Election 2016 – Scrutiny Committee Workplan Request
Laura Taylor, Returning Officer for Basingstoke and Deane Borough Council, 21 December 2016

Report to Scrutiny
Ward(s): All
Key Decision: All
Appendix 1 : Confidential Appendix – Financial Implications

1 Foreword

1.1 Every county, district, unitary and metropolitan council in England is required to appoint an officer of the council to be the Returning Officer (RO) for the election of councillors to the authority and the management of local polls in the local area. In carrying these functions the Returning Officer is personally accountable for the effective conduct of elections to the relevant standard to the Electoral Commission, not the host local authority that employs them.

1.2 In 2016, there were three principal area elections which included electors from the Basingstoke and Deane electoral register. The borough council election and the Police and Crime Commissioner elections were held on 5th May 2016 along with two Parish elections and the EU Referendum was held on 23rd June 2016. In addition there were two Neighbourhood Plan Referenda and two borough council by elections. Specific guidance is provided by the Electoral Commission on how to run each election and specified timetables must be met.

1.3 An error occurred on a small number of postal ballot papers in borough council election for the Brookvale and Kings Furlong ward. Although it was finally determined that the error was only on a small number of papers, all ballot papers for the ward were re-issued to ensure the integrity of the election.

The Scrutiny Committee has asked for a review of the events that contributed to the error and the lessons learnt.

1.4 An error occurred on the poll cards for the EU Referendum and following advice from the Electoral Commission, all poll cards were re-issued.
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Key issues for consideration

2 Borough Council Election – Brookvale and Kings Furlong Ballot Papers

2.1 Proofing of the ballot papers had taken place prior to printing and prior to dispatch in accordance with Electoral Commission guidelines.

2.2 On 20th April the RO was made aware that there was a printing error affecting a number of postal ballot papers for the Brookvale and Kings Furlong ward in that the candidates for Oakley and North Waltham ward were printed onto some of the Brookvale and Kings Furlong postal ballot papers. The error came to light in that the ballot papers had been dispatched to postal voters and a member of the public telephoned the team to ask why the Brookvale and Kings Furlong candidates lived in Oakley.

2.3 The Electoral Services Manager immediately started an investigation into the matter. The printers could not establish how many ballot papers were potentially incorrect, therefore the RO took the provisional decision to cancel and re-issue all ballot papers for the ward. The Candidates and agents were advised of the error and the provisional decision to re-issue ballot papers.

This decision was discussed with the Regional Returning Officer and the Electoral Commission and the course of action agreed.

2.4 The following steps were taken

   ▪ the postal votes were reprinted, checked and re-issued on 28 April with an explanatory letter.

   ▪ As some postal votes had already been returned and electors were being asked to cast a vote again, in order to avoid double counting the postal votes were re-issued on a different colour paper.

   ▪ To avoid confusion at the count, all ballot papers to be issued on polling day were similarly re-printed on a different colour paper.

   ▪ Proactive communications in print and social media were actioned

2.5 In order to verify the integrity of the poll the RO reconciled the original returned postal votes and the re-issued postal votes. 78% of the original postal votes were recast.

76 votes were not recast.

The sitting candidate for the Labour party was returned with a majority of 255 votes and the difference between votes cast for every candidate was greater than 76 votes. Therefore the postal votes that were not returned would not have materially affected the result of the election.
Lessons learnt

2.6 The required physical checks of ballot papers were made by the elections team at the printers prior to dispatch of postal votes.

2.7 The ESM subsequently attended the printers to establish how the error had occurred and checked the re-issued postal ballot papers and the second run postal ballot papers for other wards. It appeared that the ‘backs’ of the ballot papers had been sub contracted to another printer and during the manual loading at the printers a stray paper from the next ward had been picked up in the batch for Brookvale and Kings Furlong. The printers were advised this error could have been avoided by a front and back check of each run.

2.8 No further error in the postal votes was found and a full report was requested of the printers.

2.9 All additional costs of printing and dispatch were borne by the printers.

2.10 Clear decision making helped resolve the situation promptly. Clear communications helped ensure the necessary information was made available to voters.

