



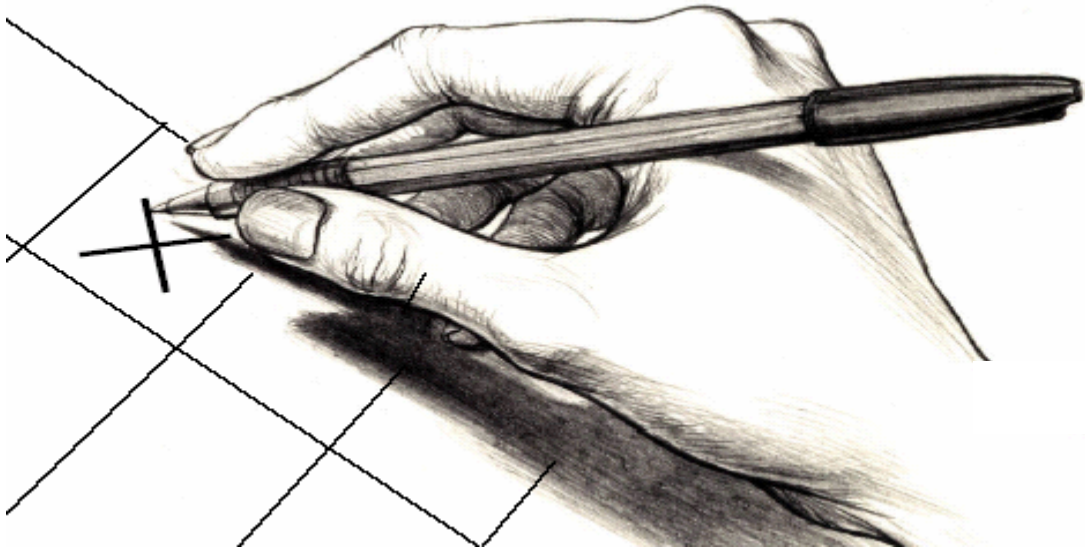
## Electoral Matters 2005

11 October 2005

Report to the City Council

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# Second Inquiry into Electoral Matters



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## Electoral Matters 2005

# Preface

**By Councillor Len Clark**

Chairman, Electoral Matters Task and Finish  
Overview and Scrutiny Committee  
October 2005



The decision to undertake a second inquiry into electoral matters in Birmingham arose because of concerns raised by Members over both regulatory and operational matters during the European Parliamentary and municipal elections held in June 2004. Specific areas for concern included postal voting; registration; the organisation of the count and the capacity of the Elections Office. The Committee's remit was to look at practice around the elections in the city and to bring forward recommendations for improvement.

As we started our review we knew that following the 10 June elections in Birmingham, Election Petitions had been lodged, relating to Aston and Bordesley Green Wards. We were, therefore, aware that it would be very important to ensure that no discussion of electoral matters by the Committee took place, which could be perceived as attempting to influence the subsequent legal process. A decision was made to proceed but to keep the situation under review.

On 18 November 2004, following advice from Counsel, the scrutiny review was put in abeyance pending the conclusion of the two Election Petition hearings before the High Court. Counsel expressed concern that some of the issues to be covered by the Committee would inevitably touch upon matters to be determined by the Court which could lead to liability under the Contempt of Court Act.

The Election Petition hearings took place between 21 February and 11 March 2005 before Commissioner Richard Mawrey QC. The subsequent findings of the Election Court was that the elections for both Aston and Bordesley Green Wards were voided by corrupt and illegal practices, and there was a reason to believe that corrupt practices also prevailed in other parts of the city. Wide national publicity was given to the clearly expressed findings of Commissioner Mawrey.

When Committee reconvened, upon conclusion of the Election Petition hearings, it was decided that much of our original work programme relating to the June 2004 elections had now been covered by the extremely thorough investigations carried out by the High Court. The Committee could not challenge decisions of the High Court, or indeed, investigate individual complaints related to claims in respect of alleged fraudulent activities at the June 2004 elections. Therefore, we decided to focus on those aspects of the original terms of reference that remained relevant and this allowed us to make a more comprehensive examination of the City Council's electoral administration.



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The evidence that was brought before the High Court of electoral fraud in Birmingham should have sent a clear message to Government that current arrangements are obviously not working and until appropriate changes are made, the public cannot be reassured that postal voting fraud is being dealt with. To date the Government has still not provided any formal proposals for a change in the law.

At this point, it is imperative to stress that as elected members of the City Council and, thus, representatives of the city, my colleagues and I have a duty to ensure that there are robust and efficient arrangements in place to secure the integrity of elections held in Birmingham. The people of Birmingham need to know that the weaknesses in the system are not being ignored and changes are underway to improve the situation at local level. I feel confident, that the recommendations within this report will assist in redressing some of the shortcomings of electoral arrangements that were identified by Commissioner Mawrey and Members.

Throughout the High Court hearing Counsel for the Director of Public Prosecutions was in attendance. In view of the undermining of the electoral process, we need to know whether the Crown Prosecution Service intends to bring criminal proceedings against those who were found guilty of corrupt and illegal practices.

I would like to thank my colleagues on the review for their work in producing a report with all-party consensus. My thanks also go to Nick Partridge, Gail Sadler, David Tatlow and Phil Cooper for their support to the Committee.

A handwritten signature in black ink, appearing to be 'Nick Partridge'.



## Electoral Matters 2005

# 1 Summary

- 1.1.1 In December 2002, the City Council agreed the report of the first Scrutiny inquiry into electoral matters. The Council adopted a number of recommendations to improve both local practice and the national legislative and regulatory framework.
- 1.1.2 June 2004 saw the combination of European Parliamentary elections and municipal elections for all 120 City Council seats. That was a very difficult administrative task. Conditions at polling stations and the count were criticised, and election petitions lodged concerning the results in the Aston and Bordesley Green wards.
- 1.1.3 The Committee to undertake this second inquiry was established in July 2004, to consider a range of administrative and security issues around the poll, including registration, postal voting, polling stations, counting arrangements and the staffing of the Elections Office. Evidence was sought from Members, candidates and the public.
- 1.1.4 Once the judicial system began active consideration of the election petitions in October 2004, our review was put into abeyance following legal advice, until the work of the Election Court had been completed.
- 1.1.5 When Commissioner Mawrey delivered his judgment in April 2005 it was devastating. Postal voting fraud had been widespread in Bordesley Green and in Aston. The judge concluded that these were not isolated incidents but part of a Birmingham-wide campaign. Although the Elections Office had disregarded many of the rules to safeguard postal voting, the judge found that this was essentially because the poll could not have been conducted if played by the book, and his conclusion was to dismiss the case against the Returning Officer.
- 1.1.6 With the general election imminent, our role evolved as it was then urgent that we investigated whether improved arrangements were being put in place for the May 2005 poll, and what could be done to reassure electors that future elections in Birmingham would be free and fair. We discussed these issues with the then Returning Officer both before and after the general election. Officials from the Electoral Commission also gave evidence to us on possible changes to the statutory framework, particularly as it affects the security of postal voting.



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- 1.1.7 We are making a number of recommendations. We believe that it is essential that weaknesses in the local administration of elections and in the national statutory framework are tackled vigorously. The City Council must support its Electoral Registration Officer and Returning Officer (who personally has the statutory duty for local electoral administration) in demonstrating to Birmingham people that they can have full confidence in the system.
- 1.1.8 At local level we must establish a mechanism whereby the Electoral Registration Officer/ Returning Officer can consult with Members on proposals to improve electoral administration, including possible changes to registration, polling and counting arrangements, the capacity and budget of the Elections Office. The City Council should support these efforts through publicity and education. More efficient and effective regulation of election posters is also needed.
- 1.1.9 But the prime response must come from Government in the form of changes to the law, particularly to tackle and deter postal voting fraud. As Commissioner Mawrey wrote in the executive summary of his judgment,
- “In the course of preparing my judgment, my attention was drawn to what I am told is an official Government statement about postal voting which I hope I quote correctly:
- There are no proposals to change the rules governing election procedures for the next election, including those for postal voting. The systems already in place to deal with the allegations of electoral fraud are clearly working.***
- Anybody who has sat through the case I have just tried and listened to evidence of electoral fraud that would disgrace a banana republic would find this statement surprising. To assert that “The systems already in place to deal with the allegations of electoral fraud are clearly working” indicates a state not simply of complacency but of denial.
- The systems to deal with fraud are not working well. They are not working badly. The fact is that there are *no* systems to deal realistically with fraud and there never have been. Until there are, fraud will continue unabated.”
- 1.1.10 However, the Government is moving slowly. It published a discussion paper on 25 May with a closing date for comments of 10 June 2005. Proposed legislation has not yet been published.



