014.

We continue to recommend that the EMB's statutory remit be extended to cover all parliamentary elections in Scotland. **"**

The Convener of the EMB should assume the role of Regional Returning Officer for European Parliamentary Elections, with the EMB supporting the Convener in that role. This could be achieved without additional legislation. However, for UK Parliamentary and Scottish Parliamentary elections there needs to be legislation to allow the EMB to take this coordination role in a formal way rather than via consent and consensus.

A similar situation would apply to any future referendum, either national or UK wide. Indeed, the recent Edinburgh Agreement on a referendum on independence for Scotland anticipates the role of Chief Counting Officer being assumed by the Convener of the EMB. There will need to be extensive planning and preparation in order to deliver this role and to fulfil the associated responsibilities.

Resourcing the EMB

The EMB currently operates with limited dedicated resource. Board members provide input to specific pieces of work, drafting material and guidance and assisting in the planning and promotion of events. In addition, the DRO in the City of Edinburgh Council provides a secretariat function to Board meetings and supports the Convener in terms of the preparation of policy papers, directions, consultations and training materials. This is done on a part time basis.

While the EMB operated with this level of resources in 2011/12, there was clearly a need for additional support and this situation was obviously an interim arrangement while the Board was formally established.

Additional formal and fulltime resourcing is needed for the EMB as it moves forward. This will be especially the case if the Convener takes on a role as Chief Counting Officer responsible for the planning, conduct and administration of a national Referendum in 2014. Some resources were made available by Government for the operation of the EMB in this first year, but these will need to be augmented if the Board is to build on this and develop as it needs to in the future, in the service of the voter.



Mary Pitcaithly
Convener of the Electoral Management Board for Scotland
September 2012

The Electoral Management Board for Scotland includes the following members, appointed by the Convener according to the procedure detailed in the Local Electoral Administration (Scotland) Act 2011.

Mary Pitcaithly - The Convener

Mary Pitcaithly OBE has worked in local government since 1980 and has been Chief Executive of Falkirk Council since 1998.

After studying law at Edinburgh University, Mary worked in private practice before joining the public sector. As Head of Paid Service for the Council, she leads a workforce of around 7500, serving a population of c160,000 and has responsibility for a budget of c£350m.

Mary is a former Chair of SoLACE Scotland and has represented local government on a number of national bodies, including the Resilience Advisory Board for Scotland. She was also a member of the Arbutnott Commission set up by the Secretary of State for Scotland and the First Minister to consider boundary differences and voting systems in Scotland.

Mary has been a Returning Officer since 1998 and has dealt with elections to the Scottish, Westminster and European Parliaments as well as Falkirk Council. She was a Depute Returning Officer for the Referendum held in Scotland in 1997 and was the Regional Counting Officer for Scotland in the 2011 AV Referendum. She is currently Convener of the Elections Management Board.

Sue Bruce

Sue Bruce has worked in Local Government since 1976. She was appointed Chief Executive of the City of Edinburgh Council, and Returning Officer for the Edinburgh constituencies, in January 2011.

Sue has held a number of senior positions including Chief Executive with Aberdeen City and East Dunbartonshire Councils, where she was also Returning Officer.

She has served in the Strathclyde Regional Education Directorate, held the post of Depute Director of Education with East Ayrshire Council and was East Dunbartonshire Council's Strategic Director responsible for Education, Housing, Social Work and Cultural Services. Her interests have led her to serve on a number of national and international external boards and initiatives.

In May 2010 and again in 2011, Sue received the Prince's Business Ambassador Award from HRH the Prince of Wales. In October 2010, the Scottish Leadership Awards recognised her as the Scottish Public Sector Leader of the Year.

Brian Byrne

Brian started working at the Assessor and Electoral Registration office of Argyll & Bute Joint Valuation Committee in 1973 (later part of Strathclyde Region), and became Depute Assessor and ERO for Dunbartonshire and Argyll & Bute VJB at Local Government re-organisation in 1996. He became Assessor and ERO for Central Scotland VJB in 2005. As ERO for the Central Scotland area he is responsible for compiling and maintaining the electoral registers for the three council areas of Clackmannanshire, Falkirk, and Stirling. Currently chair of the Scottish Assessor's Association's Electoral Registration Committee, Brian is also a member of the Association of Electoral Administrators.

