Review Report

Scottish Parliament Election 6 May 2021

The Electoral Management Board for Scotland's review of delivery by Returning Officers and Electoral Registration Officers

Report to the Electoral Management Board

7 July 2021

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Elections Scotland

Contents

Outline

This document provides a brief summary of the Electoral Management Board for Scotland's (EMB) review of the delivery of the Scottish Parliament Election (SPE) on 6 May 2021. The focus is feedback from Returning Officers (ROs). There has also been discussion within the EMB and with partners and stakeholders including Public Health Scotland and Police Scotland.

The report reviews the background to the poll, identifies challenges and highlights a number of follow-on actions for governments and the electoral community in Scotland. The Electoral Registration Committee of the SAA has undertaken a similar review with EROs in Scotland and it is understood that its report will be submitted separately for consideration by the EMB.

The report focusses on the preparation of the EMB, the experience of Returning Officers and the identification of lessons for the future.

Background

1.   Coronavirus Context

The Scottish Parliament Election of 6 May 2021 was conducted in the context of the Coronavirus pandemic, under a range of national Regulations, Guidance and restriction put in place nationally to suppress the spread of the virus. These had a significant impact on the planning, preparation and delivery of the Election and shaped much of the conduct of the event and the rules under which it was delivered.   The controls affected all aspects of the event but particularly the areas of:

- Taking nominations and liaising with candidates – where physical distancing had to be maintained meaning most interaction was electronic;

- Postal Voting – an anticipated increase in postal voters was realised as many voters preferred to avoid visiting polling places;

- Polling Places – where additional controls needed to be implemented to maintain the safety of staff and voters including additional ventilation, physical distancing, perspex screens where appropriate, one way systems and single use of pencils;

- Polling Staffing – staff training needed to be done remotely to maintain distancing and the circumstances meant a significant turnover of staff as many regular Presiding Officers and Clerks decided, sometimes at the last minute, that they did not wish to work at the polls; and

- Verification and Counting – physical distancing meant that fewer staff could be accommodated in the usual venues, so the counts took longer with significant

capacity limits with the effect that fewer counting agents than usual could be invited to scrutinise the process.

As noted below these changes had substantial cost implications but the Scottish Government agreed at the outset of the planning process to fund all related reasonable expenditure.

2.   EMB Activity

From the initiation of the Covid restrictions in March 2020 onwards the EMB prioritised support for the electoral community to plan and deliver scheduled electoral events.

3.   Local Government by-elections

Section 70 of The Coronavirus Act 2020 allowed ROs in Scotland to postpone by-elections for the filling of casual vacancies, following consultation with Scottish Ministers and the Convener of the EMB. On 28 May 2020 the EMB published "An Approach to Local Authority By-Elections" which set out a protocol to support ROs in considering whether by-elections should be postponed further.   As part of this the EMB through a series of working groups developed supplementary guidance for ROs to support the delivery of safe by-elections considering issues such as Registration, Nominations, Postal Voting, Polling, Count, Post Event Activity and Public Awareness/Campaigning. The EMB also offered a risk assessment template to allow ROs to review their plans and to ensure that the safety of all stakeholders would be maintained. Public Health Scotland (PHS) provided helpful input to this material and under this a series of by-elections were held through October and November 2020. These by-elections gave some valuable lessons for the whole electoral community across the UK in delivering election under these conditions and these lessons were highlighted in work by the Electoral Commission.

4.   EMB Working Groups

In parallel with supporting those ROs postponing and then conducting by-elections under these conditions the EMB also initiated research through a number of working groups to consider the issues associated with the delivery of the Scottish Parliament Election (SPE) as scheduled on 6 May 2021, on the assumption that the pandemic would continue and have a broad impact. This work allowed the EMB to submit a series of papers to Scottish Ministers to input to Scottish Government's planning for the SPE.

On 15 June 2020 the EMB submitted its **Briefing for Scottish Ministers: Options for the delivery of the Scottish Parliament Election on 6 May 2021, assuming controls to suppress Coronavirus are in place,** the product of a series of EMB working groups, and subsequently met the Cabinet Secretary for the Constitution, Europe and External Affairs and the Minister for Parliamentary Business and Veterans to introduce the issues in the Briefing at political level. There followed a series of meetings with Ministers and with opposition MSPs to discuss the practicalities of holding the elections, with EMB providing

specific practical advice and guidance. This included input to the drafting of the Scottish General Election (Coronavirus) Bill.

5.   Seminar for Returning Officers and Electoral Registration Officers

On 5 February 2021 the EMB held a joint seminar with the Electoral Commission, over Teams, "Conducting an election under COVID-19"   As this election was likely to take place under COVID-19 restrictions, ROs and EROs would have to put in place additional measures to ensure that the polls could be conducted in accordance with prevailing health advice and election rules.   The broad theme of the seminar was "readiness", looking through the key measures to put in place, the support available and the importance of planning.   Sessions involved input from key stakeholders including the EMB, the Electoral Commission, electoral registration officers, Scottish Government, and Police Scotland, and a lively Q and A session to conclude. There was excellent attendance and feedback on the event.

6.   Supplementary Guidance

Building on the guidance created to support the by-elections the EMB issued additional guidance to support ROs in planning the SPE. A revised risk assessment template was also provided to support planning. These documents were provided to PHS for their review and revised in the light of their comments. This material was kept under review with further revisions made as necessary.