## 2 Summary of Recommendations

	<b>Recommendation</b>	<b>Responsibility</b>	<b>Completion Date</b>
R1	That Council Business Management Committee provide a forum through which the Electoral Registration Officer and Returning Officer can be appraised of Members' concerns and experiences when considering how best to improve the administration of elections in Birmingham	Chairman, Council Business Management Committee	November 2005
R2	That the Member forum discuss with the Electoral Registration Officer/ Returning Officer proposals for: <ul style="list-style-type: none"> <li>• the organisational structure within the Elections Office;</li> <li>• a review of polling stations which would allow for both increases and decreases in capacity according to local circumstances;</li> <li>• arrangements for the count, including the number of counting locations at local and national elections;</li> <li>• continuing actions (within existing or new legislation) to prevent and detect postal voting fraud, including further steps to clean up the absent voters' list and to undertake integrity checks following an election;</li> <li>• sending a card to every registered elector before an election, informing them of the way in which they have currently chosen to vote, and how to do so;</li> <li>• regular briefings of candidates and agents before elections, including protocols for canvassing for postal votes;</li> <li>• ensuring that the polling booths to be used in future elections fully meet statutory requirements;</li> <li>• the automatic issue of a receipt to anyone who goes to a polling station and claims not to have applied for a postal vote but is registered for one;</li> <li>• any necessary budget adjustments</li> </ul> before he introduces any changes to the operations of the Elections Office	Chairman, Council Business Management Committee	April 2006
R3	That, in the run-up to an election, a dedicated telephone advice line be set up for candidates and agents.	Chairman, Council Business Management Committee	April 2006



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R4	That when making proposals for the City Council's budget, the Executive ensure that an adequate budget is available to the Elections Office	Leader	February 2006
R5	That Council Business Management Committee is informed of: <ul style="list-style-type: none"> <li>a publicity programme informing electors of what to expect, and when, from the processes of registration, applying for postal votes, and casting votes (postal or in person);</li> <li>work done in schools to introduce the electoral system to future electors</li> </ul>	Leader  Cabinet Member for Education and Lifelong Learning	April 2006
R6	That a simpler and more efficient system of regulating the display of election posters on lampposts is suggested to the Council Business Management Committee	Cabinet Member for Transportation and Street Services	April 2006
R7	That the Department for Constitutional Affairs be reminded of Commissioner Mawrey's findings and the urgent need to change the law so as to tackle postal voting fraud	Chairman, Council Business Management Committee	October 2005
R8	That the City Council work closely with Birmingham MPs to ensure that the forthcoming Electoral Administration Bill contains measures which are as strong as possible in combating postal voting fraud	Chairman, Council Business Management Committee	April 2006
R9	That the Electoral Commission be informed of the City Council's willingness for any new procedures aimed at tightening registration and combating postal voting fraud to be trialled in Birmingham	Chairman, Council Business Management Committee	October 2005
R10	Progress towards achievement of these recommendations should be reported to the Co-ordinating Overview and Scrutiny Committee in June 2006.  Subsequent progress reports will be scheduled by the Committee thereafter, until all recommendations are implemented.	Chairman, Council Business Management Committee	June 2006





## 3 Terms of Reference

### 3.1 The Reasons for the Review

- 3.1.1 Conduct at elections in Birmingham has given rise to increasing concern over the last few years. In June 2002 the City Council noted the allegations of fraud at that May's elections. This was followed by the first Scrutiny inquiry into electoral matters, chaired by Cllr John Alden. That inquiry resulted in a number of recommendations to improve both local practice and the national legislative and regulatory framework.
- 3.1.2 In June 2004, the municipal election was an "all up" election, based on new ward boundaries and with each voter entitled to cast votes for up to three candidates. What is more, this was held on the same day as that for the European Parliament. This combination was very difficult to administer. Counting the votes cast was a complicated matter and, in the event, took a considerable amount of time. For those who attended, either to undertake or to observe the count, conditions and arrangements were far from ideal.
- 3.1.3 More significantly, election petitions were lodged concerning the results of the elections in the Aston and Bordesley Green wards. Whereas petitions had been brought following earlier elections, in 2000 and 2002, those earlier petitions had fallen at an early stage. This time matters proved to be very different.
- 3.1.4 The robustness of the petitions had still to be tested when, at its meeting on Friday 24 July 2004, the Co-ordinating O&S Committee decided to establish the Electoral Matters Task and Finish O&S Committee to undertake a second inquiry into electoral matters in Birmingham. Members had raised concerns over both the regulatory framework and operational matters regarding this vital and fundamental democratic process. In particular, areas of concern were:
- Postal voting – the legal framework, administration, security and possibility of fraud
  - Registration – the accuracy, security and comprehensiveness of the electoral register
  - Polling stations – their number, location and adequacy, legal requirements, staffing and costs, security.



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- Tendered ballot papers and instances of apparent disenfranchisement.
- Arrangements for the count, including accuracy, staffing, facilities, the time taken to complete the count, parking and security
- Budget, staffing and management issues, including the service and advice offered to candidates and agents
- the arrangements for election posters and the enforcement of the regulations

### 3.2 Terms of Reference

- 3.2.1 The key question that the review was seeking to answer was –  
“Are there robust and efficient arrangements in place to provide for free, fair and secret elections in Birmingham?”
- 3.2.2 The review was undertaken by the Electoral Matters Task and Finish O&S Committee. Membership of the Committee was:
- Councillor John Alden (Chairman 27/8/04 – 17/9/04)  
Councillor Len Clark (Chairman 17/9/04 onwards)  
Councillor John Cotton  
Councillor Ray Hassell  
Councillor Mark Hill  
Councillor Mahmood Hussain (until 24/5/05)  
Councillor Timothy Huxtable (replacing Councillor John Alden from 17/9/05)  
Councillor David Radcliffe (replacing Councillor Paul Tilsley from 24/5/05)  
Councillor Carl Rice (replacing Councillor Mahmood Hussain from 24/5/05)  
Councillor Paul Tilsley (until 24/5/05)  
Councillor Anita Ward (until 24/5/05)  
Councillor Ian Ward (replacing Councillor Anita Ward from 24/5/05)
- 3.2.3 Observers at Committee meetings included:
- Councillor Hugh McCallion  
Councillor Michael Wilkes



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- 3.2.4 The officer team was led by John Cade, with Nick Partridge as Lead Review Officer and Gail Sadler from the Scrutiny Office providing research support. Legal advice to the Committee was given by David Tatlow, Assistant Director of Legal Services. Phil Cooper was the Committee Manager.
- 3.2.5 The then Returning Officer and the former Acting Elections Officer gave evidence to the Committee, as did officials from the Electoral Commission. We are most grateful to the Electoral Commission and officers for contributing to this review.

### 3.3 The Conduct of the Inquiry

- 3.3.1 The inquiry commenced with the Chairman writing to Members, MEPs, candidates and agents, inviting them to submit written evidence. The press also covered the Chairman's request for members of the public to write in with any concerns or comments. The intention at that stage was to receive the written evidence and then invite a selection of individuals to discuss issues in person with the Committee.
- 3.3.2 It was recognised from the start that legal difficulties might emerge once the due process for considering the two Election Petitions was underway. On 19 October the Election Court decided that investigations would proceed, commencing with what amounted to a full recount of all postal votes for the two wards in question in mid-November 2004.
- 3.3.3 At that stage there was a risk that our inquiry might in some way interfere with matters which would fall to be determined by the Court. Accordingly on 18 November 2004 we considered Counsel's advice and, following detailed discussion, decided to put our inquiry into abeyance until the hearings of the Election Court had taken place.
- 3.3.4 The Election Petition hearings took place between 21 February and 11 March 2005 before Commissioner Richard Mawrey. He took substantial evidence concerning the conduct of the election and count which took place in Birmingham in June 2004, and announced his findings on 4 April 2005. Subsequently the Commissioner's decision as it affected Mr Muhammad Afzal was overturned in the Court of Appeal.
- 3.3.5 The Commissioner's judgment was given the day before the date of the General Election was announced. It was therefore considered inappropriate to reconvene the Task and Finish Committee until after that election. However, there were urgent matters to consider, and therefore an informal meeting was held with the Returning Officer on 29 April 2005 to discuss what steps were being put in place to ensure the probity and security of the 2005 election.



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- 3.3.6 We reconvened formally on 19 May 2005, when we had before us not only the notes of the informal meeting with the Returning Officer, but also the executive summary of Commissioner Mawrey's judgment and a letter sent by the Returning Officer to candidates at the 2004 elections following the discovery of uncounted postal ballot papers from that election.
- 3.3.7 When we reconvened we took stock of the events during the intervening months. Much of our original work programme relating to the June 2004 elections had been thoroughly investigated by the Elections Court. It would have been neither legal nor sensible to go over those matters again. We therefore decided to focus on those aspects of the original terms of reference which remained relevant, rather than picking up from the point we had reached the previous autumn. We therefore concluded our inquiry by holding two public sessions. At the first we interviewed the Returning Officer largely about the administration of the May 2005 General Election. The second session was attended by officials from the Electoral Commission, when we discussed the national framework for a range of issues including registration, postal voting, and funding arrangements.



## 4 Findings

### 4.1 The Statutory and Organisational Framework

- 4.1.1 It is important at the outset to understand the framework within which electoral matters are organised. The statutory position is that the City Council does not organise electoral registration or the elections. These are the responsibility of the Electoral Registration Officer and the Returning Officer. The City Council appoints an officer to these posts (usually the Chief Executive) and provides a budget.
- 4.1.2 Day to day responsibilities are carried out by the Elections Office, headed by the Elections Officer. The Elections Office is required to conduct all the necessary processes relating to all statutory elections and referendums (including Parish, Municipal, Parliamentary and European elections) and the publication and maintenance of the Register of Electors. Other work includes assisting with reviews of Parliamentary, Ward and Polling District boundaries.
- 4.1.3 Other local authorities in the West Midlands naturally look to Birmingham for advice and guidance, and at European elections Birmingham is the lead authority for the whole region (the Chief Executive being the Regional Returning Officer). The Elections Officer has also advised the Electoral Commission, the Association of Electoral Administrators and the Department of Constitutional Affairs.
- 4.1.4 At the beginning of our Inquiry, the Elections Office had an establishment of 15 permanent staff (12.5 full time equivalents), having been restructured in December 2003. Very large numbers of temporary staff are taken on to carry out the annual registration canvass and a variety of tasks at election time. In 2004/5 the budget for Local Government Elections was £400,000 and for Electoral Registration amounted to £870,000.
- 4.1.5 Apart from the appointment of the Electoral Registration Officer and Returning Officer, and the provision of the budget, the City Council traditionally provides other support such as agreeing that its staff can be made available to the ERO/Returning Officer for temporary tasks, and regulating the display of election posters on lamp posts.
- 4.1.6 The statutory and regulatory framework governing registration and elections is set by Central Government, for which the Department for Constitutional Affairs is the lead department.



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- 4.1.7 Parliament set up the Electoral Commission in 2000 with a wide set of functions of which those that were most relevant to this inquiry are:
- reviewing electoral law and procedures;
  - advising the Government on changes;
  - advising those involved on the conduct of elections and referendums; and
  - promoting public awareness of our electoral systems.
- 4.1.8 The Electoral Commission should not be confused with the Boundary Commission, a separate body which keeps constituency boundaries under review.

### 4.2 Trends since the Previous Scrutiny Review

- 4.2.1 The first Scrutiny Review looked at a small set of statistical data to illuminate problems and issues. As part of the background to the second inquiry, much of the data was brought up to date.

