

## **Overview & Scrutiny Commission**

### **Review of the District Elections**

#### **Interim Report of the Working Group**

##### **1. Introduction**

At its meeting on 24 May 2007 the Overview & Scrutiny Commission agreed to a review of the District Elections held on 3 May 2007 with particular attention paid to arrangements concerning the counting of the votes using the electronic counting method. A Working Group was set up to thoroughly review these issues and comprises Councillors Bambridge, Gilbert, Howard-Alpe and Matthews in addition to the Scrutiny Officer.

The review is in two parts. The first part would specifically examine the issue of the count, bearing in mind the events of 4 May and subsequently in the counting of the votes. The second part will focus on all other relevant aspects of the election, ranging from polling stations (access, facilities and processes), election staff training and issuing of poll cards where no election subsequently took place.

To date the Group has met on three occasions and received prior written submissions from various parties including senior Breckland election officials, candidates and party election agents. These are subsequently referred to in this report and extracts quoted where appropriate. Many of these people have subsequently attended meetings of the Working Group in order to answer questions based upon their prior submissions.

This is the interim report of the working group which focuses on the arrangements at the Count, and a full and final report will be made to the Commission in due course.

##### **2. Background**

At the end of 2006 the Government invited local authorities to apply for pilot schemes for various experimental voting and counting methods. Although already piloted successfully in urban authorities, the former Department of Constitutional Affairs was keen on piloting electronic counting in a more rural area, with parish councils as well as the principal authority being subjected to election. An application was subsequently submitted and in January 2007 this was accepted.

The Council was then given a Government-approved list of companies able to work in partnership with local authorities on experimental systems. In due course, Indra, a Spanish company with extensive experience in electronic systems in Europe was recommended for the Breckland e-counting pilot and this recommendation was accepted by Government.

This year's elections would be more technically complex as they incorporated the electronic checking of postal vote signatures, the new requirement for corresponding number lists to go with registers of electors and a more complicated ballot paper with extra security measures.

### **3. Key Issues**

#### **3.1 Ballot Papers and Perforations**

Ballot papers were nominally A4 sized and could accommodate up to ten candidates. For those wards with more than ten candidates, the size of the ballot paper was larger than A4. Ballot papers came in books of 100, with a perforation very near the top and effectively no counterfoil. Polling station staff were informed at prior training sessions that it was important to advise voters not to fold the ballot papers where they were A4 but to fold the paper if they were larger than A4. Some polling staff experienced difficulty in cleanly separating the ballot paper along the perforation and had not previously been instructed of the difficulties that would arise if this wasn't followed.

For their part, Indra indicated that they knew about the problem with the perforation but "the system was prepared to deal with it when the ballot papers have little pieces of the stub on the top of the ballots". This was not the case, and "many of the ballot papers had the complete stub on the top of them, or big pieces of it".

#### **3.2 Scanners and Verification**

The electronic scanners formed the centrepiece of the e-count pilot. After receipt of the ballot boxes in the count centre, the boxes would be opened and then verified using the scanners. The scanners were set to accept a template and would then "read" the information on the ballot paper. As a result of actions taken in the polling stations, a significant proportion of the ballot papers did not fit the template as they had not been cleanly detached from the book of ballot papers, and some pieces of paper (chards) remained attached to the ballot paper. In some cases staples had been removed from the books of ballot papers to facilitate distribution to voters and again the result was that the ballot paper didn't match the template. In each case the scanner rejected the paper (and often became jammed in the process), leading to a significant delay in the verification and counting process.

Although only a small proportion of the elections had more than ten candidates on the ballot paper, the unfolding of ballot papers where larger than A4 papers were used and where voters had in any case folded ballot papers as many people often do traditionally, was a further factor. In counts held in previous years a higher number of staff was employed to manually sort the ballot papers but in the e-pilot the number of staff employed was considerably less, reflecting the need for fewer staff compared to that needed for manual counting.

The issue of the scanners reading the voting information was also highlighted by one of the election agents giving evidence. His contention was that voters had used soft pencils to mark their ballots rather than pens provided in the polling station kit, and the scanners were not able to pick up the cross made on the ballot paper. Hence these votes were rejected for adjudication.

#### **3.3 Contamination of Ballot Boxes**

In some polling stations where joint (i.e. district and parish elections) were taking place, staff erroneously placed all the ballot papers in just one ballot box despite two boxes having been provided in order that the papers were kept separate. This was explained by election officials at the training sessions before the poll. Again, this contamination led to a slow up in progress at the count. "One box threw up 800

papers for adjudication out of some 1500 in total” (Returning Officer, Notes of the Working Group Meeting on 11 June 2007).

### **3.4 Abandonment of the E-count**

Given the contamination issues and general slow up due to ballot papers being rejected by the scanners the decision was taken by the Returning Officer to abandon the e-counting. There is contradictory evidence between the Council’s election officials and Indra regarding the situation at the time of abandonment of the e-counting process. This decision was taken in “the early evening” (of Friday 4 May) according to the senior election officials (Indra concur, stating “19.30 hours”) after “nothing was happening “(senior elections officials). Some 21 results had been declared at the time of the abandonment; however Indra claim that some 10 more declarations were imminent, a view claimed not to have been known by the Returning Officer and his senior election colleagues.

