

The electoral community worked collaboratively to plan for and deliver the poll. The planning for and delivery of the 2021 Scottish Parliament election took place against the shifting background of the Covid-19 pandemic. Considerable preparatory work was undertaken, with the aim of ensuring that voters were able to participate confidently in the election using their preferred method of voting wherever possible. During the summer and early autumn of 2020, the Electoral Commission worked with and consulted electoral administrators, political parties and governments across Great Britain (GB) to identify a shared set of high-level objectives for delivering successful elections in the current public health environment. These objectives were used to: assess and test policy options and implementation approaches; identify and manage significant risks to successful delivery of the elections; inform research, analysis and reporting on the polls. The Scottish Government and Electoral Management Board for Scotland (EMB) supported the objectives, which were published in October 2020. Eight local government by-elections took place across Scotland in October and November 2020 – the first statutory polls to take place anywhere in the UK since the onset of the pandemic. In the spring and summer of 2020 the EMB, with input from the Electoral Commission and Public Health Scotland, developed guidance for Returning Officers to deliver these polls with the safety of voters, campaigners, and poll staff the priority concern. The Electoral Commission reported on the by-elections to ensure that learning could be taken forward and considered in the planning for the May 2021 elections across GB and reflected in our guidance to Returning Officers and polling staff. In order to anticipate and plan for any potential changes to voter behaviour at the May Scottish Parliament election, the Electoral Commission carried out public opinion research with voters to assess their attitudes to voting in the context of Covid-19. This research, carried out in August 2020 and repeated in November 2020 and February 2021, found that voting in a polling place remaining the preferred option amongst a majority of voters. However, the results also indicated a likely increase in the proportion of voters opting to use a postal vote at the 2021 Scottish Parliament election compared to previous polls. The findings from this research were shared with the Scottish Government and electoral administrators to inform their planning for the poll, and also published for wider interest. Through the summer and autumn of 2020, the Scottish Government developed electoral legislation which aimed to enable the Scottish Parliament election to adapt to a range of potential Covid-19 scenarios. The development of the legislation was informed by a series of round table discussions between Ministers, The Electoral Commission, EMB, Scottish Assessors Association (SAA) and representatives of other parties in the Scottish Parliament. The resulting Scottish General Election (Coronavirus) Act was passed on 23 December 2020 and included provisions to bring forward the postal voting deadline; to enable postponement of the poll in certain circumstances; and to give Ministers powers to specify an all-postal election or polling station voting over multiple days. Voters were engaged in the election and were able to vote using their preferred method. Considerable work was undertaken by Electoral Registration Officers, Returning Officers, and the Electoral Commission in the run up to the election to raise awareness amongst voters of the measures in place to protect them from the risk of Covid-19. This included social media activity, work with national and local press and broadcasters and direct communications to voters. In October 2020, the Commission produced a set of resources focusing on voting options, including posters, social media posts and template messaging. The messaging on these resources encouraged voters to start thinking about their preferred voting option early and reassured them that voting in person would be a safe experience. Of those Returning Officers who

completed our post-poll survey, 90% said that they used these resources locally. In February 2021, Electoral Registration Officers wrote to all households to inform them of who was registered to vote at that address, and whether they were registered for a postal or proxy vote. The letter included information on the safety measures planned for polling stations and how to apply for an absent vote. This write out was funded by the Scottish Government. During the same period we also worked with the Chief Medical Officer to issue a letter to all shielders advising them on how to apply for an absent vote.

were voters deterred and voter turnout Voters do not appear to have been deterred from taking part in the election Turnout at the election suggests that the pandemic did not deter significant numbers of potential voters from participating as turnout at the poll was 63.5% for both constituency and regional votes – the highest turnout at any Scottish Parliament election. This was an 8% point increase on turnout at the previous Scottish Parliament election in 2016. Turnout at Scottish Parliament elections (constituency votes) 1999 56% 2003 50% 2007 54% 2011 51% 2016 56% 2021 64% Among those who said they did not vote at the election, the most common reasons given included illness (14%); that voting took too long (11%); that they don't trust politicians (10%); lack of information (7%); that you should be able to vote over a few days (6%) and that there was not enough information/media coverage (5%). People were confident that they could vote using their preferred method Among those who voted on 6 May, the vast majority (94%) said that this was by their preferred voting method, with 5% saying that they did not vote via their preferred method. Nearly all voters (95%) said they were satisfied with the process of voting in the 6 May elections, with three in five (61%) saying they were very satisfied. Just 4% of voters said they were dissatisfied. People who voted in person felt safe to do so A number of safety measures were put in place in polling places to ensure the safety of voters. These measures, in line with our guidance for electoral administrators , were informed by the learnings from the local government by-elections which had taken place during the pandemic and by advice from Public Health Scotland. Measures included: one way systems in polling places face coverings hand sanitisation for voters, along with regular cleaning of equipment single use pencils for voters The significant majority of polling place voters (97%) told us that they had felt safe to vote at the polling place. Just 2% said that they had felt unsafe. Those aged 55 or over were more likely to say that they felt voting was 'very safe' compared to those aged 16-54 (77% vs 61%). On polling day queues were reported at a small number of polling places as a result of the safety measures in place. Where queues did occur before the close of poll, anyone still in the queue at 10pm was still able to be issued with a ballot paper. Of those polling station voters in 2021, who also usually vote in person, more than half (55%) said that voting took about the same time as usual despite the increased safety measures. However, nearly two-fifths (39%) said that it took longer (although 5% said it was quicker). Electoral administrators reported that the safety measures worked well for voters: We were very happy with the way our staff managed a very challenging situation and we received no complaints from electors about the strict procedures which were in place at polling stations. Layouts in polling places were agreed with our Protective Services Team to ensure the safety of staff and voters. Some queueing due to physical distancing, but not a problem. Additional staff were in multi station places to assist voters. Returning Officers appointed additional staff to the polling place in order to provide information for voters. Almost four in five electors (79%) who voted in person said that the help and support available from polling station staff was useful with half (49%) describing it as 'very useful'. People who didn't want to go to a