#### Registration

- 4.2.2 It is generally understood that a complete and accurate electoral register is the key to free and fair elections. Whilst people who change residence can now update their entries on the register at any time of year, the annual canvass exercise remains of great importance.
- 4.2.3 Across the country, registration levels have been falling for many years. Birmingham is no exception to this, but its response rate continues to out perform most core cities.

Year	2001	2002	2003	2004
Canvass Response %	94.1	93.3	92.7	90.7

- 4.2.4 The response rate has always varied from ward to ward, but the difference between the best and worst ward is significant and diverging as time goes on:

Year	Highest Response Rate		Lowest Response Rate	
	Ward	%	Ward	%
2001	Hall Green	98.0	Ladywood	83.6
2004	Sutton Four Oaks	97.5	Ladywood	70.8



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4.2.5 Full details by ward for the years 2001 – 2004 can be found in Appendix 2. Whilst the 2004 register was compiled on new ward boundaries and therefore ward details are not strictly comparable with figures for previous years, the trend is clear.

4.2.6 When the 2004 canvass result was reported to Council Business Management Committee, the Committee asked for the Elections Officer to carry out an analysis by polling district for those Wards with a response rate below 85% and a special exercise to be mounted in Ladywood. Whilst this was done, the results have not yet been formally reported. Our understanding is that little improvement in registration resulted.

### Electoral Turnout

4.2.7 Birmingham is also in line with national trends when it comes to the turn out at elections. The following table shows the turn out at the local elections in May 2002 and 2003, the combined local/European Parliamentary election in June 2004 and the General Election in June 2005:

Year	May 2002	May 2003	June 2004	May 2005
Turnout %	31.6	29.4	38.0	55.7
Ballot Papers Counted	227,449	210,399	270,357	392,408

4.2.8 This illustrates the differing demands for e.g. counting staff depending on which elections fall due in any one year.

### Tendered Ballot Papers

4.2.9 The 2002 Scrutiny Review looked at the number of tendered ballot papers ("pink slips") issued at polling stations. A tendered ballot paper is issued where a person wishes to vote but the elector is shown on the polling station register as having been issued with a ballot paper earlier in the day (although one is not issued when the person is shown as having received a postal vote). There are several possible causes behind the issue of a pink slip, ranging from a mistake by the polling station staff, or a registration problem, to possible personation and hence fraud.

4.2.10 The numbers issued over the past few years are:

Year	May 2000	June 2001	May 2002	May 2003	June 2004	May 2005
Tendered Ballot Papers Issued	24	49	26	131	35	38



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- 4.2.11 The pattern is fairly regular, and of course the numbers should be compared with the total number of votes cast which in each case is of the order of hundreds of thousands. Nevertheless there was a spike in May 2003, which was largely attributable to a total of 90 being issued in the old Small Heath ward. A full breakdown by ward for the years 2002-2005 can be found in Appendix 2.

### Postal Voting

- 4.2.12 At the time of the first Scrutiny Review, the move towards "postal voting on demand" as a way of encouraging higher turn out was relatively new. Nevertheless the Committee at that time had concerns, such as the demand on the resources of the Election Office and the theoretical openness of the system to fraud. Since then, matters have taken a far graver turn.
- 4.2.13 Postal vote applications in Birmingham continued to rise until 2004, but fell back this year:

Year	Number of Applications for Postal Votes
2000	7,000 (rounded)
2001	16,000 (rounded)
2002	20,047
2003	28,014
2004	70,075
2005	56,101

- 4.2.14 Whilst these are large numbers, even the peak of 70,075 represents less than 10% of Birmingham's registered electors. Not all postal votes applied for are used, but an increasing proportion is cast:

Date	Election	Postal Votes Counted	Ballot Papers Counted (inc. Postal Votes)	Postal Votes as % of total Ballot Papers
May 2000	City Council	6,606	204,331	3.2
June 2001	Parliamentary	13,159	377,993	3.5
May 2002	City Council	14,122	227,449	6.2
May 2003	City Council	18,146	210,399	8.6
June 2004	City Council/ European	49,987	270,357	18.4
May 2005	Parliamentary	40,605	392,408	10.3

Disregarding the peak year of 2004, this shows an increase in the use of postal votes both in absolute terms and as a proportion of the overall turnout. However, this figure must not be looked at in isolation but in the context of other factors e.g. marginal seats, proportion of total votes cast etc.





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### 4.3 Progress on Previous Scrutiny Recommendations

- 4.3.1 The previous Scrutiny Review made a number of recommendations aimed at improving the administration of elections locally largely through clarifying actions through which the City Council could support the ERO/Returning Officer. Other recommendations were addressed to the Electoral Commission, making suggestions for improving registration and for improving postal voting arrangements including security.
- 4.3.2 These recommendations were taken forward through a working group of Members reporting to the Council Business Management Committee; the idea of this arrangement was to provide the ERO/Returning Officer with a group of Members who could act as a sounding board, giving reactions to suggested changes, whilst leaving the decision making, as it has to be, firmly in the hands of the Proper Officer.
- 4.3.3 Appendix 1 shows the progress made on those recommendations. By and large, progress on a range of local matters has been satisfactory. For example, City Council staff have been made more widely available to support the poll. The Elections Office has been able to recruit more temporary staff to deal with late postal voting applications.
- 4.3.4 The original Scrutiny Committee was interested in the possibility of prosecuting people who did not return their electoral canvass form, as is allowed by law. Council Business Management Committee decided on balance that this would not be effective.
- 4.3.5 During this second inquiry, we noted that Medway District Council had made some use of prosecutions following their 2003 canvass. Medway has an electorate of 184,000 with a canvass return rate of 86.3% of occupied properties responding. In March 2004 a sample of 97 non-responding households were sent a letter and a rolling registration form, advising them that a non-response would lead to prosecution. This elicited a response from 55 households. 32 residents were prosecuted, with 3 court hearings taking place between July and September 2004.
- 4.3.6 However, not only did this fail to make a significant improvement to the overall response at the time, the response rate for the subsequent canvass did not improve either. The evidence, therefore, is that prosecution for non-response is in itself not an effective way of improving registration rates.



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- 4.3.7 An outstanding local issue relates to the display of election posters by political parties on lampposts. Not all local authorities allow this – the City Council is one that does. The practice is covered by local regulations administered by the Highways Division. These cover issues such as the size and positioning of the posters and the means of attaching them to lampposts. Each candidate or election agent is required to pay a returnable deposit of £100, provide a schedule of where the posters will be displayed, and to remove the posters within 10 days of the date of the election. If the posters remain on display, they can be removed and the cost of doing so deducted from the £100 deposit.
- 4.3.8 The scheme was tightened up following the first Scrutiny Review. However, it continues to be controversial. Members and the public complain of posters left displayed for some time following an election. Those Members, candidates and others who provided written evidence to this inquiry gave a range of views from banning posters, through limiting the number, to tighter enforcement.
- 4.3.9 From an officer point of view, there are a number of problems with the present scheme. Resources only allow posters on the main roads to be monitored. The scheme is specific to election posters; a similar scheme governing the display of posters by charitable and non-commercial organisations does not require deposits, allows for the content of the posters to be agreed in advance of the display, and requires the names of the roads in which the posters are to be displayed to be provided in writing prior to display.
- 4.3.10 From an administrative point of view, the receipt and return of deposits is costly, requiring:
- the initial receipt of monies with the Cashier's Office;
  - allocation to the appropriate budget by the Finance Section;
  - completion of individual payment request forms by Highways Administration to start the process of returning deposits;
  - Central Payments raising cheques to return monies.
- An estimated cost is £30 per £100 deposit.
- 4.3.11 The evidence available to us also indicated that, although the scheme had been tightened up, there were still a number of difficulties including non-payment of deposits; wording of some posters causing offence; and conditions not being complied with. In Committee, reference was made to inaccurate diagrams being submitted to the Highways Division indicating the roads where posters are to be displayed and of "political mischief" (by a very small minority of candidates) where opponents' posters were taken down in the run-up to the election, and then re-installed after the deadline for removal, thus rendering opponents liable to fines.



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### 4.4 Arrangements for the 2004 Elections

- 4.4.1 The abiding memory of the 2004 elections for many people will be of the subsequent findings of the Election Court that the elections for the Aston and Bordesley Green Wards were voided by corrupt and illegal practices, and that there was reason to believe that corrupt practices extensively prevailed at the elections throughout the city.
- 4.4.2 That judgment was delivered in April 2005. Long before then, in August and September 2004, we invited written evidence from City Councillors, MPs and MEPs, candidates and agents at the local, European Parliament and Hodge Hill by-elections in June and July 2004. A summary of the comments we received can be found at Appendix 2.
- 4.4.3 It must be acknowledged at the outset that the administration of the elections held on 10 June 2004 was a hugely complex task. Elections for all 120 Council seats, based on new ward boundaries and held under the traditional first past the post system, were combined with elections for the European parliament based on a regional list system, and Birmingham's Returning Officer, supported by the Elections Office, had a regional role, as well as a local role, to play.
- 4.4.4 Nevertheless, it must equally be acknowledged that many candidates, successful or otherwise, were greatly dissatisfied with the arrangements and let this be known at the time.
- 4.4.5 Logic dictates that the first step in preparing for the 2004 elections lay in the compilation of the electoral register for that year through the 2003 Annual Canvass.
- 4.4.6 We have already reported the canvass response rate of 92.7%. To compile the register, the Elections Office took on some 17 temporary clerical staff for up to 14 weeks, at a cost of £40,000. 550 Canvassers and 46 Canvass supervisors were also employed, to the tune of £160,000.
- 4.4.7 There are some indications that it is becoming increasingly difficult to find good staff for the canvass and that, in addition to a general trend away from returning completed official forms, particular difficulties are encountered in obtaining entry to secure blocks of flats.
- 4.4.8 Once the new wards had been agreed, a specific review of polling stations and polling district boundaries had been undertaken. This resulted in a reduction in polling stations from 658 stations at the time of the 2002 scrutiny review to 523. On polling day, each station was staffed by a Presiding Officer and a Poll Clerk.
- 4.4.9 For the count the National Indoor Arena was used, rather than separate counts in each ward. 800 counting staff were employed. The count for the local election took place on Friday 11<sup>th</sup> June and for the European Parliamentary election the following Sunday.