The EMB also issued a paper on Scrutiny at the Verification and Count considering how transparency was to be maintained and promoted where counting agents were limited. This was helpful to Returning Officers in contexts where they were facing challenge with respect to limits on attendance at the count,

7.   Directions from the Convener of the EMB

The Local Electoral Administration (Scotland) Act 2011 as amended by the Scottish Elections (Reform) Act 2020 gives the Convener of the EMB authority to make directions to Returning Officers (ROs) and Electoral Registration Officers (EROs) in relation to the exercise of their functions in delivering Scottish parliamentary Elections. Directions were made to ROs and EROs on 21 December 2020 with an additional set on 3 February.

These Directions addressed the usual areas of consistency in voter facing elements of the election, such as the dates of dispatch of postal votes and the publication of notices of election, but also included some specific to the Coronavirus situation, around capacity building for EROs/ROs, Risk Assessment approaches a requirement to limit the number of voters allocated to polling places to prevent congestion in the context of social distancing.

8.   Support from Public Health Scotland and Directors of Public Health

As noted there was significant interaction between the EMB and PHS in the preparation for these elections. The Convener met directly with the Chief Executive of PHS to discuss the

major issues and the areas in which PHS could offer support. As a result PHS staff were made available to give a range of support through the EMB. Specific advice was provided on issues such as the risk of transmission of the virus by paper, the nature of deep cleaning in polling places and the way in which staff should react should someone display symptoms.

It was also emphasised that Returning Officers should engage closely and regularly with their Director of Public Health. The EMB encouraged this and their support was helpful when ROs were considering whether to implement Lateral Flow Device testing at count events.

Support from PHS was excellent with accessible, timely and practical advice provided to whatever query was raised.

9.   Liaison with Police Scotland

As has been the practice at electoral events in recent years the EMB engaged from an early point with the Police Scotland in the planning for the election. Jointly with the Electoral Commission, the EMB gave a briefing to Police Scotland Divisional SPOCs on 12 February 2021 giving an overview of the event and the roles of the various stakeholders. Both EMB and Electoral Commission were then involved in the regular Silver Command meetings of Police Scotland right up until the delivery of the election.

Support from Police Scotland was again excellent with clear communication open dialogue and very responsive support.

10.   Royal Mail

With the significant growth in postal votes the EMB initiated early contact with Royal Mail to ensure that there was adequate planning to cope with the receipt of volumes of postal vote applications and then with the dispatch and receipt of postal vote packs. The EMB and SAA met weekly with the Royal Mail's UK election lead to plan and schedule capacity.

11.   Advice to Ministers and MSPs and input to legislation

As noted above the EMB provided a series of papers to Ministers as they considered what legislative changes might be needed to allow the successful conduct of the Scottish Parliament Elections on 6 May under these conditions.   This resulted in the Scottish General Election (Coronavirus) Act 2021. This was intended to put in place changes necessary to mitigate the public health effects of the coronavirus pandemic while delivering the election. In summary, the Act:

- brought forward the deadline for postal vote applications and provides for a Ministerial report on uptake of postal voting;
- gave a power to the Scottish Ministers to make regulations to provide for an all-postal election to be held;

- made the pre-election period of dissolution last only one day, in case the Parliament needs to meet to pass emergency legislation to delay the election;
- allowed the Scottish Ministers to make regulations to hold polling over multiple days;
- made provision about the first meeting of the new Parliament, the election of a new Presiding Officer and the appointment of a new First Minister; and
- gave a reserve power to the current Presiding Officer to postpone the 2021 election by up to 6 months in certain circumstances; and allows for the same measures as above to apply if the election is postponed.

The measures around the deadline for postal vote applications, the potential for an all postal poll and the possibility of holding polling over multiple days were all reflected the advice of the EMB submitted to Scottish Ministers.

With respect to polling over multiple days the EMB undertook detailed work, including modelling and on 8 December issued to Ministers an "[Assessment of the need to hold polling over multiple days at the Scottish Parliament Election scheduled for 6 May 2021]". This concluded that polling over multiple days should not be necessary if other mitigating measures are in place. These would include assessments of polling places to ensure sufficient capacity, additional signage and staffing to move voters quickly through the polling place and, in all likelihood, a Direction from the Convener of the EMB similar to that made ahead of the Independence Referendum to limit the number of voters allocated to each polling station.

On 28 January 2021 [additional advice] was given to the Minister, following a further assessment of the need to hold polling over multiple days. This confirmed the view that multiple days of polling were not necessary but noted a further contingency that ROs would be directed to limit the allocation of voters to polling places to minimise the potential for congestion and to support physical distancing.

12.   Financial Review

The measures necessary to deliver the election under these conditions added significantly to the cost of the election. The Scottish Government agreed to fund all reasonable costs and provided a significantly enhanced Allocation to ROs through the Fees and Charges Order for this election. The Scottish Government also provided additional funding to EROs to support their public awareness activities and the additional work undertaken around capacity building to cope with the additional postal voters that were expected.

13.   Review of Lessons Learned

Lessons learned from the delivery of the election are given below. They are divided into categories such that specific lessons are easily identifiable. The analysis includes both things that were done well (✔) and areas where there were problems and pressures putting delivery at risk (!). These are a summary of the full comments from Returning Officers that are appended.