polling station had options for voting remotely. People who didn't want to vote in person could apply to cast their vote by post or appoint someone to vote on their behalf, known as a proxy. Postal voting is available on demand at elections in the UK and the deadline for application is usually 11 working days before the poll. Due to concerns about a potential surge in last minute postal vote applications as a result of Covid-19, the Scottish Government brought forward the deadline to 21 working days before the election. This was to ensure that any increase in applications could be processed in sufficient time so that postal votes could be issued to everyone who had requested one. The February write out to voters by Electoral Registration Officers, coupled with the Chief Medical Officer's letter to shielders in early 2021 highlighted the earlier deadline for voters. The Scottish Assessors Association (SAA), which represents Electoral Registration Officers, also carried out a TV advertising campaign to raise awareness of the different options for voting and the earlier postal vote deadline. Legislation proposed by the Scottish Government was passed by the Scottish Parliament to enable anyone who was self-isolating as a result of Covid-19, to apply for an emergency proxy vote up until 5pm on polling day. Nearly one-third of all votes counted were cast by post. Postal voters at elections in Scotland 1,014,745 voters were registered for a postal vote for the 2021 Scottish Parliament election, amounting to 24% of the electorate. This is an increase of 288,190 postal voters on the 2016 Scottish Parliament election (a 40% increase). Nearly nine in 10 (87%) of postal voters returned their postal vote, meaning that nearly one-third (32%) of all votes counted were postal votes. Postal voters at elections in Scotland 2016 Scottish Parliament election 17.7% 2017 Local government election 17.8% 2017 UK General election 19.4% 2019 UK General election 18.1% 2021 Scottish Parliament election 23.7%. A third (34%) of electors who voted by post say that this election was the first time they voted by post, while two thirds (66%) say they have voted by post at previous elections. Two-thirds (66%) of younger postal voters (aged 16-34) voted by post for the first time, compared to just three in 10 (28%) 35-54 postal voters and a quarter (26%) of postal voters aged 55+. Of those electors who were first-time postal voters, approaching half (46%) say that they voted by post because they did not want to go to the polling station because of Covid-19-related safety concerns, while a third (33%) cited convenience as a reason. A quarter (24%) say that their local authority informed them they could register for a postal vote, prompting them to vote by post for the first time, while one in 10 say that advertising from the Electoral Commission (12%) informed them they could register for a postal vote. Of the first-time postal voters, nine in 10 (91%) said that it was easy to understand what to do in order to return their postal vote application, including nearly three in five (57%) who said it was very easy. Just one in 10 (9%) said it was difficult. Postal voters knew what they needed to do to return the postal ballot paper. Of all postal voters, an overwhelming majority (93%) said it was easy to understand what was needed in order to complete and return their postal vote, including two-thirds (63%) who said it was very easy. 7% said it was difficult. First time voters were more likely to have said that it was difficult to understand what was needed in order to complete and return their postal vote, compared to repeat voters (28% vs. 3%). Among all postal voters in Scotland, an overwhelming majority (95%) said that the written instructions on the ballot paper were useful, including two-thirds (64%) who said they were very useful. 4% said they were not useful. Rates of postal vote rejections did not rise significantly, even with the numbers of new postal voters. When a postal ballot pack is returned to the Returning Officer, the signature and date of birth (known as the personal identifiers) provided on the

postal vote statement (PVS) are checked against those previously provided by the elector. Where either or both the signature and date of birth are missing or do not match, the postal vote is rejected and is not included in the count. This is a security measure to ensure that the ballot paper has been returned by the elector it was sent to. Data provided by Returning Officers shows that 21,327 of returned postal votes were not included in the count after the required checks on voters' personal identifiers. The percentage of all returned postal votes not included in the count (2.4%) is lower than at the 2016 Scottish Parliament election, where 3.3% of postal votes were not included at the count. Reason for postal votes not included in the count Postal voting statement unreturned 0.5% Ballot paper not returned 0.3% Mismatched signature and date of birth 0.1% Mismatched date of birth 0.4% Mismatched signature 0.6% Missing signature and date of birth 0.3% Missing date of birth 0.1% Missing signature 0.2% While the percentage of postal votes not included in the count continues to fall it remains a matter of concern that some postal votes do not get included in the count because voters do not complete the PVS correctly. The Electoral Commission will continue to work with ROs and EROs to support voter understanding of how to complete and return their postal ballot pack correctly so that it can be counted. The postal vote stationery used by ROs and EROs plays an important role in aiding voter understanding with the application and voting process, and they should continue to review the information they provide to make sure it is as clear and helpful as it can be to voters. EROs successfully encouraged early postal vote applications The Scottish Government legislated to bring forward the deadline for new postal vote applications for this election to 21 working days before the poll, instead of the usual 11 working days. In practice, this meant that the deadline to apply was 6 April 2021 instead of 20 April 2021. The deadline was moved due to concerns that the pandemic may drive a significant increase in postal vote applications for this election. In the event of a surge of postal ballot applications close to the usual deadline for the poll (11 working days before polling day) EROs were concern about whether they would be able to process the applications in time for the postal votes to be issued. Any delays would have risked postal voters not being able to receive and return their postal ballots in time for them to be counted. The Scottish Government also provided additional funding to EROs to manage any additional demands for processing absent vote applications. Feedback from EROs indicates that the February write out to voters played a key role in encouraging earlier applications both to register to vote and for absent votes, which helped to avoid a peak of applications close to the deadline. Data from EROs indicates that 4,072 applications for postal votes were received between 6 April and 20 April which would have been eligible to be processed for the poll had the deadline not been brought forward. Recommendation 1 Recommendation 1 The February write out to voters by EROs was successful in helping to avoid a late surge in postal vote applications and also had the wider benefit of improving the completeness and accuracy of the electoral register ahead of the election. We therefore support equivalent activity being undertaken ahead of future major polls. This activity was funded by the Scottish Government on this occasion and we expect that it would need to be similarly resourced in future years if EROs are to be able to carry out it out effectively and consistently across Scotland. Voters were still able to vote by proxy if they had to self-isolate All voters were entitled to apply for a proxy vote if they are unable to attend the polling place on polling day. This enabled someone they trust to vote on their behalf. Voters whose situation changed close to the election due to work or disability could appoint an emergency proxy up to 5pm on polling day to vote on their