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- 4.4.10 Many of the Members and others who responded to the Chairman's invitation made positive comments, congratulating the conduct of the counting staff in very difficult circumstances. However, many issues were raised.
- 4.4.11 The difficulties in securing complete *registration* concerned many respondents. There were some examples of canvass forms being delivered to the wrong addresses, and one comment that the telephone canvass line required users to have a touchtone phone. Most of the comments under this heading, though, concerned the national registration framework, with proposals for removing non-respondents directly from the register, for individual rather than household registration, and for registration forms to be included in the proposed vendors' packs for people selling their homes. We will consider the national framework later in this report.
- 4.4.12 A number of operational issues were raised about *polling stations*. There were reports of insufficient staff at busy times, and of queues outside some polling stations and thereby discouraging potential voters. The changes in location following from the review of polling stations confused some voters. No notice of poll was displayed outside some stations, and at a number access to the station had been blocked by canvassers. A general point was that there needed to be clear rules to ascertain whether party political representatives are allowed inside the entrance hall to the voting area, or should stay outside the building.
- 4.4.13 *The arrangements for the count* attracted most criticism. Physical conditions for staff and observers were poor, with inadequate layout, seating and air conditioning, and a lack of refreshments. Inefficient security was highlighted, with no checks being made on cars or on candidates and agents entering or leaving the building. No standard counting methodology appeared to be in place, and generally there was an insufficient number of trained staff.
- 4.4.14 Outside these issues, there were comments that the advice and information received from the Elections Office was variable in quality. There were other suggestions concerning the national framework including ways of tightening security at the poll, and one that candidates' names should be printed in a random order on the ballot paper, not alphabetically. On another issue, one candidate thought that the allowable spend on election expenses favoured major parties and was unfair to independent candidates.

### 4.5 Postal Voting

- 4.5.1 The judgment of Commissioner Mawrey in the Elections Court was devastating, dealing both with the actions of individuals involved in the Aston and Bordesley Green Wards, and the way the statutory framework for postal voting allowed fraud.



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4.5.2 Before that point was reached, however, concerns had been raised. The Electoral Commission began consulting on a range of electoral matters, including registration and the postal voting system, in 2002. Their proposals were largely supported by the first Scrutiny Inquiry and subsequently by the full Council. As that Scrutiny Report noted, the Commission took a supportive attitude towards absent (and in particular, postal) voting, but it also identified a number of problems including public perceptions about fraud.

"In general, the Committee took a similar stance, though perhaps with a slightly stronger bias towards being seen to prevent malpractice.....the heart of the debate lay in striking the balance between encouraging people to vote and making it as easy as possible to do so) and ensuring that procedures are rigorous enough to discourage fraud."

4.5.3 In their written evidence to us in autumn 2004, Members and candidates made a number of points about postal voting at the 2004 election:

- open to abuse under current legislation
- electors either receiving ballot papers very late or not receiving them at all despite being on postal vote list
- a card should be sent to each voter stating whether they have registered for a postal, proxy or normal vote
- only votes posted on or prior to polling day (as indicated on the postmark) are valid
- postal votes should not be opened before polling day
- integrity checks should be completed after the election
- some people unaware of procedure and could not obtain a witness signature
- perhaps the Elections Office should set up a "help line"
- distribution/collection of ballot papers should be carried out by election officials

4.5.4 These issues are a mixture, some (such as the possibility of a "help line") being a local issue and others being determined by the statutory framework for postal voting.

4.5.5 We were particularly struck by the suggestion that integrity checks should be made after the election, and decided to investigate the issue. We found that the Electoral Commission issued a circular on 24 May 2004, entitled "Post-election integrity checks". Its purpose was to draw the attention of Returning Officers to suggested checks for integrity that they may consider carrying out in respect of postal voting, immediately after the elections on 10 June 2004.

4.5.6 To quote from the circular:

"Our report and recommendations on absent voting in Great Britain committed the Commission to develop guidance in respect of post-election fraud checks. This guidance will be issued later in 2004. However, as the level of postal voting is expected to be high at this



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June's election, and in response to Parliamentary discussion of fraud in the context of the all-postal pilots, the Commission is issuing this circular. It seeks to draw attention to those checks which have been carried out in recent years, primarily in connection with all-postal pilot schemes, which appear to be the most robust. The Commission is asking all Returning Officers to give consideration to applying some of the suggested checks and to keep the Commission informed about the outcome. Such information will inform the final guidance to be issued this year.

The Commission's view is that innovations in voting processes, such as postal voting on demand or all-postal schemes, must demonstrate that they are capable of providing levels of security at least equivalent to more traditional methods of voting and win public confidence. The central issue is not simply security *per se*, but voter confidence in the integrity of the election."

4.5.7 We ascertained that, despite this guidance, Birmingham's Elections Office had no plans to carry out integrity checks after the 2004 elections, and indeed did not have the resources to do so. The Elections Office also received advice from the Electoral Commission that, notwithstanding the wording of their own circular, some of the suggested actions may currently have been outside the remit of the ERO/Returning Officer. We therefore designed our own exercise to check a sample of the signatures of witnesses on the Declarations of Identity which accompany postal votes. Unfortunately, our review had to be put into abeyance before this could be carried out.

4.5.8 We have already reported the numerical facts about the scale of postal voting in Birmingham in 2004. For a description of the activities, we can do no better than quote a lengthy extract from the executive summary of Commissioner Mawrey's judgement:

### **"Postal voting**

10. Postal voting on demand was introduced in 2001 with all-Party support.
11. The system for postal voting contains no effective safeguards and is an invitation to fraud.
12. Applications for postal votes can be sent to the Elections Office up to six days before polling day. If thousands of applications are sent in the final few days, the system can be overwhelmed. This happened in Birmingham in 2004.
13. The scheme for registering postal vote applications is hopelessly insecure. Although the application must, by law, be signed by the voter in person, the Elections Office has no means of checking the validity of the signature or of the application. In any event, the Elections Office has neither the duty nor the resources to carry out any checks. If an application to vote bears something that looks like a signature, it must be accepted and the voter's name put on the postal voter's list.



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14. An application for a postal vote can ask for the postal vote to be sent to an address other than that of the voter: obviously, this gives positive assistance to fraud.
15. Postal ballot packages are sent out by ordinary mail in clearly identifiable envelopes. Short of writing "STEAL ME" on the envelopes, it is hard to see what more could be done to ensure their coming into the wrong hands.
16. The system whereby a postal ballot is "verified" by a Declaration of Identity ("DOI") is farcical.
17. The DOI is meant to be signed by the voter, a pointless precaution because there is no means of verifying the signature. The Elections Office does not even compare this signature with that on the application to vote. It has no duty to do so and has no power to do so. Provided there is a squiggle on the "Voter Signature" line, the DOI will pass muster.
18. The voter's signature on the DOI must be witnessed and the signature, name and address of the witness inserted in the DOI. Another pointless precaution. Anybody in the world can witness a DOI and the Elections Office cannot (and does not) check up on any witness. Again, provided that some name, some address and a squiggle for signature appears in the "Witness" part of the DOI, it will be accepted.
19. Consequently, anyone who gets his hands on an unused postal ballot package knows that he can fill it in exactly how he likes and the resulting ballot paper and DOI, if completed, will be (indeed *must* be) accepted by the Elections Office.
20. The law is indifferent as to how the completed ballot package gets to the Elections Office. It is quite lawful for someone to collect it from the voter and promise to deliver it to the Elections Office. Some political Parties encourage their supporters to do this.
21. The Returning Officer operates (as she must) on the basis that, if a ballot paper clearly shows votes against candidates, she will accept it, even though it contains crossing out or other markings. Anyone who gets hold of a completed postal ballot before it reaches the Elections Office can open the envelope, take the ballot paper, scribble out one lot of crosses and substitute another before sending it off to the Elections Office. That ballot paper will none the less be accepted as valid.
22. Similarly, anyone who gets hold of a completed postal ballot and opens it to discover the voter has voted the "wrong" way, can simply destroy it.
23. Consequently, the system is wide open to fraud and any would-be political fraudster knows that it is wide open to fraud.
24. Since 2001, the Electoral Commission, the Returning Officers and the Elections Officers have warned that the system has insufficient safeguards against fraud. Some parts of the media have repeatedly warned against fraud.



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25. Neither the Government nor any of the other political Parties has heeded these warnings which have been dismissed as "scaremongering".

### **Criminal offences**

26. Unlawfully voting in the name of someone else is the offence of "personation" which carries a prison sentence. This covers most forms of misuse of a postal ballot package, including using the DOI to "witness" a signature that the witness knows is not that of the voter.
27. Fraudulently applying for a postal vote in the name of someone else is a criminal offence, as is destruction of ballot documents.
28. The criminal law is of no value, however, unless the system is properly policed.

### **Corrupt and illegal practices**

29. Personation is a "corrupt practice". The other electoral offences involved in this trial are "illegal practices".
30. An election court may set aside the election of a local councillor or declare an entire Ward election void if it is satisfied that there have been corrupt or illegal practices committed by the candidates or their agents. "Agents" is a wide category and covers virtually all the candidates' supporters. Elections can also be set aside for "general corruption", the use of corrupt or illegal practices designed to secure the election of any candidate, not just the winning candidate.
31. In both these Petitions, the court is asked to set aside the elections on both grounds: corrupt and illegal practices by the candidates and general corruption.

### **No effective policing**

32. Fraud is compounded by a lack of any effective system of fraud detection or prevention.
33. The Returning Officer has no policing function whatsoever. Returning Officers do not have a duty to investigate fraud, they do not have the resources to investigate fraud and, most importantly, they do not have the powers to investigate fraud.
34. On the evidence of this trial, the Police provide no real control of fraud. If presented with clear evidence of electoral misconduct, they may take action but, as the Aston trial showed, they can easily be persuaded to ignore blatantly unlawful conduct by plausible rogues claiming that what they are doing is "legitimate".
35. Police forces in general do not have, and cannot reasonably be expected to have, knowledge or experience of electoral law. Officers consider, understandably, that, in high crime areas





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such as Aston, there are better uses for scarce police resources than policing local authority elections.