13.1   EMB Directions and General Support

	Lesson	Recommendation
✔	• EMB Directions were well received and helpful to give consistency and resilience; • Support and advice across a range of queries was responsive, appropriate and practical; and • RO/ERO Seminar was helpful to assist planning and highlight key issues	• General approach to Directions to be repeated for future polls including Scottish Local Government Elections in 2022. • EMB role of support and guidance to be enhanced as far as resources allow. • Planning Seminar to be arranged in early January 2022 to support RO and ERO preparations
!	• Direction limiting allocation of voters to polling stations was challenging in hard to achieve in some circumstances and came late • Communication by email sometimes became overwhelming and difficult to track	• Directions to be made as early as practical to allow sufficient planning by ROs/EROs, ideally late November • Communication methods – email, website etc to be reviewed.

13.2 Supplier Performance: Printer, EMS, Royal Mail

	Lesson	Recommendation
✔	• Performance of Royal Mail was very good with deliveries well managed and achieved on time. Regular engagement with the EMB / SAA helped resolve any issues at an early point. Timed deliveries and sweep all worked well	• Process of regular weekly engagement with Royal Mail in the 6 weeks leading up to the election to be repeated allowing speedy escalation and resolution of problems and a visibility of key deadlines.

	Lesson	Recommendation
!	• There were widespread and significant supplier performance issues with one of the printers which in some cases put the delivery of the election at risk. These related to the quality of the materials produced, the timing of deliveries, and the risk that certain materials may not have been supplied at all.	• Approach to print procurement to be considered in the medium term. EMB to look at adding resilience and preventing the current extreme risks from the failure of a supplier, whether from supplier or external issues, such as a ransomware attack. • EMB to work with Scotland EXCEL on options • EMB to consider options for contingency

13.3 Registration

	Lesson	Recommendation
✔	• Electoral registration went very smoothly, with the focus being on the results and not the process. High volume of registration, high uptake up of postal voting and high turnout, which are all positive indicators. • The bringing forward of the postal vote deadline had a major impact on the improvement and success of the postal vote delivery • High number of emergency proxies added to pressure on election office on day of poll • HNL process ahead of election worked very well	• Scottish Government to review entire electoral timetable for key deadlines to ensure there is adequate contingency and resilience. • Approach to emergency proxies to be reviewed by Scottish Government for future polls • Fundamental role of ERO activity in the whole election to be profiled more highly. • Consider repeating HNL in early 2022 to raise awareness and complete register as far as possible
!	• No significant problems reported	• Additional targeted funding of ERO work to be applied in future where appropriate.

13.4   Nominations

	Lesson	Recommendation
✔	• Process of electronic pre-checks worked well with appointment systems in place allowing efficient workflow and management.	• ROs to repeat pre-submission checks where possible and encourage appointments for submission of papers – especially given volume of nominations at a council election
!	• Significant additional work involved in the preparation of nomination material	• EMB and Electoral Commission to review what additional materials could be produced centrally, e.g. in Forms Group

13.5 Interaction with Candidates / Agents Liaison

	Lesson	Recommendation
✓	• Briefings over Teams worked well allowing better attendance than usual in many cases	• Repeat briefings over Teams as default option
!	• Significant challenge around the limits on the number of count agents	• Review approach to scrutiny at counts; work with SPPPP and others to ensure there is adequate scrutiny to provide transparency and confidence at all elections.

13.6 Postal Voting

	Lesson	Recommendation
✓	• Bringing forward the deadline for applications for postal voting was very helpful and would be appreciated post Covid; arrangements and would be helpful if the date for cancellation of postal votes was at the same time.	• Work with Scottish Government to review the entire election timetable to add resilience to the process.
!	• Deadline for re-issue of postals being 10pm on polling day brought some challenges in terms of resourcing at an already busy peak period of the day with returns from postal vote sweeps etc to deal with. • Some pressures from poor performance of printer	• Engage with Scottish Government to support a change of deadline for re-issue of postal votes to an earlier time than 10pm • Review print provision for all electoral events.

13.7 Polling Places

	Lesson	Recommendation
✓	• Covid secure Polling Places were achieved with staff and voters kept safe through range of measures • Support and Guidance from PHS was excellent	• Support ROs in the ongoing review of polling places to ensure safe and appropriate facilities with input from PHS etc as appropriate. • Maintain open channels of communication with PHS and Directors of Public Health
!	• Need to allow physical distancing created a lot of additional work due to COVID – many places had to be replaced as they weren't suitable for spacing/one-way systems.	• Regular polling place reviews need to take account of physical distancing issues in future. • Use of schools as polling places to be avoided where alternatives exist

	Lesson	Recommendation
	• Ongoing complaints from parents with respect to use of schools. • Queues were experienced at close of poll in some places, due to a range of factors predominantly the poor weather and the additional time taken in voting. Queues were managed successfully but there was a significant delay in voting for a number of electors.	• Queue management protocol to be noted in training to polling staff as future measures such as Voter ID may again see voting process take longer giving risk of queues.