behalf. The Scottish Government extended the eligibility for an emergency proxy vote so that anyone testing positive for COVID-19 close to polling day, or having to self-isolate due to someone close to them testing positive, could apply for an emergency proxy. 9,472 voters had a proxy at this election which counted for 0.2% of all voters. This is a similar level to the 2016 Scottish Parliament election where 9,887 (0.2%) of voters had a proxy in place. 14% of all proxies in 2021 were appointed using the emergency proxy provisions, and 8% of all proxies were for COVID-19 reasons. The provision of an emergency proxy for COVID-19 reasons was therefore an important backstop for ensuring that people were still able to participate in the poll. Some EROs continue to raise concerns that eligibility for emergency proxy does not extend to carers. The practical implication of this is that where a voter has to travel for medical treatment (for example, from the islands to the mainland), they are eligible for an emergency proxy but anyone accompanying them is not.

Recommendation 2 Recommendation 2 Legislation introduced for these elections to allow emergency proxy votes for anyone who tested positive for COVID-19 or had to self-isolate helped to provide a safeguard for anyone whose circumstances changed close to the polls and ensure that they were not prevented from participating. Although the provision was not widely relied upon in practice, it was nevertheless an important safeguard to make sure that no one lost their ability to vote. We recommend that the Scottish Government should ensure this option continues to be available if people are required to self-isolate as part of the public health response to COVID-19. We continue to recommend that the Scottish Government consider ways to extend the provisions for emergency proxy to carers. Voters found it easy to access information on how to take part in the election The Electoral Commission ran a public awareness campaign ahead of the election which included information on how to register to vote, the safety measures in place for voting in the context of COVID-19 and information on alternative ways of voting for those who did not want to attend the polling station. This included a voter information booklet sent to all households in the week commencing 22 March 2021. EROs and ROs also ran local voter information campaigns. The Commission also worked with a number of partner organisations including Scottish Care, RNIB, Sight Scotland and Guide Dogs for the Blind to distribute COVID-19 tailored information to those who may be particularly impacted by the pandemic and any changes to the way of voting. Nearly all respondents to our public opinion survey said that it was easy to find information about the election, including: Ease of finding information about the election The different methods of voting 85% What the Scottish Parliament is/do 87% How to register to vote 88% How to cast their vote 91%

The Electoral community and civil society worked to support newly enfranchised voters to register and vote The Scottish Elections (Franchise and Representation) Act 2020 extended the franchise for Scottish Parliament and local government elections to include all qualifying foreign nationals (those who are resident in Scotland and have permission to enter or remain in the UK, or who do not need such permission). 16 and 17 year olds had the right to vote extended to them ahead of the 2016 Scottish Parliament election. The Commission ran a new voter registration campaign targeted at the newly or more recently enfranchised. 'Welcome to your vote' ran in summer 2020 and again in March 2021, alongside our 'Got 5?' registration campaign. The 'Welcome to your vote' campaign targeted all potentially eligible Scottish voters, but was more heavily weighted towards known under-registered groups including private renters and those aged under 35. During the campaign period (9 March to 19 April) there were a total of 127,866 applications to register to vote, including 6,913 16-17 year olds and 3,091 qualifying foreign citizens. The foreign nationalities with the most

applications were USA, Syria, China and Turkey. Newly enfranchised voters information The Commission worked with a range partners to provide voter information for qualifying foreign nationals The Commission worked with a number of partners to distribute information to qualifying foreign nationals, including consulates, regional equality councils and other organisations that support foreign nationals in Scotland. Working with the Scottish Refugee Council, the Convention of Scottish Local Authorities and local authority resettlement officers, the Commission developed and promoted a set of political literacy resources for refugee communities. The resources, which were created for professionals and community based groups working with New Scots, were launched at an online event attended by 100 people. The Scottish Refugee Council used the resources to deliver 19 online sessions for New Scots in the lead up to the election. The New Scots community in Scotland is very diverse and the Commission's ability to reach relevant communities is highly dependent on working through partner organisations who provide face to face support for these communities at the grass roots level. However, some community based organisations, representing refugees or other migrant groups, raised concerns with the Commission about the capacity of their organisations to continue to support this area of work without additional resourcing. New processes were put in place to support eligible prisoners to vote The Scottish Elections (Franchise and Representation) Act 2020 also extended the right of prisoners serving a sentence of 12 months or less in a UK prison, who would usually be resident in Scotland, to vote at Scottish Parliament and local government elections. The Commission worked with Electoral Registration Officers (EROs) in Scotland to develop a set of prisoner voter application forms, including registration and absent vote forms which could be distributed by the Scottish Prison Service (SPS). EROs also developed protocols with the SPS to ensure that they received notification where any eligible voters entered the prison system so that they could invite them to register to vote. Voting information for prisoners was also circulated by the SPS through all prisons ahead of the election. In partnership with Citizens Advice Scotland, the Commission also developed a guide for professionals working with prisoners, which was distributed to their network of member bureaux. Data from EROs indicates that 38 eligible prisoners were registered to vote for the Scottish Parliament election in 2021. We understand that COVID-19 had a significant impact on prisons in Scotland, including the turnover of short-term prisoners. However, it is important to ensure that those who have the right to vote are fully aware of their options for registration and voting and that processes are in place to support this. There is a legislative requirement for the Scottish Government to review the arrangements for prisoner voting after the May 2022 local government elections. In the interim, we will work with the Scottish Prison Service and any other relevant partners to explore opportunities to provide political literacy education for prisoners. Efforts to reach young people in school continued despite the pandemic To support young people's engagement in democracy the Commission published a new set of online resources to educate young people about their vote and the democratic process. The tools, designed for use in classrooms and with youth groups across Scotland, aimed to help young people who were voting for the first time. We also provided resources and support for those tasked with teaching political literacy. We worked with our partners to promote and gain feedback on the resources and they were also shared by Education Scotland and the Scottish Parliament Education Service. Working with Education Scotland, the Scottish Parliament Education Service, Association of Directors of Education in Scotland and other education partners, we ran 'Welcome to Your Vote' week in February 2021, to encourage schools to deliver