Independent review by the Electoral Commission

2.11 The RO was requested to send a report of the incident to the Electoral Commission and upon review the Electoral Commission confirmed that; ‘that having considered both the details of the issue, and your response to us, we have reached our final assessment, agreed with a panel of members of the Elections Co-ordination Advisory Board (ECAB), that you do meet the relevant standards. (excerpt from email)

3 Error concerning a date on the Poll Card for the EU Referendum

The EU Referendum was held on Thursday 23 June 2016.

The timetable for the Referendum was set nationally with delivery of poll cards to electors set between Wednesday 18 May and Tuesday 24 May 2016.

123,734 ordinary, postal and proxy poll cards for Basingstoke and Deane electors were posted out from the printers in Bristol on Tuesday 17 May. They started to land on doormats on Fri 20 May 2016.

3.1 On the evening of Friday 20 May, the date error was highlighted to the RO by a member of the public that the postal poll card contained an error as it stated ‘Must cancel Postal Vote before 5pm on Tues 7 June’.

The required date was Wednesday 8 June 2016.

3.2 The immediate priority was to resolve the error on the poll cards and the RO discussed this with the ESM over the weekend of 21/22 May to establish the extent of the error. The RO discussed the issue with the Police Area
Returning Officer (PARO) on Monday 23 May 2016. By Tuesday 24th May 2016 it was established that all poll cards contained the same error.

3.3 The risk was that someone who wanted to change their method of voting would believe they were unable to do so after Tuesday 7th June and may not then choose to vote. However the RO considered this to be a small risk and a proposal to rectify the issue was developed and sent to the Electoral Commission on Thursday 26th May 2016. A communications based approach was proposed as the date printed on the poll card was prior to the actual date and therefore any late changes could still be accepted. This approach was agreed by the PARO.

3.4 The Electoral Commission responded that the RO ‘should carry out targeted communication to electors, as we’re concerned that communications activity alone presents a risk that some people will not see/digest/act on it. Whether this is a new poll card and covering letter, or purely a letter alerting electors to the error and confirming the correct date for new postal vote applications, is for you to decide. We believe that this together with the communications you plan to do will go towards minimising the risk of people being disenfranchised by working to the incorrect date of 7th June.’ (excerpt from email Friday 27/5/16 0912)

The RO was requested to advise the Electoral Commission of the proposed course of action.

3.5 Therefore the following options were considered

- Re-issue of poll cards to all electors
- Issue of a letter/postcard to all ordinary (not postal/proxy) electors
- Re-issue of a letter/postcard to all households

For any new communication to be effective it needed to be with electors in the week of 30 May 2016. Therefore the option of a letter was discounted as it was not possible to export the address data in a short timescale. Therefore any communication needed to originate from data in the elections Xpress software and be dispatched by the printers.

3.6 Distribution of a postcard to each household was the proposed approach but the Electoral Commission stated on Friday 27th May that ‘Our preference is for the postcard to go to all electors individually but the re-worded card now works better if you go with sending to households. We think this should be all households’. (excerpt from email )

With this advice and a preference for individual communication expressed by the Electoral Commission the RO proofed and arranged for printing of an A5 postcard over the late May bank holiday weekend and sent to all electors (excluding overseas based electors) on Tuesday 31st May and Wednesday 1st June 2016 for receipt by Friday 3rd June/Saturday 4th June 2016.
Investigation of the incident

3.7 The ESM has undertaken an investigation with the printers and the elections team. Poll card proofs and email exchanges were also examined to establish the following

- Poll card template proofs were based on the template from another council poll card and were generated on 13 April using the bespoke election management software system called Xpress.
- This occurred as the other council was ahead in its preparations and used the same printers. It was practical to base our poll card template on theirs as the wording is prescribed in law and it was only a matter of changing the logos and council address details.
- When the poll card template was created, Xpress had calculated the last date for submission of postal vote applications as 7 June. This was, however, an incorrect date. It should have been 8 June. The error was later corrected in Xpress but all other key dates relating to the Referendum were correct.
- Further investigation revealed that Xpress had sent a patch update for this issue in March 2016 but it had not been uploaded locally.
- The date error was not picked up at the word proofing stage.
- The ‘backs’ were agreed on 19 April and were printed in advance ready for the live data to be lasered on at a later point. Printing the backs is a common printing practice due to the high volumes.
- Live data proofing took place on Mon 16 May.
- The poll card fronts were printed with the live data and the poll cards were posted out on Tues 17 May.