13.8   Polling Staffing

	Lesson	Recommendation
✔	• Information Officers/Covid Marshalls worked well in supporting safe voting • Successful transition to online training	• Information Officers to be considered as an option at all future events to make voting more "friction-less" • Online training to be default for polling staff, with in-person options if appropriate
!	• Major problems with staff recruitment with late call offs of staff right up to polling day	• Review of approach to polling staffing needed to give a more robust and reliable pool of staff.

13.9   Verification / Count

	Lesson	Recommendation
✔	• The move away from overnight counts was essential/necessary for Covid purposes but there is a stateable case for these being the default position, especially where there are double (or more in some areas) constituencies. • Operation required significant additional work but counts were was delivered safely, efficiently, in line with planning assumptions and with integrity	• There should be a consultation on future counts being undertaken on the day following poll to support safer and more efficient operations
!	• There was a significant number challenges from candidates around the limits on counting agent numbers. • The large regional ballot paper was difficult to manage and delayed the counting process	• Review approach to scrutiny at counts; work with SPPP and others to ensure there is adequate scrutiny to provide transparency and confidence at all elections, and that roles are better understood.

13.10 Covid Issues

	Lesson	Recommendation
✔	• Risk assessments, revised polling place arrangements, polling staff awareness and delivery of PPE – all created significant additional burdens. Generally however people appreciated the adaptions made for their safety and adherence to appointment system for nominations was a benefit.	• EMB to monitor COVID prevalence over coming months and assess what additional supplementary guidance and support may be needed for ROs and EROs with input from PHS, DPH etc as appropriate.
!	• COVID was another layer to an already complicated election. It certainly made the process challenging in a variety of ways as mentioned above. "Apart from all the physical challenges faced with Covid safety there was also the mental challenge: worry over staff contracting the virus and being unable to work, concern if a member of the core team became ill and all the team may have had to isolate etc" • Homeworking was challenging nearer to polling day and resulted in staff office working in various offices to remain physically distanced which brought some challenges.	• There remains a need for a fundamental review of election funding to allow adequate reliance and resourcing.

13.11 Communications

	Lesson	Recommendation
✔	• Some innovative approaches were used in some areas including effective social media campaigns. • Websites with videos were useful in some areas for training for staff and information for voters.	• ROs to review Communications Plans to ensure that all appropriate channels and methods are used.
!	• Communication from the EMB and EC was good but sometimes the duplication and overload of information can be confusing. It is appreciated that it is better to	• EMB and Electoral Commission to review communication methods and approach to ensure efficiency and to minimise duplication.

	Lesson	Recommendation
	receive information twice rather than not at all, but some streamlining of information sharing would be helpful	

13.12 Other general feedback

	Lesson	Recommendation
✔	• This was an extremely challenging electoral event which required a huge amount of additional planning and preparation. • The successful delivery of the election was only possible due to immense effort and support from many different stakeholders across the Council and police, Public Health and others. • It was helpful that the Fees and Charges Order was enhanced to cover the specific resource pressures.	• Strong partnership approach with Police Scotland, PHS, and other stakeholders to be maintained. • Scottish Government / UK Government as appropriate to ensure that Fees/Charges Order reflects any particular challenges specific to the event
!	• Successful delivery of the polls may mask underlying fundamental problems of huge pressures and stress on limited staff teams.	• There remains a need for a fundamental review of election funding to allow adequate reliance and resourcing.

14.   Follow on actions

The following issues have been identified to be taken forward to address issues highlighted in the lessons learned above.

Ref	Action	For action by
FO.1	EMB Directions for Scottish Local Government Elections 2022 to be issued late November 2021	EMB
FO.2	Joint EMB/Electoral Commission Seminar to be delivered early January 2022	EMB/Electoral Commission
FO.3	Additional Resilience to be added to suppliers – print and Royal Mail – using appropriate structure	EMB/Scottish Government
FO.4	Timetable of key deadlines to be reviewed to ensure sufficient capacity in the system	Scottish Government
FO.5	ROs to review and where appropriate maintain innovations from this election around online training, briefings and submission of nomination papers	ROs
FO.6	Continuing work needed with SPPPP, Electoral Commission, Parties etc around transparency and integrity of counts to minimise friction around count agents etc	EMB/Electoral Commission/SPPPP
FO.7	Review of polling places to take a broader view of facilities looking more at Health and Safety etc; Additional guidance may be needed	EMB/Electoral Commission
FO.8	Review of approach to polling staffing needed to give a more robust and reliable pool of staff	EMB / ROs
FO.9	All election counts should be on the day following poll to add resilience and reduce costs; already standard practice at council elections	EMB

Ref	Action	For action by
FO.10	EMB to monitor Coronavirus situation over coming months and assess what additional supplementary guidance and support may be needed for ROs and EROs with input from PHS, DPH etc as appropriate.	EMB/PHS etc
FO.11	Fundamental review of election funding is needed to allow adequate reliance and resourcing.	Scottish Government / Councils
FO.12	ROs to review Communications Plans to ensure that all appropriate channels and methods are used.	ROs
FO.13	EMB and Electoral Commission to review communication methods and approach to ensure efficiency and to minimise duplication.	EMB/Electoral Commission
FO.14	Strong partnership approach with Police Scotland, PHS, Royal Mail and other stakeholders to be maintained and developed.	EMB/Electoral Commission/Police Scotland/PHS
FO.15	Scottish Government / UK Government as appropriate to ensure that Fees/Charge reflect any particular challenges specific to the event	Scottish Government / UK Government

Summary

The Scottish Parliament Election 2021 was an extremely challenging electoral event which required a significantly increased amount of additional planning and preparation to achieve its successful outcome. There has been broad feedback from candidates, agents, media, and voters that they election was well delivered in difficult circumstances. While this report does not address the statistics from the Election, it saw the largest ever electorate and the largest number of postal voters that Scotland has ever seen involved in a democratic event. With above average turnout it was encouraging that democracy was able to be supported even in the midst of a pandemic.