voter registration sessions for their students. The pandemic meant a lack of face-to-face opportunities to engage with new voters directly in schools, community groups or youth clubs and to get their direct feedback on our resources. However, ahead of the election we worked with the Scottish Parliament Education Service, Education Scotland, West of Scotland Education Service and other partners to trial virtual sessions with educators to support them to use the materials in a classroom setting (whether virtual or face-to-face). These sessions were attended by 140 educators in total. Looking ahead we want to build on this work by engaging further with young people and educators across Scotland to identify more themes and topics our resources can address. We plan to expand the reach and impact of our education work ahead of the local government elections in 2022 and Scottish Parliament election in 2026. We will work with education and youth organisations in Scotland to deliver this.

16 and 17 year olds registered to vote and were more likely to report confidence in voting than 18-25 year olds 77,809 16 and 17 year olds were registered to vote at the election. In general, the 16-17 year old age group reported higher levels of confidence in accessing information about the election than 18-24 year olds. Three-quarters (75%) of 16-17 year olds said that they had enough information on candidates and parties to make an informed decision on who to vote for, compared to 62% of 18-24 year olds. They were also more likely to report finding it easy to participate in the election than 18-24 year olds (80% vs 68%). ROs took steps to assist disabled voters at the election but further improvements can be made. The Scottish Elections (Reform) Act 2020 places a duty on the Electoral Commission to report on the steps taken by ROs to assist disabled people to vote at the election. To inform our report we asked all Returning Officers to tell us about: provisions within the polling places and for postal voting to support disabled voters training of polling station staff outreach work with disability groups any other steps they took to support disabled voters. We also looked at the views of disabled voters who responded to our public opinion research; evidence gathered by disability organisations; and views from people who had worked at polling stations. Returning Officers provided a range of support for disabled polling station voters and postal voters. Returning Officers are required by law to put in place a range of measures to support disabled voters. These include: Large print sample ballot papers, both handheld and for display Tactile template voting device (TVD) for blind and visually impaired voters Assistance to disabled voters in marking their ballot paper for them where requested (whether by the Presiding Officer or by a companion) large print versions of postal voting pack contents on request and helpline numbers for postal voters requiring assistance. These provisions are important as they help to ensure a consistent, minimum level of support for disabled voters. However, we have become aware of some issues with how these were delivered in practice, which we will continue to work with individual local authorities to understand and address. For example, one Returning Officer reported being unable to secure large print sample ballot papers due to problems with their print suppliers, and they reported provided magnifying sheets in polling stations instead. Also, there was a notable increase in the number of parties and individual candidates contesting the 2021 Scottish Parliament election in comparison to 2016, which created difficulties for some ROs in supplying a TVD which could accommodate the longer ballot paper. We also heard anecdotal evidence from blind and visually impaired voters about tactile voting devices being sellotaped together to accommodate the longer ballot paper. Our research has also shown us many examples of Returning Officers provided additional support beyond that prescribed in law, such as: magnifying glasses / sheets induction loops allowing voters to use their own aids

such as electronic readers or phone magnifying devices training contact centre staff to answer questions about accessibility of voting providing additional seating in polling stations for those with mobility issues Local authorities also reported conducting Equality Impact Assessments ahead of the election to ensure that designated polling places were as accessible as possible. This included ensuring that there was provision for: disabled parking access ramps to the building, where necessary low level ballot booths and ballot boxes Returning Officers reported carrying out training for all staff which included accessibility considerations Returning Officers largely reported using our materials to train their polling staff, including the Polling Station Handbook , and polling station accessibility checklist . They also reported using materials from disability organisations during their training sessions for polling station staff to further enhance their awareness of the needs of disabled voters. This included videos from RNIB and Mencap. Disabled voters were less satisfied with the process of voting than non-disabled voters Respondents to our voter survey who defined themselves as disabled or with a long term health condition were slightly less likely to be satisfied with the process of voting than non-disabled voters with 93% of disabled voters reporting satisfaction, compared to 96% of non-disabled voters. However, disabled voters were more likely to value the assistance from staff in polling places: 83% of disabled voters said they found the help/support from polling station staff useful, compared with 77% of non-disabled voters. Disabled voters also reported finding it easy to get inside their polling station to vote (97%), including 70% who said it was very easy. 3% of in person voters said it was difficult. However, disabled people were less likely to have said that it was easy to vote by post and complete their ballot paper. 87% of disabled voters said it was easy to complete and return their postal vote, whereas 97% of non-disabled voters said it was easy. The proportion of disabled voters who found it easy to find their chosen party/candidate on the regional ballot was lower than amongst non-disabled voters (89% vs 94%). These findings were supported by organisations representing disabled people who found that some of their members and service users experienced particular challenges in relation to the accessibility of the voting process. They reported feedback from disabled voters about polling staff being unaware of the measures that should have been in place to support disabled voters. When I arrived, they had no idea where the template was and had to go round the whole hall to find one. Then when I was assisted by one of the staff in the booth she told me she had never used them before so she would have to have a look and see how to do it. I asked them if they had the tactile voting device and the large print ballot paper, it took them ages to find it and when they came back they could only find the tactile voting device and couldn't find the large print ballot paper. They also had never used the tactile voting device before so they weren't sure how to set it up properly so they ended up having to mark my ballot for me meaning I couldn't actually vote in private. ROs have reported facing challenges in recruiting experienced polling station staff in the specific circumstances of this election, and it is possible that these challenges impacted on the level of customer service that some disabled voters experienced. Both the Scottish and UK Governments are considering options for improving accessibility at elections, including utilising new technologies. However, well trained and customer focused polling staff continue to be the key to supporting disabled people to vote confidently and independently.