Lessons learnt

3.8 The error occurred as reliance was placed on the Xpress generated timetable which was incorrect and the Xpress patch had not been updated locally. The update of patches is now the responsibility of the Senior Elections Officer.

However, had the poll card been checked against the EC timetable then the error would have been spotted. The checking of information before dispatch is critical and on this occasion the usual ‘double check’ procedure had not been followed. This has been rigorously enforced since this incident and documents have final sign off by RO.
4 Financial Implications

4.1 Brook Vale and Kings Furlong

The cost of a borough election is borne by the Borough Council. However, the printers accepted liability for this error and the cost of reprint and re-issue of the ward ballot papers was borne by the printers.

4.2 EU Poll Card

The cost of European election is reimbursed up to a Maximum Recoverable Amount from the Electoral Commission. The council was awarded a Maximum Recoverable Amount of £228,279 from the Electoral Commission for holding the local EU referendum. This sum was calculated based on the Alternative Vote Referendum in 2011.

At the time of the incident, the Electoral Commission would not commit to contributing to the cost of the poll card re-issue but given they expressed a preference as to the way forward in addition to the ROs proposed approach, this has been incorporated in the EU financial claim.

The EU Claim was submitted in December 2016 and will be processed by the Electoral Commission in due course.

A confidential financial appendix is provided

5 Corporate implications

5.1 Legal implications

The RO is personally responsible for the conduct of the local government election, including:

- publishing the notice of election
- administering the nomination process
- printing the ballot papers
- publishing the notice of poll, statement of persons nominated and notice of situation of polling stations
- the provision of polling stations
- appointing Presiding Officers and Poll Clerks
- managing the postal voting process
- verifying and counting the votes
- declaring the result

The duties as RO are separate from duties as a local government officer. The RO is not responsible to the council but is directly accountable to the courts as an independent statutory office holder. Therefore the RO can be expected to
command the required staff and resources to deliver a well-run election

draw the necessary support, skills and expertise from across the local authority

oversee the planning, project management and risk management of the election and incorporate any lessons learnt from previous polls

identify and oversee any actions necessary to mitigate any issues arising

ensure that staff are appropriately trained to deliver the roles required of them

support the staff administering the election and provide appropriate oversight of their work

provide direction to staff, monitor progress and receive regular feedback on activities

maintain an effective working relationship with the police Single Point of Contact (SPOC)

ensure that election accounts are completed in a timely manner

In this council the RO is also the Electoral Registration Officer and therefore responsible for electoral registration.

The RO has the power to take such steps as appropriate to remedy acts or omissions that arise in connection with any function of the election that are not in accordance with the rules including rectification of procedural errors. However, advice is sought and direction may be received from the Electoral Commission in this regard.

As is commonplace, insurance and indemnity is provided to the post holder by the council.

5.2 **Risk management**

Guidance from the Electoral Commission requires a risk assessment for each poll and this was undertaken.

5.3 **Equalities implications**

A key principle of the democratic process is to ensure that all eligible residents are given every opportunity to cast a vote.
5.4 **Consultation and communication**

As can be seen from the report, extensive consultation took place with the Electoral Commission. A proactive communications approach was also taken to ensure residents were aware of the situation.

6.0 **Conclusion**

As detailed in this report there was an error on the ballot papers for the borough election that was due to a printing error. There was also an error on the poll card, linked to an automated generated timetable.

Rectifying action for both incidents was put in place and the integrity of the poll was not affected.