The successful conduct of the Election was only possible due to immense effort of RO and ERO staff and the support of many different stakeholders across the councils, Police Scotland, Public Health and others.

A number of actions have been identified for the future to ensure that lessons from this event can inform the conduct of future elections in Scotland.

APPENDIX 1 – Timetable

	Timetable for the Scottish Parliament Election: 6 May 2021	
Event	**Working days before poll (deadline if not midnight)**	**Date (& deadline if not midnight)**
Publication of Notice of Election	Not later than twenty-eight days and not earlier than thirty-five days	**Monday 15 March**
Poll Cards issued		**16 – 17 March**
Delivery of nomination papers	From the day after the publication of the notice of election until the twenty-third day (4pm)	**16 March – 31 March** Not later than 4pm on any working day after publication of notice of election **until 4pm on Wednesday 31 March**
Deadline for delivery of nomination papers	23 days (4pm)	**4pm on Wednesday 31 March**
Deadline for withdrawals of nomination	23 days (4pm)	**4pm on Wednesday 31 March**
Making objections to nomination papers	During the hours allowed for delivery of nomination papers on the last day for their delivery and the hour following. No objection may be made in the afternoon of the last day except to a nomination paper delivered within 24 hours of the last time for its delivery	**Objections can only be made on Wednesday 31 March (until 5pm).** Until 12 noon on Wednesday 31 March objections can be made to all delivered nominations Between 12 noon and 5pm on Wednesday 31 March objections can only be made to nominations delivered after 5pm on Thursday 31 March
Deadline for the notification of appointment of election agent	23 days (4pm)	**4pm** **Wednesday 31 March**

Event	Working days before poll (deadline if not midnight)	Date (& deadline if not midnight)
Publication of Statement Of Persons Nominated, including Notice Of Poll and Situation Of Polling Stations	If no objections: on 23 days (at 5pm) If objection(s) are made: Not before objection(s) are disposed of but not later than 24 hours after the last time for delivery of nomination papers	If no objections: **5pm on Wednesday 31 March** Objection(s) made: not before objection(s) are disposed of but not later than 4pm on Thursday 1 April
Publication of first interim election notice of alteration	23 days	**Wednesday 31 March**
Deadline for receiving new postal vote and postal proxy applications, and for changes to existing postal or proxy votes	21 days (5pm)	**5pm on Tuesday 6 April**
First issue of postal votes		**14 April - 16 April**
Deadline for receiving applications for registration	12 days	**Monday 19 April**
Deadline for cancelling existing postal or proxy votes	11 days	**Tuesday 20 April**
Publication of second interim election notice of alteration (SIENA)	Between 22 days and 6 days	**Thursday 8 April**
Publication of final election notice of alteration (FENA)	5 days	**Wednesday 28 April**
Deadline for notification of appointment of polling and counting agents	5 days	**Wednesday 28 April**

Event	Working days before poll (deadline if not midnight)	Date (& deadline if not midnight)
Deadline for notification of appointment of sub-agents	2 days	**Tuesday 4 May**
Polling day	**0 (7am to 10pm)**	**7am to 10pm** **Thursday 6 May**
Last time for re-issue of spoilt postal votes	0 (5pm)	**10pm on Thursday 6 May**
Deadline for emergency proxy applications	0 (5pm)	**5pm on Thursday 6 May**
Last time to alter the register due to clerical error or court appeal	0 (9pm)	**9pm on Thursday 6 May**
Verification and Count		**9:30am 7 May** **9:30am 8 May** in The Highland Hall, Royal Highland Centre, Ingliston
Return of Election Expenses (See below)	To be returned within 35 days of the result	**11 June**
Within 10 days after 11 June, RRO to publish, and send to election agents, a notice stating where and when returns and declarations can be inspected		

Expense Returns

	Latest date to		
Result is declared	**Receive your invoices**	**Pay your invoices**	**Submit your return**
7 May	28 May 2021	4 June 2021	11 June 2021
8, 9 or 10 May 2021	31 May 2021	7 June 2021	14 June 2021

APPENDIX 2- Directions made by the Convener of the EMB

On 21 December 2020 the Convener of the EMB issued the following directions to the Returning Officers and Electoral Registration Officers with an accompanying letter.

FOR THE ATTENTION OF ALL RETURNING OFFICERS AND ELECTORAL REGISTRATION OFFICERS IN SCOTLAND	**Our Ref:** CH0211220/SP2021 DIR
	Your Ref:
	Date: 21 December 2020

Dear Returning Officer/Electoral Registration Officer,

SCOTTISH PARLIAMENT ELECTION 6 MAY 2021: DIRECTIONS FROM THE CONVENER OF THE ELECTORAL MANAGEMENT BOARD (EMB)

The Local Electoral Administration (Scotland) Act 2011 as amended by the Scottish Elections (Reform) Act 2020 gives the Convener of the EMB authority to make directions to Returning Officers (ROs) and Electoral Registration Officers (EROs) in relation to the exercise of your functions in delivering Scottish parliamentary Elections.

