

Report: How the 2016 Scottish Parliament election was run | Electoral Commission Search

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Management Board for Scotland (EMB) played a key role in coordinating the delivery of the poll and promoting best practice for improving the voter experience at the election. The EMB continues to rely on consensus and good will to promote consistency of practice at Scottish Parliament elections as the EMB and its Convener have yet to be established on a statutory basis in relation to this election. The provisions of the Scotland Act 2012 and the forthcoming commencement of sections of the Scotland Act 2016 will devolve responsibility for the administration of the Scottish Parliament elections to the Scottish Parliament and this will provide an opportunity for the Parliament to underpin the EMB's role at Scottish Parliament elections on a statutory footing as it already has done in respect to local government elections. Electoral Registration Officers continue to raise concerns about duplicate registration applications from electors which cause an unnecessary activity for electors and create an administrative burden on electoral registration staff in the busy period before an election. This burden could be eased by the provision of an online facility for individuals to check their registration status before applying to register. Candidates and parties A total of 313 candidates contested constituency seats at the election, an average of 4.3 candidates per constituency. This is the smallest number of candidates to date at any Scottish Parliament election. Ten parties stood candidates in constituency contests, down from twelve in 2011. The number of independent candidates standing in constituency contests declined from 14 in 2011 to eight in 2016. A total of 15 parties and three independent candidates contested the regional elections. This is down from the 21 parties and 15 independent candidates who stood in the regional elections in 2011. Our survey of candidates suggested that, on the whole, the nomination process went smoothly: 95% of candidates said that the nomination process was well-run and 93% found the process to be straightforward. However, access to information about candidate spending and donations could be improved by making candidates' election returns available for viewing online. Concerns continue to be raised by some voters about the descriptions used on ballot papers. While at Scottish Parliament elections the party name must always appear on the ballot paper before any description the party chooses to use, this is not the case at other elections including local government elections in Scotland. We continue to be concerned that the legal provisions for the registration of party descriptions present risks that voters are misled when a description appears without any reference to the party identity and we will encourage governments to work with the Commission to reform the provisions on party descriptions. Recommendations: Voter experience Recommendation 1: Postal voting The requirement to check postal voting identifiers is a critical safeguard for protecting the postal voting system from theft and misuse. However, it is also vital that voters find it as easy as possible to complete the postal voting statement in order to verify their identity. The Commission will continue to work with the EMB to identify opportunities to increase awareness of the postal voting rules and to promote the use of waivers where appropriate. The Scottish Government should continue to keep the postal voting statement under review to ensure it is as user friendly as possible for voters and that the design and instructions minimise the opportunity for voters to make inadvertent errors which lead to their postal votes being rejected. Recommendation 2: Voter information The Commission will review our public awareness activities aimed at all voters and specifically 16 and 17 year olds to ensure robust voter information plans are in place ahead of the 2017 council elections so that voters understand how to complete their ballot papers so they can be counted in the way they intended. Recommendation 3: Polling station ID The Commission reiterates our recommendation

that there should be a requirement for electors across Great Britain to present an acceptable form of identification prior to being issued with a ballot paper and voting at the polling station. Similar requirements are already in place in Northern Ireland and several other comparable democracies. This measure would almost entirely remove the opportunity for personation at polling stations.

**Recommendations:**

**Administration of the poll**

**Recommendation 4: Checking registration status** Providing a way for electors to check their registration status at the beginning of the online registration application process would reduce the action required by voters to keep their register entry up to date, and would also reduce the impact on EROs of processing duplicate applications. The UK Government should develop an online service to allow people to check whether they are already correctly registered to vote before they complete a new application to register. Given the registration digital service is reserved we would urge UK Government to discuss these matters with Scottish Government where it affects devolved registration issues. Any such service would need to carefully manage and protect voters' personal information.

**Recommendation 5: Law Commissions' review of electoral law** The Law Commissions of Scotland, England and Wales and Northern Ireland are currently reviewing electoral law with the aim of consolidating, simplifying and modernising the many existing sources of electoral law. The Law Commissions require the approval of the Scottish and UK Governments before they can move onto the next and final stage of the project, which will consist of drafting new electoral legislation. We continue to urge the Scottish and UK Governments to support the work of the Law Commissions to enable the project to move on to the next stage. This will allow the Law Commissions to start drafting new law in time for it to be implemented before the Scottish Parliament election in 2021.