Recommendation 3 Ahead of the 2022 council elections, the Electoral Management Board (EMB) should work with the electoral community and disability organisations to strengthen accessibility training for polling staff. This includes

learning from and sharing the good practice of ROs who took additional steps to support disabled voters, above those prescribed in law. The Electoral Commission will continue to provide guidance and resources to support this area of work. We will report on progress after the 2022 Scottish council elections. Campaigning at the elections s had confidence that the election was well run but many felt restricted in their ability to campaign as a result of Covid-19 s were still able to communicate with voters face-to-face, online and through printed material, even though restrictions remained in place during the campaign. Voters reported that they had enough information to decide who to vote for. s largely understood and were able to comply with the new rules for imprints on digital campaign material. However, further measures need to be put in place to compel information from digital platforms in the event of campaigners' non-compliance with the rules.

Overview Ahead of the election, the Scottish Government worked with the electoral community and political parties to agree the framework for the Scottish General Election (Coronavirus) Act 2021, taking account of the agreed objectives for well-run elections in the current public health context. This included a series of roundtable meetings involving Ministers, representatives of other political parties in the Scottish Parliament, the Electoral Commission, EMB for Scotland and the Scottish Assessors Association. This collaborative approach ensured that, in the main, there was cross party support for the measures in the Act. In March 2021, the Scottish Government published guidance for campaigners on the public health restrictions in place which would restrict aspects of campaigning, including leafletting and door-to-door canvassing. The approach in the guidance was developed in consultation with the political parties represented in the Scottish Parliament. This guidance was updated during the campaign to reflect the relaxation of public health restrictions. In line with public health guidance, leafletting was able to commence on 15 March and face to face canvassing from 12 April. Parties and candidates did not appear to be deterred from participating in the poll A total of 357 candidates stood for election in the 73 Scottish Parliament constituencies, an average of 4.9 per seat. The number of constituency candidates represents an increase from the 313 candidates who stood in 2016. Constituency candidates at Scotland Parliament elections 1999 338 2003 406 2007 334 2011 321 2016 313 2021 357 The 2021 election saw an increase in the number of parties and independent (non-party) candidates standing in constituencies. 16 parties stood candidates in the constituencies compared with 10 in 2016. Similarly the number of independent candidates standing in constituencies rose from seven in 2016 to 15 in 2021. A total of 24 parties and 12 individual candidates stood for the 56 seats across the eight electoral regions. The number of parties was up from the regional total of 16 in 2016. Changes to nomination processes to minimise public health risks were welcomed and candidates agreed the process was well-run In order to appear on the ballot paper at an election, candidates and parties must submit nomination forms to the relevant Constituency Returning Officer (or Regional Returning Officer) at the election. While the law still required completed nomination forms to be submitted by hand, these changes were made elsewhere in the process to minimise risks to those involved: candidate and agent briefings were often held using video conferencing informal checking of nomination forms prior to submission was more frequently offered using email arrangements for the safe hand delivery of nomination forms ensuring physical distancing measures were in place Nine in 10 candidates (90%) who responded to our survey agreed that the nominations process was well-run. Having the option of sending nomination papers electronically for checking first was a great help prior to lodging the papers. Most of our candidates took the option of electronic payment of

the deposit which also helped the process go as smoothly as it could". Electoral administrator Returning Officers used digital platforms to run briefing events for candidates and agents ahead of the poll. Feedback from Returning Officers indicates that these online sessions were better utilised than the 'traditional' face to face meetings which are normally offered at elections. s had confidence that the election was well run but many felt restricted in their ability to campaign as a result of Covid-19 Nearly nine in 10 (88%) of respondents to our candidate survey were confident that the election was well-run. However, some candidates reported that they felt restricted in their ability to campaign as a result of Covid-19 and the public health restrictions on campaigning which were in place until 12 April. While 43% of respondents agreed that they were able to get their message across to voters, the same proportion disagreed. Those who disagreed were most likely to cite Covid-19 as the reason. Our research showed that: over four in five (86%) of candidates said that the reduced opportunities for face to face campaigning as a result of the pandemic affected their campaigning 'a lot' concerns for the health of others involved (e.g. family, volunteers, and voters) was more likely to impact campaigning than personal health concerns. 55% of candidates said that concerns for the health of others affected their campaign a lot, compared to just 25% who said concerns for their own health impacted it a lot I feel like we missed out on the opportunity to hear from the public - it took a bit of creativity for me to campaign well and get my message across but it was do-able. I missed out on hearing directly from voters though. The restrictions severely hampered our ability to have face to face dialogue with voters, not just door to door but street stalls and invited events. The lack of clarity around the changing of rules compared to those in society at large and timeline for loosening restrictions made it difficult to plan campaign activities. Most voters felt that they had enough information on campaigners to decide who to vote for Over three-quarters of people (76%) agreed they had enough information on candidates/parties to make an informed decision on who to vote for. However, this was slightly down from the 80% who agreed with this statement following the 2016 Scottish Parliament election. People reported that the most common way of them seeing information on parties or candidates were via printed material (leaflet or flyer). The most commonly reported sources of information were: Sources of information On a leaflet or flyer, either from a candidate/political party (57%) Party leaders debate on TV (29%) In newspapers (26%) On news websites (22%) On social media (19%) Posters or billboards (19%) By word of mouth (19%) Four in five people (84%) recalled receiving a leaflet from a candidate/party at their home in the run up to the election The 2021 Scottish elections were the first time that digital imprints rules applied for any UK election The 2021 Scottish elections saw the introduction of a requirement for imprints on digital campaign material for the first time in any election in the UK. An imprint includes details showing who has produced and paid for the material. The new rules apply at both Scottish Parliament and council elections. They build on the approach adopted during the Scottish independence referendum in 2014, and the rules set out in the Referendums (Scotland) Act 2020. The rules apply to all material that promotes electoral success of a candidate, group of candidates, party or parties, whether it is paid for or not. The rules contain 'personal opinion' exemptions so as not to capture the general public under the regime. As this was the first election at which the rules applied – and the rules were introduced very shortly before the poll, limiting opportunities to promote awareness of them – it is too early to reach any firm conclusions on how successful they were. This is particularly the case in regard to ascertaining the usefulness of the rules in

tracking digital campaign spending as spending returns are not due for all campaigners until November this year. However, we have set out some initial findings below.