Joan Hewton

Joan commenced working in the Assessor and Electoral Registration office of Strathclyde Region in 1976. She was appointed Depute Electoral Registration Officer for Lanarkshire in 1997 and ERO for Lothian in 2005. As Lothian ERO she is responsible for the compilation and maintenance of electoral registers for the City of Edinburgh, East Lothian, Midlothian and East Lothian Council areas. She currently holds the posts of Vice Chairperson of the Scottish Assessors' Association's Electoral Registration Committee, Vice President of the SAA and is a member of the Association of Electoral Administrators.

Bob Jack

Bob Jack was appointed Chief Executive of Stirling Council in May 2009. Prior to that date he held the posts of Director of Corporate Services from 2003 and Director of Civic Services from 1996 when Stirling Council was established.

Bob qualified as a solicitor in 1981, having graduated in Public Law from Edinburgh University in 1978, and worked in legal posts in both Central Regional Council and Falkirk District Council. He was the last Director of Administration and Legal Services of Central Regional Council which was abolished in 1996.

As Chief Executive and head of paid service in the Council he is responsible for carrying out the agreed policies of the council and the overall management of Council services.

He is the principal policy and management adviser to the Council, chairs the Corporate Management team and is the first point of contact with the Scottish Government, regulatory bodies and partner public bodies, such as NHS Forth Valley, Central Scotland Police, University of Stirling, Forth Valley College and Loch Lomond and Trossachs National Park.

He is the Returning Officer for elections to the Council and the Stirling Parliamentary Constituency for the Scottish, Westminster and European Parliaments and for the elections to the Loch Lomond and Trossachs National Park. He is also a Member of the Electoral Management Board for Scotland since 2009.

Board Members

David Anderson

David was appointed Chief Executive of South Ayrshire Council in April 2008. Prior to that he held the post of Corporate Director (Community) with East Dunbartonshire Council and previously held posts of Heads of Service both in East Dunbartonshire and North Ayrshire Council.

In East Dunbartonshire he supported the Returning Officer in informal roles with Elections, particularly at the Local Government Election in 2007 but South Ayrshire is his first role as Returning Officer. The recent pattern of Elections has ensured an appropriate learning curve as a relatively new Returning Officer.

Malcolm Burr

A solicitor by profession, Malcolm has been Chief Executive and Returning Officer of Comhairle nan Eilean Siar since November 2005. He was previously Assistant Chief Executive and Depute Returning Officer of Orkney Islands Council from 2000 - 2005 and had experience within the Councils of the Orkney Islands and Strathclyde.

Stuart Galloway

Stuart is employed by Dundee City Council with over 30 years experience of elections. He was appointed Depute Returning Officer in 1997 and since 1997 has been responsible for the production of the Electoral Register and all other ERO duties for Dundee.

Douglas Gillespie

Douglas Gillespie is the Assessor and Electoral Registration Officer for the areas of the Highland Council and Comhairle nan Eilean Siar. He has worked in three other Assessor/ERO offices as well as in the private sector. He is a former President of the Scottish Assessors Association and currently chairs its Domestic Subjects and Utilities Committees. He is a member of the Association of Electoral Administrators.

Advisors to the Board

In addition to the formal members of the Board, a number of election professionals attend the meetings to provide additional expert input to the deliberations of the EMB. These include representatives from

- SOLAR;
- The AEA;
- The Electoral Commission;
- The Scottish Government;
- The Scotland Office; and
- COSLA.

Board Support

Chris Highcock

Chris Highcock is Corporate Projects Manager (Democratic Projects) within the City of Edinburgh Council and one of the Depute Returning Officers in the city. He provides support to the EMB as Secretary, supporting the Board meeting, drafting policy papers, Directions and Guidance issues from the Convener and coordinating the activity of the Board.

Involved in elections in various roles since 2001, he has acted as Depute Returning Officer since 2008. In 2011 and 2012 he led Edinburgh's Election Management Team supporting the Returning Officer to deliver the combined Scottish Parliamentary Elections / UK Referendum and then the Local Government Elections to the capitals electorate of over 330,000 voters, including more than 60,000 postal voters.