The EMB has considered the major issues related to the delivery of the Scottish Parliament Election in May 2021, especially given that there are likely to be continued restrictions due to the efforts to address the Coronavirus pandemic. I have decided that it is appropriate to make a number of Directions with respect to several elements of the election process. These Directions are the product of the experience of delivery of a number of major electoral events over recent years, with Parliamentary Elections and significant Referendums, some held at very short notice, drawing on important lessons from those polls. In addition the series of by-elections across Scotland in October and November 2020 were instructive in terms of operating successful electoral events in the context of COVID. These Directions therefore also reflect the distinctive conditions that we expect to endure through to May 2021.

Purpose of the Directions

The Directions are intended to coordinate delivery of the Election across Scotland to promote the interests of the voter. The overall goal is to deliver results that will be trusted as accurate, resulting from elections that are accessible, consistent, efficient and secure. In the context of COVID the EMB has a duty to promote operations that are safe for all stakeholders.

These goals are to be achieved through a consistency in voter experience and a resilient approach to planning. These Directions will assist ROs, EROs and other persons in carrying out their functions. I also intend that they will promote best practice in the planning and management of elections in Scotland.

Consultation

As required by legislation the Directions have been the subject of formal consultation with the EMB, which includes both ROs and EROs, and with the Electoral Commission, and the final Directions reflect issues identified in those consultations. There have also been informal discussions with print and IT suppliers to ensure that they are aware of the production schedules that would be required , and with Royal Mail. At its meeting on 16 December 2020 the EMB considered this final set of Directions. Following discussion at that meeting I am now content formally to make the Directions which are presented in Appendix 1. I have provided a full statement of the Directions in Appendix 1 with a short commentary where clarification might be useful.

The Board will as usual engage with the Electoral Commission to access intelligence gained from their support performance standards processes.   This will support and inform the EMB's own oversight of the planning and delivery of the election.

A Potential Growth in Postal Voting

Directions 7 and 8 anticipate a substantial growth in postal vote applications. Electoral Commission research in both August and November 2020 suggested that there may be an increase in postal vote applications, driven by concerns around COVID and perceived risk of in person voting, such that there may be up to 40% of the electorate choosing to vote by post. The Directions recognise the need to accommodate this potential growth. However it is accepted that it is not just the absolute volume but the timing of applications that would be challenging, especially were applications to be made in the final weeks before the deadline. These statistics will be kept under review and there will be ongoing monitoring of the likely uptake of postal votes. It may be that these numbers do not materialise should the virus wane and vaccination roll out over substantial sectors of the population.

Scope for Additional Directions

As senior public officials responsible for a range of services in our local communities we are all acutely aware that circumstances, regulations and guidance are frequently changing given the fluid nature of the COVID situation. **As a result there may be a need for me to revise or add to these Directions in the light of developing conditions**.   The final agreed provisions of the Scottish General Election (Coronavirus) Bill 2020, currently under Parliamentary scrutiny, may also prompt further Direction or recommendation from me when it comes into force. I will always seek to make any Directions as early as possible to support your planning.

You will have read the initial advice that I gave to Ministers assessing the need to hold polling over multiple days at the Scottish Parliament Election scheduled for 6 May 2021. That advice noted that I may consider a Direction limiting the number of voters allocated to each polling station to minimise the risk of queues given the implication of physical distancing in polling places.   This remains under consideration and I may make such a Direction, as the Chief Counting Officer did for the 2014 Referendum, early in the New Year.

I am also considering the timing of the verification and counting of votes which, with physical distancing, will inevitably take longer, and whether it is appropriate to direct on a consistent approach. Again mindful of the need for early decision to support planning, there will be further communications early next year.

With respect to both polling and the count, all ROs should, as previously recommended, be reviewing their intended polling places to be prepared for the additional demands of operating under COVID conditions. In addition many venues around the country are being designated as vaccination centres and ROs should be aware of any potential impact on their choice of polling places. With respect to your review of polling places,

ideally this should be done by February to ensure wherever possible the poll card data has the correct information.

Third Issue of Postal Votes

Returning Officers may wish to implement three postal ballot issues, reducing the potential for complaints when electors narrowly miss the deadline for inclusion in the first issue and must wait until the end of April to receive their pack. The date for the second interim notice of alteration is a floating date. At recent elections EROs have agreed a common date and this could be the basis for an interim issue of postal votes ahead of the final issue. EROs will again be agreeing a common date for SIENA across Scotland. There will be further communications on this also in January.

Briefing Events

I have a regular opportunity at each SOLACE meeting to speak to Chief Executives in a forum that allows us to consider election issues corporately. I would like to stress that in addition to that meeting I am available to any Returning Officer to discuss concerns around the delivery of particular electoral events and especially as 6 May 2021 approaches. The community of electoral professionals in Scotland is small but is also both supportive, helpful and experienced. I am encouraged that there are always those who are willing to offer advice, expertise and support to colleagues.