Digital Campaigning and Imprints information

Our monitoring found that campaigners engaged with the new digital imprint rules across multiple platforms with different approaches. Ahead of and during the campaign period, the Electoral Commission provided advice and guidance to campaigners on the digital imprint rules, to support them to comply. During the campaign period, we monitored how campaigners included imprints on their digital campaign materials. We found that different kinds of approaches were used by candidates, political parties and non-party campaigners across different kinds of platforms and social media in order to comply with the regime. The different approaches were often determined by the platform they were using to promote their message. The success of these different approaches proved that it is possible and campaigners can find a variety of methods to include an accessible explanation of who they are on digital campaign materials. Most people noticed who digital material was promoted for, but not necessarily who was promoting it.

Following the 2021 Scottish Parliament election, we asked voters about their experiences of digital campaign material. Seven in 10 (71%) respondents to our public opinion research agreed that it is important for them to know who has produced the political information they see online and three in five (60%) agreed they would trust digital campaigning material more if they knew who produced it. Nearly three in five (56%) respondents said that they noticed who the material was being promoted for (the candidate or party) on the digital campaign material they saw in the run up to the Scottish Parliament election. However, only a third (34%) said that they noticed the promoter (the person/group/organisation which arranges for the advert to appear). 16-34 year olds were significantly more likely than those aged 35-54 and 55+ to have said that they noticed the promoter (52% vs. 31% and 24%, respectively) of election campaign materials and who it was being promoted for (63% vs. 54% and 52%, respectively). Most candidates and parties understood and complied with the new rules. Nearly nine in 10 (87%) of respondents to our candidate survey said that they understood the requirement to include imprints on digital campaign materials and 76% agreed that it was easy to meet the requirement. Nearly three-quarters (72%) agreed that digital imprints would improve the transparency of digital campaigning. Our monitoring found that most political parties, candidates and campaigners complied with the rules and were able to add an imprint to their campaign material on different digital platforms. Where we found evidence of non-compliance amongst parties and their candidates we were able to contact the political party and ask them to come into compliance. However, there were a number of non-party campaigners who did not include an imprint on their digital material. As with the imprint rules on printed materials, it is often difficult to trace the source of some of this material and contact those responsible. We engaged with digital platforms around the new rules. Ahead of the campaign period, the Commission met with representatives of the major social media companies and digital platforms. None of the platforms made adaptations in light of the new rules, and said they felt campaigners could include imprints within existing functionality for sharing content or placing adverts. It was difficult to identify and contact some campaigners. We also asked the platforms if they were able to assist us in contacting campaigners or advertisers whose material did not include an imprint. They told us that they could only assist with contacting platform users if we were formally investigating. This has highlighted the gap in the rules that there aren't any informal routes for us to obtain information should we need to look into non-compliance without taking the step of opening a formal

investigation. There are two different methods that could provide useful ways to address this gap. The Scottish Parliament has legislated for a power for the Commission to obtain information for compliance and regulatory purposes in the Referendums (Scotland) Act 2020. The UK Government, as part of its Elections Bill, has also considered this gap. It has proposed a duty for people and companies to provide us with information to look into compliance issues with the digital imprints regime. Recommendation 4 The Scottish Government should ensure that the digital imprint legislation for Scottish Parliament and local government elections includes a power for the Electoral Commission to obtain information from social media companies. This will enable us to support compliance with the rules. Regulators strengthened collaboration during the election period Following recent elections in the UK, concerns have been raised by politicians and civil society groups about how easy it is for voters to assess the veracity of any campaign arguments they see online. For the May 2021 elections, we worked with our regulator partners (including the Information Commissioner's Office and the Office for Statistics Regulation) to run a UK-wide online public awareness campaign and encourage voters to find more information from a new section of our website. The campaign aimed to encourage people to think more carefully about political campaign adverts they see online, and it provided information about which regulators or other organisations they could contact if they had concerns. Evaluation of the campaign showed that over 7.6 million people saw our adverts on websites and social media platforms. The number of people who clicked through to find more information from the adverts was encouraging, and provides a good foundation for further awareness-raising activity at future elections. A group of representatives from six regulators met regularly throughout the election period to share issues. This initiative built on a regulators' forum that we have coordinated since 2016. Regular discussions during the campaign period allowed the regulators to develop a greater understanding of their roles in helping to support public confidence in elections. We will continue to work with other regulators during election periods to strengthen this type of collaboration for future polls. The Commission processed a high volume of applications for party names and identifiers ahead of the poll The Electoral Commission has a key statutory role for registering political parties in the UK. Political parties must register party identifiers with the Commission for use on ballot papers. These are names, descriptions, and emblems. The rules are in place to help make ballot papers clear and easy to use. It's important that voters can look at the ballot paper and cast their vote with confidence. Parties applying to be registered on the GB register of political parties also select which parts of GB they want to be registered to contest elections in. Parties can choose all or any combination of England, Scotland, and Wales. There is a separate register for parties in Northern Ireland. The Political Parties, Elections and Referendums Act 2000 (PPERA) sets out criteria that applicant parties or new party identifiers must meet in order to be placed on the register of political parties. Where an application meets those tests, the Commission must register the party and their identifiers. All applications to register new party descriptions are subject to assessments against the criteria set out in law, with all proposed identifiers put on our website for public comment. To allow time for this assessment process, in October 2020 we advised all parties that we would guarantee a decision in time for the elections on applications to change their details or descriptions, provided these were properly submitted to us by 31 January 2021. Applications were assessed on a 'first come' basis. The Commission's party registration processes ensured that decisions were taken fairly and properly Some