The decision of when to abandon the e-count is clearly important and contentious. One of the party election agents considered that “clearly by mid-afternoon [4 May], the system was not working and it should have been abandoned at this point and not so late on the Friday that it would be impossible to count all of the votes that evening”. The Democratic Services Manager in recognising that the timing of the abandonment was a difficult decision felt that “the RO [Returning Officer] wanted to give every chance for the experiment to work and the word from the suppliers [Indra] was that things were about to happen. Had we not been under that assurance, we could have abandoned the e-count earlier and started on the manual”.

### **3.5 Conduct of Persons at the Count**

Election counts can lend themselves to tension and emotion and having a Count spread over such a long period of time it is not surprising that frustration and tensions reached crisis point. Election officials were disappointed when a candidate slow hand-clapped, barbed remarks were made throughout the count by some candidates and party election agents, and the incident where a fire extinguisher was let off. These actions undoubtedly affected the morale of staff already working under difficult conditions. “It must be stated that certain people at the count did not help by being overly intrusive, and carrying out harassment and intimidation of elections staff involved in the Count and the Returning Officer” (SEO submission).

At the same time the frustration felt by agents and candidates at the slow progress of the Count is understandable and allied to the perceived lack of understanding of procedures, of a perceived obstruction of being able to witness the proceedings and alleged poor communications (see below), the prior claims made to the media that the count would be over sooner as a result of the e-counting, in hindsight may be considered unfortunate.

### **3.6 Layout of the Count Centre**

The layout of the count centre at Breckland Sports Centre in Thetford was different to that used in previous elections, where candidates and agents are able to freely walk around observing the counting process.

An election agent stated that the layout of the count centre wasn’t conducive to being “candidate friendly” and raised concerns about transparency. “Candidates and agents are not able to see what is going on and just wait for a computer to churn out a result and everything it would seem needs to be taken on trust” (Election Agent

submission). With the switch to the manual count and more staff involved in the counting process, the view was expressed that an agent was unable to observe matters as his view was physically obstructed by the large number of staff drafted in.

However, senior election officials stressed that the layout of the count centre was in accordance with the Count auditors and the placement of the scanners was based on ensuring security during the count.

### **3.7 Communications**

Evidence was received from election agents that the communication of information was not clear at the count. One agent commented that when he arrived at the count centre he was not told of the procedures and what was happening. Senior elections staff pointed out that neither of the agents who had submitted prior written statements and subsequently attended the working group meetings had attended the pre-election training sessions which would have meant that they could have grasped what was meant to happen on the day. The Group highlighted the poor public address system at the Count Centre and felt the information provided on the screens was not of much use.

### **3.8 Contingency Arrangements**

Senior election officers indicated that “a risk assessment was undertaken as part of [the e-count] project and contingency measures identified. These were that: in the event of a system failure during the count, additional Breckland Council staff were to be drafted in to help out and if necessary conduct the count manually”. In the event, Breckland staff were subsequently requested to go to Thetford on the Friday afternoon to assist in the counting process as difficulties arose. Perhaps the goodwill of staff to step-in and help out was a contingency that should not have been relied upon, but the Council’s staff response to attend at the Count was commendable.

### **3.9 Accuracy of Results – Declaration of Poll**

Certain allegations were made by the party election agents contributing to the review concerning the declaration of votes in two wards and the accuracy of the counted votes. In their joint statement the senior election officials have stressed that “in either case the result could be questioned by the legal provisions available”. Whilst noting the allegations, the Group recognise that specific results fall outside the scope of the review.

## **4. Documentary Sources**

The following written submissions have been received to date by the working group.

Joint Statement from the Returning Officer, Democratic Services Manager and Electoral Services Manager (June 2007)

2007 e-Counting Pilots – Election Report by Indra (16 May 2007)

Three statements from Mr T Birt, Green Party election agent dated 5 May, 10 May and 23 May 2007

A statement from Mr T Jermy, Labour Party election agent for Thetford dated 18 June 2007

A statement from the Democratic Services Manager commenting on the submissions received from the Green Party and Labour Party agents, 3 July 2007

Statements from several Breckland Councillors who attended the Count.

E-mail from Indra to the Scrutiny Officer dated 24 July

## **5. Pending Documentation**

The Working Group are aware that the Electoral Commission is compiling a report on the e-count due for publication in July or August 2007 and the Group formally requested a copy of same in order to further inform the review at the meeting on 11 June..

## **6. Conclusions**

The Working Group recognises just how stressful and trying the organising of such a complex event as a joint election can be. With additional complexities and new procedures this year in tandem with operating an electronic count pilot, the 2007 District elections were clearly extremely challenging for all concerned.

The delay in the counting processes stem from the ballot papers not fitting the template used by the scanners and thus being rejected. The lack of cleanly perforated ballot papers was the principal cause of the problems experienced at the e-count but having experienced significant delays because of this, there was then an apparent breakdown in communications between senior election officials and Indra concerning the number of "imminent" declarations. The key decision was at what point the e-count should have been abandoned in favour of a switch to a manual count, for which many additional staff would be needed. This is obviously a value judgement and the Returning Officer – whose decision it was - stated very clearly in evidence that accuracy was more important than speed.

Clearly the e-count was compromised at an early stage and with delays caused by the scanners rejecting ballot papers and the contamination issue in certain ballot boxes.