Appendices

Count timing for the 3 May 2012 Scottish Local Government Elections: Direction from the Convener of the Electoral Management Board For Scotland

Elections

Scotland

Electoral Management Board for Scotland

Mary Pitcaithly
Convener of the Board

ALL RETURNING OFFICERS

Our Ref:

Your Ref:

Date: 7 February 2012

Dear Returning Officer

**COUNT TIMING FOR THE 3 MAY 2012 SCOTTISH LOCAL GOVERNMENT ELECTIONS:
DIRECTION FROM THE CONVENER OF THE ELECTORAL MANAGEMENT BOARD FOR
SCOTLAND**

The Local Electoral Administration Scotland Act 2011 gives the Convener of the Electoral Management Board for Scotland ("EMB") the power to give directions to Returning Officers about the exercise of their functions in relation to (a) local government elections generally, or (b) a particular local government election. This is not a power that I intend to use extensively, but having reflected on preparations for this year's count and consulted on the matter broadly with colleagues and other stakeholders, I have decided to make a direction to Returning Officers regarding count timing.

This direction is as follows:

Having considered the issues surrounding the timing of counts and undertaken a consultation exercise with various interested groups, I am directing all Returning Officers in Scotland that no ballot box is to be opened and no vote counted before 8am on Friday 4 May 2012.

I have attached a short paper which states the direction, provides a clarification and outlines the reasons why the direction is being made. If you wish to discuss any aspect of this direction or what it means in practice for your count, please do not hesitate to contact me directly or you may wish to discuss the issues in the first instance with Chris Highcock, Secretary to the EMB and DRO in Edinburgh.

Yours sincerely



MARY PITCAITHLY
Convener of the Electoral Management Board for Scotland

**The Timing of the Count for the 3 May
Scottish Local Government Elections:
A Direction from the Convener of the Electoral Management Board
for Scotland (EMB)**

The Direction

Having considered the issues surrounding the timing of counts and undertaken a consultation exercise with various interested groups, I am directing all Returning Officers in Scotland that no ballot box is to be opened and no vote counted before 8am on Friday 4 May 2012.

Clarification

For the avoidance of doubt, before this time Returning Officers may compare the number of ballot papers recorded on the Ballot Paper Account with the unused and spoilt papers in their possession and the tendered votes list. Returning Officers may also undertake other activities before 8am such as the checking of the personal identifiers on postal votes handed into polling stations. Candidates and Agents are entitled to attend these events.

Background

The Convener of the EMB has a national oversight of electoral activity and a legal responsibility to coordinate local government elections in Scotland. In December 2011 I initiated a stakeholder consultation exercise seeking views on the most appropriate timing of the counts for the 3 May 2012 Scottish Local Government Elections. An Issues Paper was circulated to Returning Officers, Electoral Registration Officers, Political Parties, representatives of independent councillors (via COSLA) and the media, which identified the key issues which would affect decisions regarding the timing of the counts and placed this decision within a clear context of ***ensuring that the interests of voters are kept at the heart of all electoral activity.***

Consultation

Responses were received from Returning Officers, Political Parties and the independent councillors via COSLA. Given the issues outlined in the Consultation Paper the overwhelming majority of those who responded favoured a count on the day following the polls.

Key Principles

I have now personally considered carefully the various issues identified in the consultation paper and also those raised with me directly by members of the Board, Returning Officers and other stakeholders. I am committed as Convener of the EMB to ensure that the interests of the voter, not the dictates of systems, suppliers, logistics or other stakeholders must drive the process. The voter must come before any other stakeholder be they candidates, media, observers or electoral administrators.

To this end, each Returning Officer must:

- act in accordance with legislation;
- give absolute priority to the interests of the voter;
- maintain and where possible enhance voters' confidence in the democratic process; and
- conduct the counts transparently, accurately and securely.

As convener of the EMB and following a detailed reflection on the issues, I believe that given the circumstances of the 3 May 2012 elections, these aims are best served by a "next day count".

This timing will achieve a national consistency, allow for the processing of postal votes handed in to polling stations without the pressure of an immediate count and facilitate more effective risk management with respect to the electronic counting system. It will also allow more attentive scrutiny from observers and ensure that staff are operating at optimal effectiveness while making crucial decisions in the service of local democracy. Importantly this approach to the count also recognises the recommendations made by Gould in the wake of the 2007 elections, that accuracy would best be served by a move away from overnight counts.

With these things in view and on the basis of consultation with stakeholders and discussion with the Electoral Management Board for Scotland, I believe that it is clearly in the interest of the voter that the count commences on the day following the polls, specifically as stated in my direction.



Mary Pitcaithly
Convener of the Electoral Management Board for Scotland
7 February 2012



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Elections Scotland