political parties contesting the Scottish Parliament election applied for new party descriptions after 31 January, leaving in some instances insufficient time for us to process and take a decision on their applications before the close of nominations. One party challenged this by means of a judicial review. The courts dismissed the challenge. The Commission will continue to work with parties to ensure they are aware of the process and the timescales involved in applications for new party identity marks. The Commission applied the legal tests for party identifiers. Following the election some voters in Scotland raised concerns about the inclusion on the ballot paper of an emblem prominently using the word 'green' that was not for the Scottish Green Party. A small number expressed concern that they had been confused by another party using this word in its identifiers. There is a legal test related to the likelihood of a voter confusing the emblem for one party with another party. The law requires the Commission to refuse an emblem if in our opinion it is likely such confusion would result. The legal test rests on whether confusion is 'likely', which is a higher threshold than it being 'possible'. We remain satisfied that the emblem was not likely to confuse as a result of the prominent inclusion of the word 'green', as otherwise it was significantly visually distinct from the emblem of any other party. The concerns raised about this emblem also questioned whether the emblem accurately reflected the party's policies. This is not a legal criterion for approval of an emblem.

Delivering the elections This poll was well-run, notwithstanding the significant challenges presented by the pandemic, including the difficulties for Returning Officers and electoral administrators to find and train staff to work on polling day. The experience of this poll has again highlighted concerns about the resilience and capacity of electoral administration structures, which are coupled with the challenges of delivering elections within an outdated and increasingly complex electoral law framework. We will work in partnership with the EMB, the wider electoral community, Scottish Government and local authorities to develop and deliver proposals to support resilient electoral services for future elections. Electoral administrators delivered a well-run poll despite the uncertainty.

While the Scottish General Election (Coronavirus) Act was not passed until 23 December 2020, discussions around the measures in the Bill had been ongoing with the electoral community since the summer of 2020. This helped to ensure that Returning Officers and Electoral Registration Officers were aware of the likely changes to processes for the election in advance of the legislation being made. The Act did contain a provision for the poll to be postponed at relatively short notice in the event of adverse changes to the public health context. While this was an understandable precaution in the circumstances, it did impact on electoral administrators. Over four-fifths (83%) of electoral administrators responding to our survey said that uncertainty about whether the elections would go ahead made it difficult to plan for the poll. Nearly nine in 10 people in Scotland (85%) said that they were confident the election was well-run. Less than one in 10 said they were not confident (7%). The significant majority of voters (95%) said that they were satisfied with the process for voting, with 61% saying they were very satisfied. The vast majority of candidates that responded to our survey (88%) said the elections were well-run and a similar proportion (87%) were satisfied with the Covid-19 measures in the polling places. Electoral administrators faced particular challenges at this election because of Covid-19. It is clear that Covid-19 caused problems for electoral administrators, increasing their workload, causing uncertainty, and creating challenges with recruiting sufficient numbers of polling staff. Without doubt this was the most challenging election I have ever been involved in. The amount of additional work required to conduct the poll safely should

not be underestimated and the fact that the polls seem to have gone ahead without incident across the UK is testament to the amount of hard work and effort put in by election teams.” When asked how Covid-19 restrictions had impacted on their work: All respondents (100%) said that the restrictions had made their job more difficult and that their workload had increased because of the restrictions during this election. Just under half (42%) said that they were concerned for their own health because of Covid-19. COVID had a massive impact on polling place preparation in terms of risk and space assessing, provision of PPE, screens etc. and deep cleaning/water testing of premises which hadn't been used over the past 14 months or so. The initial uncertainty delayed planning at the outset, which was theoretical for a while before it turned into practice. Electoral administrators faced particular challenges at this election because of Covid-19. Electoral administrators struggled to recruit experienced polling station staff. Three-quarters (75%) of respondents to our electoral administrators' survey reported difficulties in recruiting polling station staff for the election. With levels of lock down still in place, many staff wished to follow government advice and 'stay at home' so recruiting polling staff was difficult, leading to a hugely inexperienced cohort of staff manning polling stations. Even once polling station staff had been appointed, administrators told us that there were high levels of drop out due to Covid-19 which had to be managed at short notice. While there were no issues initially with staff recruitment we had high number of call offs than normal in some cases due to staff being required to self-isolate and making sure we had sufficient reserves to cover these was challenging. Polling station staff appointments had approximately a 25% turnover with people shielding or not comfortable to work.” We asked administrators whether they had sought to recruit poll staff from new areas in order to supplement their usual pool of staff. Half (50%) of those who responded on this question said that they had used the Civil Service, 30% had used local students and one-fifth (20%) had approached private companies. Administrators also told us that they had made use of furloughed council leisure staff and exam invigilators. In this challenging context Returning Officers worked to appoint additional staff to manage the additional impacts of Covid-19. We had very few issues on polling day. The additional polling clerk (COVID marshal) role worked well. We increased our numbers of polling station inspectors and had polling information officers and COVID marshalls deployed for multiple polling stations. Having polling information officers and polling marshals for multiple polling stations were good and a way forward if budget allows. Where Commission representatives observed polling places with the additional 'information officer' staff in place, we found it worked well for voters by improving the flow of voters through the polling station and also helped to identify any voters with additional support needs who could then be offered tailored support for their journey through the polling place. Elections teams updated their count procedures to maintain transparency while minimising risks for count staff and candidates. Returning Officers put in place new ways of providing transparency and enabling scrutiny of count processes. Overall, electoral administrators in Scotland seemed to have less difficulties in preparing for the count than they did in setting up polling stations: Only 17% of administrators responding to our survey said they had difficulties recruiting count staff. This is far less than the 75% who had difficulties in recruiting polling staff. The impact of Covid-19, and the resultant public health advice around physical distancing, created challenges for administrators in enabling the same level of access to the count for candidate and party counting agents as at previous elections. Half (50%) of administrators who answered our survey either