36. During the 2004 Birmingham election campaign the West Midlands police was presented, principally by the Liberal Democrat Party, with a large number of complaints of electoral fraud. The police attitude was well summed up by the use of the codename for these complaints - *Operation Gripe*. In essence, the police did nothing to prevent the frauds which occurred.
37. The other way of combating fraud is by an election Petition brought after the event. Petitions are, in effect civil actions brought by the losers against the winners. The Petitioners must prove wrongdoing by the Respondents. Electoral law places a large number of hurdles in their way and a Petition is very expensive. For these reasons, election Petitions are rare. They cannot reasonably be regarded as an effective way of policing electoral fraud.
38. The absence of any serious policing of electoral fraud is a further encouragement to the fraudster.

### **The 2004 Birmingham election**

39. The 2004 election was characterised by a postal vote explosion. The number of postal vote applications rose from 28,000 in 2003 to over 70,000 in 2004. Although the Elections Office *had* foreseen and planned for up to a 100% rise in postal votes, it did not foresee and could not have foreseen this explosion.
40. The increase in postal votes was not evenly spread, it varied wildly from Ward to Ward. The pattern of the increase was significant.
41. The other political Parties (particularly the Liberal Democrats) believed from the outset that the Labour Party was going to cheat in the election by the misuse of postal votes. They kept watch on the Labour candidates: this turned up some crucial evidence.
42. By polling day, it was clear that there had been widespread "theft" of postal votes. Large numbers of genuine voters turned up at polling stations to vote, only to learn to their surprise that they had been put on the postal voters' list and sent a postal vote (which, of course, they had never seen). Those voters were disenfranchised.
43. The avalanche of postal votes overwhelmed the Elections Office. In order to keep the election on its feet, the Elections Office threw the rule book out of the window. Many of the essential provisions of the relevant Regulations were simply ignored. In order to process the postal votes, they were carted round Birmingham in bags on trolleys or in plastic boxes and shopping bags in car boots.



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44. The count was chaotic and incidents occurred where dubious votes were accepted into the count."
- 4.5.9 This extract encapsulates not only the fraudulent activity but also the constraints and pressures placed on the Elections Office by the current postal voting framework. One issue not specifically mentioned here is that requests for a postal vote can be made up to 6 days before the date of an election. Responding to such late requests (which cannot be quantified in advance) and dispatching late postal ballot papers places another strain on the Elections Office at this time.
- 4.5.10 Commissioner Mawrey's judgment was delivered on 4 April 2005, immediately before the date of the General Election was announced. Soon after that came the discovery of a box containing a small number of unopened postal ballot envelopes. The necessary investigation into that occurrence, which, as was proper, was carried out under the City Council's personnel procedures and not by ourselves, meant that the Elections Office faced the administration of the General Election without its senior staff.
- 4.5.11 We were, of course, extremely perturbed by the fact that this box had been discovered, and ascertained what action the Returning Officer was taking about the uncounted votes. Her legal advice was that, because the time prescribed for challenging an election result had passed, it was not possible to change the declared results of the 2004 elections. She was also advised not to inspect any of the ballot papers and not to do so without an order of the court. Because of the importance of this matter, we considered it necessary to take independent advice from our own legal counsel. In this case, this supported the position taken by the Returning Officer.
- 4.5.12 At the very least, the discovery of the box showed that the audit trail for postal votes at the 2004 elections had been weak. Of even greater moment, taking both the judgement and the subsequent discovery together meant that urgent action had to be taken to demonstrate that the General Election in Birmingham would be conducted with the utmost probity. We therefore asked the Returning Officer what action was being taken to restore confidence in the administration of the election.

### **4.6 Arrangements for the 2005 General Election**

- 4.6.1 We held an informal meeting with the Returning Officer towards the end of April, discussing changes she had put in place before election day. On 15 June, she and the Acting Elections Officer gave evidence in public to the Committee, which allowed for a degree of reflection over the performance of the elections service, and for discussion of possible further steps to improve administration.



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- 4.6.2 The Elections Office was strengthened by the appointment of an Acting Elections Officer, with consultancy support. The team was joined by a former Chief Superintendent of Police, who liaised with West Midlands Police and, along with colleagues from Internal Audit, analysed postal vote information and checked for potential wrong doing, often by visiting electors. Other City Council staff (including from the Scrutiny Office) were seconded for the election period.
- 4.6.3 As a step towards re-establishing confidence in the Absent Voters List, the Returning Officer wrote to 53,000 postal voters reminding them that they could cancel their vote or redirect it to their home address. Approximately 1,500 took the opportunity to remove themselves from the list; although the Officer had no power to remove the names of non-respondents. In addition, acknowledgements were sent to all requests for postal votes.
- 4.6.4 The Opt2Vote system (see Appendix 4) was used to dispatch all postal votes and scan returns, giving a complete audit trail on votes dispatched and returned, with a computerised mailing list.
- 4.6.5 Polling station staff recorded people who attended polling stations claiming not to have applied a postal vote but who were registered as such. Anyone asking was given a receipt confirming their attendance. In the view of the Committee, it was felt that issuing a receipt should be automatic.
- 4.6.6 Changes were made to the handling of postal votes handed in at polling stations. The receipt of postal votes was recorded. The postal votes were stored in sealable, secure jiffy bags, and the presiding officer signed confirmation of the number received. There was therefore a complete audit trail.
- 4.6.7 Postal votes delivered to the Election Office were stored in sealed ballot boxes and securely transferred to the count.
- 4.6.8 Ten constituencies were counted at the NIA, in two tranches. Sutton Coldfield constituency was counted at Sutton Town Hall. Water was available in all rooms at the NIA and refreshments were on sale. Observers were placed on the opposite side of the tables to the counters. An extra team was on standby to join the count if necessary, and all members of the Corporate Management Team were present to provide additional management support (though not advice on election technicalities).
- 4.6.9 Two briefings were carried out for agents and candidates, including a protocol for postal voting with the strong advice that candidates or agents should not handle postal voting documents at all.
- 4.6.10 The feedback provided to us by the Returning Officer was that the new arrangements worked well. In particular we must draw the Council's attention to her statement that the checks into addresses receiving several postal votes, and into individual cases where voters had been unable to vote in person (as they had been recorded as postal voters) had not produced any evidence of wrong doing.



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- 4.6.11 One aspect of the 2005 elections which generated controversy in the Press was the number of postal votes applied for but not used. We were informed by the Returning Officer that there was no evidence that large numbers of postal votes had gone missing. The figures available to us are that 56,101 postal votes were applied for, and 40,605 returned, a "turn out" rate of 72.3% - much higher than the overall turn out at this election.
- 4.6.12 We discussed with the Returning Officer further actions that might be taken to re-establish confidence in elections in Birmingham. In particular we were extremely keen to establish whether firmer action could be taken to clean up the absent voters list, in the light of the Elections Officer's evidence to Commissioner Mawrey that the list was potentially corrupted, and the subsequent judgment of the Election Court.
- 4.6.13 One possibility would be to scrap the existing list, and rebuild it completely. The Returning Officer's view, supported by legal advice given to her, was that the law did not allow her to do so. Officials from the Electoral Commission, when they gave evidence to us, confirmed that they agreed with the Returning Officer's position.
- 4.6.14 We were acutely aware of the urgent need to re-establish Birmingham citizens' confidence, particularly in postal voting. We therefore obtained our own legal advice, which argued that in the particular circumstances pertaining in the city following the Court judgment, action to rebuild the list completely might well be reasonable and lawful.
- 4.6.15 Before drawing conclusions as to how best to proceed, however, consideration must be given to the statutory framework for electoral matters and how that might be changing.

### 4.7 The National Framework

- 4.7.1 Since the first Scrutiny Review in 2002, there have been a number of documents calling for change in the national framework. The Scrutiny Review itself called for a number of changes to bring the law up to date, particularly around registration, postal voting and the definition of offences.
- 4.7.2 The House of Commons ODPM Select Committee published a report on postal voting in May 2004, calling for steps to be taken to ensure that the risk of fraud is not increased by the extension of all-postal voting. However, the likelihood of all-postal voting appears to have retreated.
- 4.7.3 The Electoral Commission produced a series of reports, including:
- Absent voting in Great Britain;
  - The electoral registration process;
  - The shape of elections to come; and



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- Delivering democracy? The future of postal voting.
- 4.7.4 These were produced in a consultative exercise, with input both from electoral administrators and the City Council.
- 4.7.5 Most importantly, in May 2005 the Commission published a report entitled "Securing the Vote". This brought together the key changes which the Commission believes to be necessary in order to ensure continued public confidence in UK elections.
- 4.7.6 The Commission's starting point is that the polling station should remain the foundation of the voting system for the present. Electors should be offered a choice of voting methods, but should make a positive choice to use a method other than voting in person. This means that the Commission considers that all-postal voting should not be used. The Commission continues to support postal voting on demand, but believes that changes to improve the reliability and security of postal voting are essential.
- 4.7.7 Because of its importance in the debate over the statutory framework, the executive summary of "Securing the Vote" is included in this report at Appendix 5. The main points where the Commission is recommending change are:
- **improving registration:** the current system of household registration should be replaced by individual registration, with each elector providing a signature and date of birth, as well as their name and address, when registering;
  - **voting at a polling station:** when a Presiding Officer has doubts about a voter's identity, they should have the power to ask for their date of birth, to be checked against the register;
  - **postal voting:** all postal and proxy vote applications should include the personal identification details collected at registration, and Electoral Registration Officers should check these against the register. The deadline for electors to apply for a postal vote should be moved from 6 to 11 working days before polling day. All voters should be sent a pre-polling information card, telling them how to vote as well as when and where to., with voters receiving a different card depending on whether they are due to vote by post or in person. The current declaration of identity should be replaced with a new security statement to accompany postal ballots. Returning Officers should check the individual identification details provided on the security statement for every postal vote against the details provided on the postal vote application and on the register;
  - **offences:** there should be new offences designed to prevent fraudulent applications for postal or proxy votes. The existing provisions on personation should be extended to give the police power of arrest at any location, not just at polling stations. The law on undue influence should be revised to clarify the nature of the offence.