**Recommendation 6: Ensuring legislation is clear in good time before elections** We continue to recommend that Governments with legislative competence over elections within the UK should manage the development and approval of legislation so that it is clear (either by Royal Assent to primary legislation, or by laying secondary legislation for approval by Parliament) at least six months before it is required to be implemented or complied with by campaigners or electoral administrators. All governments should normally be able to plan to ensure that legislation for elections is clear at least six months before it is required to be implemented or complied with. If a government has not been able to ensure that legislation is clear by this point, it should table a formal statement in the relevant legislature explaining why it has not, and set out its assessment of the likely impact of the late confirmation of legislation for voters, campaigners and electoral administrators.

**Recommendation 7: Electoral Management Board for Scotland** We continue to urge both the Scottish and UK Government to establish the EMB in statute for all elections. With the provisions of the Scotland Act 2012 and the forthcoming commencement of the sections of the Scotland Act 2016 which relate to Scottish Parliament elections the Scottish Government will become responsible for electoral administrative matters relating to Scottish Parliament elections. We recommend that the Scottish Government use this opportunity to establish the EMB's statutory remit for the Scottish Parliament elections and provide the Convener with a power of direction at these elections. The long-term funding and legal status of the EMB must also be secured and clarified so that it can undertake long-term strategic planning to develop its role and work programme. As the role of the EMB develops we would wish to discuss with Scottish Government any implications this may have for the Commission's current roles and responsibilities in relation to Scottish Parliament and local government elections.

**Recommendation 8: Timeliness of Commission guidance resources** The Commission

recognises that some of its guidance materials were delivered late to electoral administrators and will take this into account when planning activities for future electoral events.

**Recommendation 9: EMB Convener - Power to prescribe forms** We believe that giving a power of direction to the Convener of the EMB to prescribe the forms would allow the Forms Working group to develop forms that are consistently used across Scotland and allow them to react quickly to the need of developing further forms. The EMB will need to be adequately resourced in the future to ensure that its Forms Working Group is resourced to carry out this task ahead of future elections.

**Recommendation 10: Co-ordination of postal vote dispatch** We welcome the EMBs approach to co-ordinating the dispatch of postal voting packs as it enables voters who will be away from their address at the time of the election to make informed choices about the most appropriate method of voting for their circumstances. We recommend that the EMB continues to co-ordinate postal vote dispatch dates in this way.

**Recommendation 11: Additional dispatches of postal votes** We recommend that the EMB consults with ROs and EROs and parties with regard to the EMB recommending or directing an additional or second date of dispatch for postal votes in the period between the first dispatch and the postal voting deadline. As part of this consultation the EMB will need to have regard for the additional resource burden on ROs as well as the potential benefits for voters. The EMB should also consult with ROs and their suppliers to ensure that any future directions on the dispatch of postal votes can be planned into the negotiations for new contracts with suppliers.

**Recommendation 12: Deadlines for replacement of postal votes** We recommend that the Scottish Government considers the impact of having two different deadlines for replacing postal votes ahead of future elections. The Government needs to consider the interest of postal voters and the issues raised by ROs.

**Recommendation 13: Awareness of implications of different voting methods** The Commission will continue to work with EROs, ROs and other partners to promote awareness amongst voters of the practical implications of different voting methods (such as postal voting or appointing a proxy) particularly if they are making an application during the last month before polling day.

**Recommendations: Candidates, parties and campaigners**

**Recommendation 14: Home address details of candidates and agents** We recommend that Scottish Government reviews the rules relating to access to candidates and agents home address details, seeking the views of parties, candidates and electoral administrators, including the Commission, with the aim of maintaining transparency, while seeking to increase the safety of candidates.

**Recommendation 15: Withdrawal of a party list candidate** We would recommend that when it comes to review the rules for the 2021 election, the Scottish Government reviews the rules relating to withdrawal of a party list candidate from the ballot paper and seeks the views of other stakeholders in the electoral community.

**Recommendation 16: Party descriptions on the ballot paper** We continue to recommend that where a candidate represents a political party on a ballot paper, it should be clear to voters which party the candidate represents. While legislation for Scottish Parliament elections already ensures that it is clear which party a candidate represents, this is not the case for other elections in Scotland. The legal provisions for the registration and use of party descriptions on ballot papers present risks of confusion for voters and restrict the participation of political parties. The Scottish Government and other Governments of the UK should work with the Electoral Commission to reform the provisions on party descriptions.