strongly agreed or agreed that the Covid-19 restrictions made it difficult for candidates and agents to observe at the count. There was some negative feedback about agents and press limitations on numbers attending, whilst it was accepted as necessary was not welcomed in terms of their experience of the process. As a result of COVID the number of attendees at our count venue was greatly reduced but we were still able to accommodate parties in terms of counting agents and to allow some sampling. Candidates and agents, whilst acknowledging COVID was an issue, continued to want things to be done as they always had been. This was particularly evident with the numbers who were permitted (due to COVID and the size of the building) to attend. We had some robust challenges to our numbers. The majority of candidates that responded to our survey (80%) told us they were satisfied with the efficiency of the count and verification processes. A similar proportion (81%) told us that staff made it clear what was happening at all stages of the count. However, candidates were less satisfied with their ability to observe and scrutinise the count with just over half (52%) agreeing that it was possible to do so effectively (and 39% of candidate respondents disagreed with this statement). Very difficult to observe effectively due to distancing, especially at sorting stage when there was almost no chance of seeing whether the ballots were going into the correct piles/boxes. Covid measures included one direction path around the counting tables, but over an entire gym hall this meant it was impossible to move back to see and sample other ballot boxes being opened from neighbouring tables processing relevant polling stations. To do so meant walking all the way around the perimeter of the hall, by which time it would be too late. The distance of the screens from the table, combined with use of pencil made ballot papers mostly impossible to see at a distance. Most people witnessing the count gave up trying to see ballots. The process was not always clear and consistent with some officers using trays and others not. Electoral Commission representatives observing at counts saw examples of the use of large screens and technology for the adjudication of doubtful ballots. This generally involved projecting images of the ballots in question on to large screens so that candidates were able to see the doubtful ballot papers and have the opportunity to challenge the Returning Officer on their adjudication decision. Recommendation 5 Recommendation 5 Candidate and agent confidence in an election result is dependent on a transparent count. All aspects of the verification and count should be carried out in clear view of all those entitled to attend. Sufficient numbers of counting agents need be allocated to effectively scrutinise the process. The arrangements for the counts at this election were exceptional due to the impact of Covid-19. The EMB has been working to improve the consistency of arrangements for transparent counts across Scotland, including the allocation of counting agents, and this work should continue ahead of future polls. The electoral community should also consider what learning can be taken from the counts at this poll, including any to build on the use of technology at counts to improve scrutiny for future polls, and continue to ensure transparency for those entitled to attend in-person. Pressure on electoral administration capacity is building (not related to Covid-19) Electoral administrators continue to be dependent on a small marketplace of expert suppliers of electoral management software and specialist election print services. Although many electoral administrators were satisfied with the support provided by their suppliers, others experienced problems. For example, there were some instances of delays to supplier delivery of materials, with some Returning Officers not getting the ballot papers they expected and needed on time, and some not delivered until very close to polling day. As well as introducing additional risk by reducing the time available to deal with any issues

with delivered material before the opening of polls, the delays meant that administrators needed to invest significant time and energy into managing issues with their printers at a crucial time in the election timetable. While the supplier delays had some impact on the despatch of postal vote packs to voters in some areas, the impact on the polls as a whole should polling station papers not have been produced and delivered on time would have been significant. This illustrates the very real risk to the effective delivery of future polls as a result of the continued reliance of administrators on such a limited number of specialist suppliers of electoral services.

Recommendation 6 We have repeatedly highlighted concerns about the resilience and capacity of electoral administration structures in the UK, which are coupled with the challenges of delivering elections within an outdated and increasingly complex electoral law framework. We will work in partnership with the electoral community, governments, and local authorities to develop and deliver proposals to support resilient electoral services for the future. The EMB for Scotland has begun planning to mitigate supplier capacity risks ahead of the 2022 local government elections. This is a particularly important piece of work as the e-counting of the elections will see a single supplier tasked with the printing of all local authority ballot papers. Through the Electoral Advisory and Coordination Board, which includes the EMB, senior Returning Officers, electoral administration professional bodies and officials from all governments, we will establish a programme of activity to gather evidence about the challenges facing electoral administration teams and identify solutions to address them. The EMB continues to support consistency and improvement

The EMB for Scotland has now been provided for in statute for 10 years for local government elections, and has more recently – as a result of the Scottish Elections (Reform) Act 2020 – had its remit extended to Scottish Parliament elections. This statutory basis enables the Convener of the EMB to issue directions to Returning Officers and Electoral Registration Officers in respect of their duties in the delivery of a Scottish Parliament election. Directions issued by the Convener at the 2021 election included: colour of ballot paper date of dispatch of poll cards and postal votes count timing numbers of voters allocated to polling stations

The first set of directions were issued on 21 December 2020 and additional directions were issued on 3 February. In general, most respondents to our electoral administrator survey welcomed the support of the EMB

The directions from the EMB convener were helpful as they introduced consistency across the country. On a positive note the EMB in Scotland was incredibly helpful, supportive and forth coming with proactive information. Direction are helpful and provide consistency, but also the pre-consultation on the directions help so that you had insight on what is coming.

Recommendation 7 The EMB should now consider how to develop its capacity to offer further support to the electoral administration community in Scotland. This should include considering resourcing and legal status in respect to overseeing contracts, such as for the e-counting contract for local government elections. This will help to ensure that all aspects of the delivery of the polls remain under the control and oversight of independent electoral officers who are accountable for the delivery of the elections. The Electoral Commission and Scottish Government should work with the EMB to support its development and to ensure effective alignment of responsibilities and activities across the different organisations.

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