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- 4.7.8 We were able to test these recommendations, and other alternatives, when officials from the Commission attended our Committee. Part of our discussion focussed on the role of political parties in the postal voting process, as "Securing the Vote" does not make specific recommendations on this role, either in canvassing for postal votes, or in assisting in the completion of forms and their collection and delivery.
- 4.7.9 The Commission recognises the role of political parties in encouraging participation in elections. It had received no evidence that political parties had been involved in the completion of electors' forms in the 2005 elections. Handling completed postal votes is another matter, and the strong advice of the Commission is that they should not be handled by political parties.
- 4.7.10 The Commission's officials told us that research was currently being undertaken into the under-registration of electors, with a report due to be published by the end of August 2005. We hoped to be able to take this report into account when finalising our recommendations.
- 4.7.11 On the whole, we felt comfortable with the Commission's package of proposals. Measures to increase the security of postal voting are desperately needed. Some proposals, e.g. bringing forward the deadline for postal vote applications from 6 to 11 days before an election, would ease administrative difficulties, whilst others, including the checking of signatures, would add new tasks.
- 4.7.12 However, the Commission can only propose; it is for Government to introduce new legislation. This brings us to the last elements of evidence.
- 4.7.13 Following the May 2005 General Election, it was announced in the Queen's Speech that the Government would bring forward a Bill to improve electoral administration. The Department for Constitutional Affairs, as part of the preliminaries to drafting a Bill, published on 25 May a policy paper for discussion.
- 4.7.14 At the meeting of the full Council on 7 June 2005, the City Council approved a motion urging the Government to adopt in full the Electoral Commission's recommendations for improving the voting system, as set out in "Securing the Vote" at the earliest opportunity.
- 4.7.15 Subsequently the Returning Officer pointed out to us that in some respects the Electoral Commission's proposals are stronger than those of the Government in its policy paper.
- 4.7.16 The consultation period ended on 10 June. At the time of writing this report, the Department has published neither any response to the consultation nor the Electoral Administration Bill. However, the Bill is now expected to be published in October 2005.



## 5 Conclusions and Recommendations

### 5.1 Overall

- 5.1.1 The City Council will have shared the Committee's anger at the fraudulent behaviour described so articulately by Commissioner Mawrey and at the shame it brought upon the city and its civic life.
- 5.1.2 Birmingham people need to know that underlying weaknesses in the system are not being ignored, but that vigorous attempts at local level are underway to improve the situation. These are led by the Electoral Registration Officer and Returning Officer; the City Council can play little direct part but must actively support the ERO/Returning Officer as fully as possible. At national level, Government must accept that the statutory framework for postal voting is seriously flawed and inadequate, and must urgently be changed for the better.
- 5.1.3 At local level, both Commissioner Mawrey's judgment and Members' own observations identified significant shortcomings in the arrangements for the poll and for the count at the June 2004 elections. The capacity of the Elections Office must be increased if similar difficulties are not to be encountered in the future. As we have already highlighted, electoral administration poses particular management challenges. This is partly because of the importance of the function and the particular legal requirements. Another reason is that for most of the year the Office consists of a small permanent team which, to carry out the annual electoral register canvass and to run elections, needs at times to employ and direct hundreds of temporary staff. It is to these local issues that we must first turn.

### 5.2 Local Administration of Elections

- 5.2.1 When we discussed with the then Returning Officer the changes she had introduced in preparing for the 2005 General Election, we were supportive of the changes she had put in place. That did not mean that more could not be done.



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- 5.2.2 There was certainly some disappointment amongst the Committee that a more vigorous approach had not been taken towards verifying the accuracy of the absent voters' list. The ERO/Returning Officer kept within the usual, and accepted, interpretation of the law by taking a step-by-step approach to verification and this was in line with the advice of her legal advisors and the general comments of the Electoral Commission (see paragraph 4.6.13). Our preferred option, backed by separately taken legal opinion, would have been to scrap the list and start again, asking every elector whether they wished to receive a postal vote. We believe that that would have sent a stronger message to Birmingham people that postal vote fraud was being rooted out.
- 5.2.3 Time, however, has now moved on, and several steps have been taken under the incremental approach. We have been advised that, were legal opinion to have been sought recently, given the steps which have been taken it would be unlikely that the comprehensive approach of rebuilding the list completely would now be considered lawful.
- 5.2.4 Nevertheless we note that should the Electoral Commission's recommended changes to registration be made law, this will require the absent voters' list to be built again from scratch.
- 5.2.5 Whilst we appreciated the changes made to counting arrangements at the NIA, Members were of the opinion that further improvements were required.
- 5.2.6 We supported the strengthening of the Elections Office through the employment of a former senior police officer, and were supportive of the forensic work done by that officer and by Internal Audit.
- 5.2.7 We note that every year people attend polling stations to vote, only to be refused on the grounds that they are registered for a postal vote. Reasons for this include confusion, together perhaps with forgetfulness. In an effort to combat any potential fraudulent activity, we would support the sending of a poll card to every voter confirming the type of vote for which they are registered and to which address it will be forwarded. The Electoral Commission has made a similar suggestion. This raises a more general point that one course of action would be to anticipate, as far as is possible within the existing law, the changes the Electoral Commission has recommended. An alternative approach would be to offer Birmingham as a pilot to test new statutory arrangements, and we will return to this later.





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- 5.2.8 We were also dissatisfied with the call centre arrangements. Many constituents trying to contact the Elections Office in the run up to the General Election could not do so. The Returning Officer's view was that the City Council's call centre should be introduced into the arrangements much earlier in the period before the next municipal elections. Our considered opinion is that further strengthening is required. Queries from most members of the public could be adequately dealt with by the call centre. But the advice line for candidates and agents, who have more detailed and technical questions, should go direct to an informed officer in the Elections Office.
- 5.2.9 The Returning Officer herself sought our views on and support for a further set of developments. These included:
- a *restructuring of the Elections Office* into 3 teams, each with a senior elections officer and a deputy, and responsible for 3 or 4 constituencies (12 – 15 wards). This would be to create a stronger range of experience and expertise in the Office as a whole;
  - a *review of the number of polling stations* (particularly in the light of increased use of postal votes, and the difficulty in recruiting and training sufficient staff);
  - a *review of the procedure for recruiting polling station staff* and allocating them to particular stations;
  - an *improvement in the training of polling station staff* (including the written instructions);
  - a *quality assurance system* whereby at each election spot checks and assessments are carried out, with follow up actions if problems are found;
  - *putting the start time for counts back one hour* after the close of polls to allow time to finalise the postal votes from polling stations;
  - *continue to place observers* on the opposite sides of tables from counting staff;
  - *looking at the logistics and costs of 3 separate counts* (possibly linked to the structure of the Elections Office) rather than a centralised count.
- 5.2.10 Some of these would be sensible developments, including for example allowing sufficient time between the close of poll and the start of the count to process the postal votes. Nobody would criticise proposals for better staff training. What also needs bearing in mind when reviewing the number and location of polling stations is the need to avoid creating unreasonable queues and possible disenfranchisement.



## Electoral Matters 2005

- 5.2.11 The Returning Officer has already taken steps to enhance the support to the Elections Officer. The postholder is now subject to day-to-day oversight by an Assistant Director of Resources. What this means is that the nationally-recognised expertise of the Elections Officer on elections procedures is now supported by an experienced and successful project and process manager.
- 5.2.12 Other proposals merit further reflection. Along with many Members we have a suspicion of restructuring, particularly when, as in this case, the current structure has only been in place for a short while. The proposed review of polling stations is couched in terms of reducing them still further, when voters have complained to Members of having to queue to vote – an indication that more capacity, not less, is required.
- 5.2.13 Members may also have other priorities. Providing the Elections Office with the capacity to carry out integrity checks of postal voting is surely necessary. Similarly, it will be important to ensure that the Office does not have to cut corners but can observe fully all the legal requirements. Here we have in mind not only postal voting but also traditional voting – for example, the use of “French-style” polling booths where four booths are erected in the form of a cross may be convenient but is technically illegal as one of the booths is then out of sight of the Presiding Officer, who then cannot be sure that secrecy has been maintained and no undue influence occurred. The Committee is minded that no new 4-booth style voting compartments be purchased until there has been an opportunity of further discussions between the ERO/Returning Officer and Members.
- 5.2.14 We were also not inclined to provide the Returning Officer with a “blank cheque” by supporting particular proposals, although we would not be adverse to a higher budget for the Elections Office should a sound case be brought forward.
- 5.2.15 Taken together, all these considerations demonstrate that there is a need for clear and continuing dialogue between the Electoral Registration Officer/ Returning Officer and Members about how best to improve electoral administration in Birmingham.



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	<b>Recommendation</b>	<b>Responsibility</b>	<b>Completion Date</b>
R1	That Council Business Management Committee provide a forum through which the Electoral Registration Officer and Returning Officer can be appraised of Members' concerns and experiences when considering how best to improve the administration of elections in Birmingham	Chairman, Council Business Management Committee	November 2005
R2	That the Member forum discuss with the Electoral Registration Officer/ Returning Officer proposals for: <ul style="list-style-type: none"> <li>• the organisational structure within the Elections Office;</li> <li>• a review of polling stations which would allow for both increases and decreases in capacity according to local circumstances;</li> <li>• arrangements for the count, including the number of counting locations at local and national elections;</li> <li>• continuing actions (within existing or new legislation) to prevent and detect postal voting fraud, including further steps to clean up the absent voters' list and to undertake integrity checks following an election;</li> <li>• sending a card to every registered elector before an election, informing them of the way in which they have currently chosen to vote, and how to do so;</li> <li>• regular briefings of candidates and agents before elections, including protocols for canvassing for postal votes;</li> <li>• ensuring that the polling booths to be used in future elections fully meet statutory requirements;</li> <li>• the automatic issue of a receipt to anyone who goes to a polling station and claims not to have applied for a postal vote but is registered for one;</li> <li>• any necessary budget adjustments</li> </ul> before he introduces any changes to the operations of the Elections Office	Chairman, Council Business Management Committee	April 2006
R3	That, in the run-up to an election, a dedicated telephone advice line be set up for candidates and agents.	Chairman, Council Business Management Committee	April 2006

5.2.16 In supporting good electoral administration, there are some worthwhile actions the City Council could take. The first is to ensure that the budget provided is adequate. A second is to deter fraud through publicity and education. Honest people in Birmingham will be reassured if they are actively informed of the steps being taken to deter fraud. Similarly, the more they know about how the processes for postal voting and voting in person should work, the more vigilant they can be if attempts are made to defraud them.