The EMB is holding a Joint Seminar with the Electoral Commission on 5 February 2021 which will address a range of issues related to your planning and delivery of the Scottish Parliament Election next year. I look forward to seeing you at that event. The broad theme of the Seminar is again "readiness", considering your preparedness for the May polls under COVID restrictions and examining what do you have to do now to ensure you can deliver the Election safely.

If you have any questions about these Directions, please do not hesitate to contact me directly or to

Speak to the Secretary of the EMB, Chris Highcock, (chris.highcock@edinburgh.gov.uk 0131 469 3126).

Yours sincerely,

MALCOLM BURR

Convener of the Electoral Management Board for Scotland

	Topic	Recommendation

Scottish Parliament Election 2021

Directions to Returning Officers and Electoral Registration Officers from the Convener of the Electoral Management Board for Scotland

	Topic	Recommendation
1	**Ballot Paper Colour**	Each voter is issued with two ballot papers – a Regional Paper and a Constituency Paper. The Scottish Parliament (Elections etc.) Order only requires that the colours are different. Consideration has been given to the usual issues that affect the choice of colour for ballot papers, i.e. • a consistency of colours across Scotland to support national information and political campaigns; • a preference to avoid colours that are identified with political parties or particular policy campaigns; • an avoidance of colours or colour schemes that might prove challenging to those with visual impairments; and • a preference that colours should be clearly different from one another so that papers are easily distinguished in a "rummage" of boxes. **Ballot Papers for the Scottish Parliament election in May 2021 are to be the same colours as were used in previous elections (2007, 2011 and 2016) i.e., PEACH (Regional Papers) and LILAC (Constituency Papers).** Print production methods may vary with some suppliers using coloured paper and others a colour wash process, but for reference it is expected that the colours will conform to **Lilac – pantone 2692** and **Peach – pantone 138**.
2	**Publication of Notice of Election**	The Notice of Election can be published at any point between Monday 15 March and Wednesday 24 March. A uniform publication date across Scotland provides consistency around the start of the nominations period. This assists planning for campaigners, candidates and agents. An early date allows the nomination period to be as lengthy as possible. This benefits candidates and agents and allows RO teams, especially those with responsibility for Regional nominations, to resource and plan nominations more effectively. In the context of the Coronavirus control measures under the Scottish Government Strategic Framework the maximum possible period for nominations will accommodate the operational procedures advised in the Electoral Commission, EMB and Public Health Guidance. **Returning Officers are directed to publish the Notice of Election on Monday 15 March 2021, allowing nominations to be taken from the following day, 16 March 2021.**

3	**Date of dispatch of poll cards**	Legislation requires Returning Officers to issue poll cards as soon as is reasonably practicable after publishing the Notice of Election. With the Notice of Election published on Monday 15 March, **Returning Officers should dispatch poll cards between Tuesday 16 March and Wednesday 17 March.** (This date would imply a registration deadline of around 8 February for a newly registered elector to be included in this first issue of poll cards.) A narrow window is being directed rather than a single date in order to promote consistency in voter experience across Scotland while allowing flexibility for Returning Officers who work with different printers and EMS systems.
4	**First dispatch of postal ballot packs**	Legislation states that postal ballot papers and postal voting statements should be issued as soon as is practicable. Nominations will close at **4pm on Wednesday 31 March**. A consistent date of dispatch/receipt by voters will support national communication and voter awareness activities and allow political parties and others to plan their campaigns. **The first issue of postal votes should be dispatched, by first class post, between Wednesday 14 April and Friday 16 April.** (These dates imply an absent vote application deadline of around 23 March for those electors who are <u>already</u> registered.) A consistent final issue date of postal votes will also be agreed.
5	**Ballot Paper Numbering Protocol for Regional Ballot Papers**	Ballot papers must be numbered such that each ballot paper is unique **at the relevant poll**. (Ballot paper numbers are distinct from the UIM) **Regional Returning Officers must implement a ballot paper numbering protocol such that each paper is uniquely numbered, different from any other paper in that contest.** No specific recommendation is being given on how this should be achieved across the country and different approaches might be appropriate in different circumstances. Options for RROs would include the use of prefixes to the ballot paper number or allocations of sets of numbers to constituencies. The fundamental need is to ensure that no contest has multiple papers with the same number.
6	**Official Mark**	Scottish Parliament (Elections etc.) Order requires both Constituency and Regional ballot papers to carry an Official Mark. While the Official Mark is to be determined by the Constituency Returning Officer, **RROs must ensure that the Mark is consistent across all Regional Papers.** **As an additional security measure, it is directed that an official mark should be used for ballot papers used in polling stations that is different from those issued in postal vote packs.**

7	ERO Capacity Building *	Anticipating a significant increase in postal vote numbers, following Electoral Commission research undertaken in August and November 2020, **EROs are directed to put in place capacity to facilitate the processing of the likely volume of postal vote applications in time for the election.** Research in August and November 2020 suggests that up to 40% of the electorate may apply for a postal vote. **This capacity will be kept under close observation, informed by further polling and monitoring of postal voter numbers.**
8	RO Capacity building	Anticipating the significant increase in postal vote numbers referred to in Direction 7, **ROs are directed to put in place capacity to allow the likely volume of postal votes to be processed with all AVIs checked. This capacity will be kept under close observation, informed by further polling and monitoring of postal voter numbers**
9	RO Risk Assessment	**ROs are directed to complete a full Coronavirus focused risk assessment ahead of the publication of the Notice of Election.** This will ensure that they have considered and where appropriate addressed all relevant issues. This risk assessment will be based on the assessment template used for the autumn 2020 by-elections, reflect updated guidance from the Electoral Commission and will be issued by the EMB in January 2021.