**Recommendation 17: Candidate and agent briefings** We would recommend that ROs consult with candidates and agents prior to setting dates for briefings. We will also ensure that this recommendation is highlighted in our guidance for Returning Officers.

**Recommendations 18: Costs relating to an**

individual's disability Scottish Government should review the rules relating to personal expenses and disability exemptions with a view to amending the definitions of political party and candidate spending, so that reasonable expenses that can be attributed to an individual's disability are exempt, (as was recently set out in the revised PPERA rules for non-party campaigners). Recommendation 19: Reporting requirements for spending and donations The discrepancy in the reporting requirement between spending and donations during the long campaign at the Scottish Parliament election should be carefully considered by the Scottish Government ahead of the next Scottish Parliament election due to be held in May 2021. Recommendation 20: Candidate spending returns To improve transparency and accessibility of candidate spending returns, we have previously recommended that Returning Officers should be required to publish spending returns online as well as through the existing methods of public inspection. We support recommendation 12-5 of the Law Commissions' review 12 of Electoral Law which proposes a method for implementing this change through legislation. Recommendation 21: Legibility of imprints The purpose of an imprint is to show who is responsible for the production of campaign material. If the imprint is difficult for the voter to read it could lead to a loss of this transparency for the voter, and we recommend that all imprints must be legible. Recommendation 22: Regulating candidate spending and donations We continue to recommend extending our investigative and sanctioning powers at major elections for offences relating to candidate spending and donations, including at Scottish Parliament elections. It will be important for the Scottish Parliament and Scottish Government to work with Governments and Parliaments across the UK on introducing the Commission's new powers for different sets of elections. Recommendation 23: Reporting campaign spending on social media We will give further consideration to how campaigners should report spend on social media at future elections. As spend in this area grows, there is the potential for less transparency if expenditure on social media is not easily identifiable within the spending returns because social media is not a specific reporting category. This will need to be considered as part of reviewing all of the expenditure reporting categories to ensure that they remain proportionate and relevant to future trends in campaigning. In case any of these changes would need to be implemented through legislation, we recommend that the Scottish Government and Parliament should consider the timing needed for implementing changes before the UK Parliamentary General Election in 2020 and the Scottish Parliamentary election in 2021. Recommendation 24: Appointment of Counting Agents To ensure consistency in approach across Scotland in determining how many counting agents are permitted at counts for future Scottish Parliament elections, Scottish Government should consult relevant stakeholders ahead of the next election to find an appropriate solution. This would ensure certainty on how counting agents are appointed across Scotland, and the approach could be implemented either through legislative change or through direction from the Convener of the EMB. Recommendation 25: Guidance on count declarations For future elections we will work with the EMB to develop a guidance note for ROs to streamline the declarations. This would include general guidance on the template script for the declaration, backdrops for declarations and other pertinent issues ROs may wish to consider before the declarations are made. Recommendation 26: Collation of election results data We recommend that the EMB continues to publish collated Scottish results data in order to provide transparency for voters. In taking this forward the EMB should consult with stakeholders, including parties and academics, in order to identify the most useful content and format for the publication of results data. Recommendation 27: Reporting on the costs

of the election We recommend that Scottish Government, when in a position to be able to do so, publicly report on the administration of the fees and charges order for this election in order to ensure transparency of process and make any recommendations necessary for improvements in the way the process is administered. Recommendation 28: Resourcing the election We recommend that the issue of local government staff resource for elections be addressed by the Scottish Government, the EMB and individual ROs, set in the context of the future role of the EMB and with consideration of how that can assist through any economies of scale that are available. We would be happy to assist in any such undertaking. Download our full report 2016 Scottish Parliament election report Related content Results and turnout at the 2016 Scottish Parliament election View the results and turnout at the 2016 Scottish Parliament election Report on the Scottish Parliament election on 6 May 2021 Read our report about how the 2021 Scottish Parliament election was run Report: How the 2011 Scottish Parliament election was run Read our report about how the 2011 Scottish Parliament election was run Results and turnout at the 2011 Scottish Parliament election View the results and turnout at the 2011 Scottish Parliament election