## Electoral Matters 2005

- 5.2.17 The City Council's own regulations controlling the display of election posters on lampposts are less than satisfactory. Essentially there are significant administrative costs incurred by a system which does not always work. In the course of our inquiry, we asked whether there was a consensus amongst the three political groups then represented on the City Council that the display of such posters should be ended. The three groups did not agree on this. Our inquiry ended before a way forward could be agreed, but the matter should not be left in its current ineffective state.

	Recommendation	Responsibility	Completion Date
R4	That when making proposals for the City Council's budget, the Executive ensure that an adequate budget is available to the Elections Office	Leader	February 2006
R5	That Council Business Management Committee is informed of: <ul style="list-style-type: none"> <li>a publicity programme informing electors of what to expect, and when, from the processes of registration, applying for postal votes, and casting votes (postal or in person);</li> <li>work done in schools to introduce the electoral system to future electors</li> </ul>	Leader  Cabinet Member for Education and Lifelong Learning	April 2006
R6	That a simpler and more efficient system of regulating the display of election posters on lampposts is suggested to the Council Business Management Committee	Cabinet Member for Transportation and Street Services	April 2006

## 5.3 The Statutory Framework

- 5.3.1 To start this concluding section, we turn once more to the words of Commissioner Mawrey:

"In the course of preparing my judgment, my attention was drawn to what I am told is an official Government statement about postal voting which I hope I quote correctly:

***There are no proposals to change the rules governing election procedures for the next election, including those for postal voting. The systems already in place to deal with the allegations of electoral fraud are clearly working.***

Anybody who has sat through the case I have just tried and listened to evidence of electoral fraud that would disgrace a banana republic would find this statement surprising. To assert that "The systems already in place to deal with the allegations of electoral fraud are clearly working" indicates a state not simply of complacency but of denial.

The systems to deal with fraud are not working well. They are not working badly. The fact is that there are *no* systems to deal realistically with fraud and there never have been. Until there are, fraud will continue unabated."



## Electoral Matters 2005

- 5.3.2 Six months have passed since these words were written and the Government has still not produced formal proposals for a change in the law, despite the advice of the Electoral Commission. Whether this is evidence of complacency, denial or administrative prudence is beside the point – the Department for Constitutional Affairs could by now have responded to a consultation which started on 25 May and concluded on 10 June 2005.
- 5.3.3 Until the appropriate changes are made, the public cannot be reassured that postal voting fraud will be eliminated. Whilst the Government will no doubt wish to balance the ease of voting against the need to restore trust in the integrity of the electoral system, at this point the latter must take precedence.
- 5.3.4 The Government, therefore, must be encouraged to bring appropriate legislative proposals forward as soon as possible, and for the proposed measures to be as strong as practicable. Even then there will be practical issues to explore and, if necessary, new systems could be piloted in Birmingham.
- 5.3.5 Only when this has been done can there be confidence that the situation described by Commissioner Mawrey belongs to the past.

	<b>Recommendation</b>	<b>Responsibility</b>	<b>Completion Date</b>
R7	That the Department for Constitutional Affairs be reminded of Commissioner Mawrey's findings and the urgent need to change the law so as to tackle postal voting fraud	Chairman, Council Business Management Committee	October 2005
R8	That the City Council work closely with Birmingham MPs to ensure that the forthcoming Electoral Administration Bill contains measures which are as strong as possible in combating postal voting fraud	Chairman, Council Business management Committee	April 2006
R9	That the Electoral Commission be informed of the City Council's willingness for any new procedures aimed at tightening registration and combating postal voting fraud to be trialled in Birmingham	Chairman, Council Business Management Committee	October 2005
R10	Progress towards achievement of these recommendations should be reported to the Co-ordinating Overview and Scrutiny Committee in June 2006.	Chairman, Council Business Management Committee	June 2006

Subsequent progress reports will be scheduled by the Committee thereafter, until all recommendations are implemented.



# **Electoral Matters 2005**



## Appendix 1 Progress on Previous Scrutiny Recommendations

Recommendation	Evidence of progress:
<p>R.1 that the City Council, in affirming the necessity of encouraging more people to vote in local elections and of taking proportionate action against electoral malpractice, asks Council Business Management Committee set up a working group of elected Members:</p> <ul style="list-style-type: none"> <li>● to engage with the people of Birmingham to build consensus over how best to tackle these issues;</li> <li>● to bring the situation in Birmingham to the notice of the Electoral Commission, so that the work can both benefit from, and also inform, the latest national thinking on these issues;</li> <li>● to report to the City Council by July 2003 with practical recommendations for improving participation at the May 2004 elections, including measures for increasing the security of both the Electoral Register and the poll.</li> </ul>	<p><i>Working group set up early in 2003 and held final meeting on 26 March 2004. Final report to Council Business Management Committee 21 September 2004.</i></p>
<p>R2 that the City Council request Council Business Management Committee to review the policy on prosecution for non-registration, with a view to introducing a tighter policy, similar to that of East Cambridgeshire District Council, for the compilation of the 2003 Register of Electors.</p>	<p><i>On 6 August 2003 Council Business Management Committee considered the matter but resolved not to change the current approach.</i></p>
<p>R3 that to increase the rigour of the Electoral Register the City Council should ask the Electoral Commission to make the following improvements:</p> <ul style="list-style-type: none"> <li>● a fixed monthly deadline should be introduced following which applications can be inspected and objections made;</li> <li>● all electoral registers should be linked to prevent multiple registrations;</li> <li>● mandatory rolling registration should be introduced, so that the previous occupier could be deleted from the register when the new occupier registers, and the voter removed from their previous address.</li> </ul>	<p><i>These points were made to the Electoral Commission during their consultation on registration procedures.</i></p>



## Electoral Matters 2005

<p>R4 that the City Council informs the Electoral Commission of its support for the Commission's proposals which increase public confidence in, and the administration of, the postal voting system, and in particular supports proposals to:</p> <ul style="list-style-type: none"> <li>● provide an up to date offence framework covering fraud and personation, and to aid the police in their investigations;</li> <li>● require an explanation of requests to redirect postal ballots, so as to discourage the redirection of multiple ballots to one address;</li> <li>● allow a watermark or similar device to be used on postal ballot papers instead of the official mark, thus allowing the current labour intensive task of issuing these papers to be automated; and</li> <li>● introduce a requirement for all Declarations of Identity to include a bar code so that a "marked register" of postal voters can be made available.</li> </ul>	<p>These views were passed to the Electoral Commission during their consultation on absent voting.</p>
<p>R5 that the Returning Officer investigate the feasibility of employing more temporary staff to process late postal voting applications; and also consider the use of first class mail or a messenger service for the dispatch of all postal ballot papers in the ten days before polling day.</p>	<p>More temporary staff have been employed for this purpose.</p>
<p>R6 that the local regulations governing the display of local election posters on lampposts be tightened and strictly enforced, as set out in paragraph 11.9 of this report.</p>	<p>Report prepared for O&amp;S Committee detailing the revisions made to the scheme and the current issues.</p>
<p>R7 that the City Council accepts as a point of principle that its staff should be made available to the Returning Officer to ensure that polling stations are properly staffed. Detailed arrangements for implementing this principle should be agreed between the Chief Executive and Chief Officers.</p>	<p>Achieved.</p>
<p>R8 that in briefing polling station staff before the May 2003 election, the Elections Office emphasise that staff are required to interpret strictly the provisions governing the secrecy of the polling booth, absent voting by named proxies only, and tendered ballot papers.</p>	<p>Staff have been fully briefed both last year and this.</p>





## Electoral Matters 2005

<p>R9 that in preparing for the 2003 local election, the City Council request the Returning Officer to identify, through discussion with West Midlands Police and others, areas of the city where extra staff at or supporting polling stations would be likely to aid the efficient conduct of fair, free and secure elections; and that the Council support the Returning Officer in deploying, at her discretion, either dedicated security staff at individual polling stations or increasing the number of Polling Station Control Officers up to a total of one per Ward.</p>	<p>West Midlands Police have not made blanket provision for operational reasons but made specific arrangements in particular areas and polling stations.</p>
<p>R10 that the City Council ask the Returning Officer to consider ways of improving security at counting centres, and to discuss these with the appropriate Member Group before deciding to introduce any changes.</p>	<p>Improved security arrangements at the NIA this year.</p>



## Appendix 2 Statistical Information

### Miscellaneous information and statistics requested from the Elections Office.

The following information is supplied as requested:

	May 2002	May 2003	June 2004	May 2005
Turnout*	31.6%	29.4%	38.0%	55.7%
Ballot papers counted*	227,449	210,399	270,357	392,408
Postal vote applications	20,047	28,014	70,075	56,101
Postal votes counted	14,122	18,146	49,987	40,605

\*Including postal votes

#### June 2004

Postal ballots received after polling day (until 14 July) 678

Number of polling stations 523

#### Staffing Arrangements

Permanent Elections Office staff 12.5 (full time equivalents)

Temporary clerical staff for Canvass – 17 staff for up to 14 weeks - £40,000  
550 Canvassers and 46 Canvass supervisors - £160,000

Temporary staff to issue postal votes – Approximately 40 staff for 10 days  
Temporary staff to open postal votes – Approximately 60 staff for 4 days