18 December 2020

On 3 February 2021 the following further directions were made

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Scottish Parliament Election 2021

Additional Directions to Returning Officers and Electoral Registration Officers from the Convener of the Electoral Management Board for Scotland

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	Topic	Direction
10	**Count Timing** *Verification and Count*	**Returning Officers must ensure that the first ballot boxes are opened no earlier than 9am and no later than 10am on Friday 7 May 2021, to allow the verification and counting of votes in their constituencies.** **For the avoidance of doubt there will be no overnight counting of votes.** For local government elections in Scotland a "next day count" is well-accepted standard procedure and is acknowledged to allow a greater level of resilience within Election Teams. Such resilience is even more important in this Election in the context of the COVID pandemic: • It is reasonably anticipated that the counting process will take significantly longer than in previous Scottish Parliament elections, and it is not reasonable, particularly taking into account working conditions for election staff, candidates and agents, to begin an overnight count where there is no reasonable prospect of that being concluded by early morning; • Count venues will need to be subject to enhanced hygiene and capacity limits; these are most appropriately managed during the daytime hours; • This approach will significantly reduce the mingling of count and polling staff; and • General resilience in terms of staffing and support for systems is best delivered during the daytime. The Direction formalises the position that there will be no overnight count, but ensures that there will be no undue delay, with all counts underway by 10am. The Direction does not preclude an overnight reconciliation of

		unused paper/spoilt and checking of ballot paper accounts.
11	**Polling scheme** *Allocation of voters to polling stations*	**Returning Officers must allocate a maximum of 800 electors, excluding postal voters, to each polling station.** Returning Officers must plan their polling arrangements to ensure there is sufficient capacity to allow voters to cast their vote without having to wait in a queue for an unacceptable time. Physical distancing and the need to limit the number of people in the polling place at any one time as a consequence of COVID measures mean there is a risk of queues developing outside the place. Limiting the number of in person voters allocated *per* station should minimise this risk. If and RO chooses to allocate more than 800 electors to a polling station, that RO must provide the Convener of the EMB with a justification of how their proposed arrangements will be sufficient for the predicted turnout. **In addition ROs must review polling places to ensure that where polling places contain a number of polling stations, overall arrangements for that polling place will provide for appropriate physical distancing and other measures consistent with official guidance and risk assessments.** Particular attention needs to be given to places with three or more stations or those that are especially compact to ensure that the internal layout of the building allows sufficient space for the movement of voters through the building. ROs will wish to consider how to support especially busy periods although it has been noted at recent events that with people working from home there is less of a peak before and after working hours.

APPENDIX 3 - Constituencies and Regions

Region	Constituencies	Regional Returning Officer
Central Scotland	Airdrie and Shotts Coatbridge and Chryston Cumbernauld and Kilsyth East Kilbride Falkirk East Falkirk West Hamilton, Larkhall and Stonehouse Motherwell and Wishaw Uddingston and Bellshill	North Lanarkshire
Glasgow	Glasgow Anniesland Glasgow Cathcart Glasgow Kelvin Glasgow Maryhill and Springburn Glasgow Pollok Glasgow Provan Glasgow Shettleston Glasgow Southside Rutherglen	Glasgow
Highlands and Islands	Argyll and Bute Caithness, Sutherland and Ross Na h-Eileanan an Iar Inverness and Nairn Moray Orkney Islands Shetland Islands Skye, Lochaber and Badenoch	Highland
Lothian	Almond Valley Edinburgh Central Edinburgh Eastern Edinburgh Northern and Leith Edinburgh Pentlands Edinburgh Southern Edinburgh Western Linlithgow Midlothian North and Musselburgh	Edinburgh
Mid Scotland and Fife	Clackmannanshire and Dunblane Cowdenbeath Dunfermline	Fife

Region	Constituencies	Regional Returning Officer
	Kirkcaldy Mid Fife and Glenrothes North East Fife Perthshire North Perthshire South and Kinrossshire Stirling	
North East Scotland	Aberdeen Central Aberdeen Donside Aberdeen South and North Kincardine Aberdeenshire East Aberdeenshire West Angus North and Mearns Angus South Banffshire and Buchan Coast Dundee City East Dundee City West	Aberdeen
South Scotland	Ayr Carrick, Cumnock and Doon Valley Clydesdale Dumfriesshire East Lothian Ettrick, Roxburgh and Berwickshire Galloway and West Dumfries Kilmarnock and Irvine Valley Midlothian South, Tweeddale and Lauderdale	Dumfries and Galloway
West Scotland	Clydebank and Milngavie Cunninghame North Cunninghame South Dumbarton Eastwood Greenock and Inverclyde Paisley Renfrewshire North and West Renfrewshire South Strathkelvin and Bearsden	Renfrewshire