523 Presiding Officers  
523 Poll Clerks  
800 counting staff

#### Budgets

Local Government Elections £400,000  
Electoral Registration £870,000

#### Canvass response levels: 2001 - 2003

See attached sheet

#### Tendered ballot papers issued 2002 - 2004

See attached sheets



## Electoral Matters 2005

### REGISTER OF ELECTORS - CANVASS RESPONSE LEVELS

WARD	CANVASS RESPONSE LEVEL (%)		
	DEC 2001	DEC 2002	DEC 2003
Acocks Green	96.6	94.6	94.7
Aston	88.1	86.9	84.9
Bartley Green	95.7	95.8	95.4
Billesley	96.1	96.4	93.8
Bournville	97.5	97.1	96.6
Brandwood	96.1	95.9	94.8
Edgbaston	87.6	85.0	84.4
Erdington	92.5	90.8	89.8
Fox Hollies	95.5	94.5	94.9
Hall Green	98.0	96.5	95.6
Handsworth	87.4	86.3	85.1
Harborne	91.7	92.1	91.8
Hodge Hill	96.5	96.6	96.4
King's Norton	95.8	94.3	95.2
Kingsbury	94.8	95.8	95.3
Kingstanding	96.9	96.6	94.5
Ladywood	83.6	82.1	81.4
Longbridge	95.4	96.0	96.3
Moseley	92.5	93.4	91.8
Nechells	89.7	88.5	86.7
Northfield	95.7	95.1	95.9
Oscott	95.8	96.1	95.8
Perry Barr	97.6	96.2	95.7
Quinton	96.8	95.2	94.5
Sandwell	91.3	90.7	88.3
Selly Oak	96.5	94.9	92.7
Shard End	96.6	94.6	95.8
Sheldon	97.8	96.3	95.3
Small Heath	93.1	93.2	91.8
Soho	88.4	86.6	87.1
Sparkbrook	90.8	88.3	87.4
Sparkhill	91.7	90.3	90.9
Stockland Green	92.8	91.2	88.6
Sutton Four Oaks	97.3	98.0	98.3
Sutton New Hall	97.4	96.3	97.1
Sutton Vesey	97.5	96.4	97.5
Washwood Heath	94.7	93.8	92.9
Weoley	96.8	96.6	96.2
Yardley	96.3	95.0	95.4
<b>TOTAL</b>	<b>94.1</b>	<b>93.3</b>	<b>92.7</b>



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Ward	Local Government Electorate	Canvass Response Level (%)
	DEC 2004	DEC 2004
Acocks Green	19,475	93.1
Aston	17,889	78.0
Bartley Green	17,917	94.3
Billesley	18,667	94.1
Bordesley Green	19,676	89.7
Bournville	19,480	96.3
Brandwood	17,361	94.5
Edgbaston	16,896	81.2
Erdington	16,735	92.1
Hall Green	18,704	94.6
Handsworth Wood	18,877	87.4
Harborne	16,406	87.5
Hodge Hill	17,545	92.1
King's Norton	17,099	93.6
Kingstanding	17,356	94.2
Ladywood	13,871	70.8
Longbridge	18,341	95.0
Lozells & East Handsworth	18,462	84.1
Moseley & King's Heath	18,508	88.8
Nechells	17,905	82.6
Northfield	18,702	94.0
Oscott	18,249	93.9
Perry Barr	16,943	91.8
Quinton	17,506	91.0
Selly Oak	18,303	91.8
Shard End	18,203	93.6
Sheldon	15,819	94.7
Soho	16,485	83.7
South Yardley	19,042	90.5
Sparkbrook	19,118	89.2
Springfield	19,068	90.9
Stechford & Yardley North	17,922	93.9
Stockland Green	15,968	85.9
Sutton Four Oaks	18,601	97.5
Sutton New Hall	17,466	97.3
Sutton Trinity	19,396	93.6
Sutton Vesey	18,321	97.1
Tyburn	16,637	91.4
Washwood Heath	19,280	89.6
Weoley	17,765	94.0
<b>TOTAL</b>	<b>715,964</b>	<b>90.7</b>



## Electoral Matters 2005

### Tendered Ballot Papers issued at Recent Elections

#### Elections in Birmingham – 2002 and 2003

WARD	MAY 2002	MAY 2003
Acocks Green	0	0
Aston	3	5
Bartley Green	0	0
Billesley	0	7
Bournville	0	0
Brandwood	0	2
Edgbaston	0	0
Erdington	1	0
Fox Hollies	0	0
Hall Green	0	0
Handsworth	1	4
Harborne	1	0
Hodge Hill	0	0
Kingsbury	1	0
King's Norton	0	0
Kingstanding	0	0
Ladywood	0	2
Longbridge	0	0
Moseley	0	3
Nechells	2	2
Northfield	0	0
Oscott	0	0
Perry Barr	0	0
Quinton	0	0
Sandwell	0	0
Selly Oak	1	0
Shard End	0	2
Sheldon	0	0
Small Heath	9	90
Soho	1	2
Sparkbrook	1	1
Sparkhill	1	3
Stockland Green	0	1
Sutton Four Oaks	0	0
Sutton New Hall	1	0
Sutton Vesey	0	1
Washwood Heath	2	7
Weoley	1	0
Yardley	0	1
<b>TOTAL</b>	<b>26</b>	<b>131</b>



# Electoral Matters 2005

## Tendered Ballot Papers issued at Recent Elections

### Elections in Birmingham – 2004 and 2005

WARD	JUNE 2004	MAY 2005
Acocks Green	1	1
Aston	1	2
Bartley Green	0	0
Billesley	2	0
Bordesley Green	9	2
Bournville	1	0
Brandwood	0	0
Edgbaston	0	0
Erdington	0	1
Hall Green	0	0
Handsworth Wood	1	1
Harborne	1	0
Hodge Hill	1	1
Kings Norton	0	0
Kingstanding	0	2
Ladywood	0	0
Longbridge	1	1
Lozells & East Handsworth	0	1
Moseley & Kings Heath	0	0
Nechells	1	4
Northfield	0	0
Oscott	0	1
Perry Barr	0	0
Quinton	3	0
Selly Oak	0	0
Shard End	2	2
Sheldon	0	1
Soho	5	2
South Yardley	0	2
Sparkbrook	1	2
Springfield	1	0
Stechford & Yardley North	0	1
Stockland Green	2	1
Sutton Four Oaks	0	4
Sutton New Hall	1	1
Sutton Trinity	0	0
Sutton Vesey	1	0
Tyburn	0	0
Washwood Heath	0	3
Weoley	0	2
<b>TOTAL</b>	<b>35</b>	<b>38</b>



## Appendix 3 Summary of Responses

- 1.1 In late August/early September 2004, 623 letters were sent to Birmingham City Councillors; local MPs and West Midlands MEPs; Local Election, European Parliamentary Election and Hodge Hill By-Election candidates and agents inviting comments on issues around the elections held in June and July 2004. Also, an article which appeared in the Birmingham Evening Mail on 3<sup>rd</sup> August 2004 included an appeal from the previous Chairman (Councillor John Alden) for comments from members of the public.
- 1.2 To date, 69 responses have been received and some of those respondents are satisfied that there were no issues concerning postal voting or electoral registration in their wards. There are also many positive comments congratulating the conduct of the counting staff in, what turned out to be, very difficult circumstances. Other comments/suggestions are listed below -

- **Postal voting**

- open to abuse under current legislation
- electors either receiving ballot papers very late or not receiving them at all despite being on postal vote list
- a card should be sent to each voter stating whether they have registered for a postal, proxy or normal vote
- only votes posted on or prior to polling day (as indicated on the postmark) are valid
- postal votes should not be opened before polling day
- integrity checks should be completed after the election
- some people unaware of procedure and could not obtain a witness signature
- perhaps the Elections Office should set up a "help line"
- distribution/collection of ballot papers should be carried out by election officials

- **Electoral registration**

- current system needs urgent review so any elector who fails to register each year should be removed from register immediately
- more emphasis needs to be placed on the fact that it is an offence not to register
- completeness of register in multi-occupied dwellings is poor
- individual registration not households and random, spot and resident checks should be made
- vendors' packs should be introduced for people selling their homes. The pack would contain a registration card and a



## Electoral Matters 2005

- statutory obligation to return it
- verification forms delivered to the wrong addresses
- telephone verification process requires the use of '#' key which many residents do not possess on their telephone keypads.

### ● Polling stations

- failure to display notice of poll outside a small number of stations
- a reduction in the number of polling booths led to queues outside polling stations
- insufficient staff at busy times
- polling stations should be located in supermarkets
- location changes caused confusion
- number/location of polling stations should be reviewed periodically
- each polling station should have one polling booth for wheelchair users
- access to polling station blocked by canvassers
- need clear rules to ascertain whether party political representatives are allowed inside entrance hall or outside building
- need to review arrangements for handling postal ballots returned to polling station – the ballot is currently handed to the Presiding Officer rather than put in a sealed box
- security in polling stations. Mixed views from respondents some were happy with the present arrangements, others thought security should be improved.
- polling stations should be manned by observers

### ● The counts

- most of the comments received were concerned with the count on Friday 11<sup>th</sup> June, but several respondents commented that a delayed start to the European Parliamentary count led to the result being announced too late to get any detailed media coverage
- large number of 'single votes' cast across multiple parties added to the workload thus extending the duration of the count
- insufficient number of trained staff
- physical conditions i.e. layout, refreshments, seating, air conditioning etc were inadequate
- no standard counting methodology
- inefficient security – no checks being made on cars or candidates/agents entering or leaving the building
- the provision for meeting the basic human needs of counting staff was poor
- counts should be held within the constituency rather than a central location

### ● Election posters

- lack of enforcement over illegally/dangerously sited posters
- set up a hotline for members of the public to report posters still on display after the allowed period
- limit number of posters i.e. 2 every thousand yards. No deposit





## Electoral Matters 2005

- but charged heavily should candidate exceed limit
  - election posters should be banned
  - should issue a receipt for deposit and publish a list indicating which candidates have sought/gained permission to display posters
  - political parties should pay a bond which would not be returned until all posters had been removed.
- **Other issues**
- advice and information received from the Elections Office is variable
  - voting should be made compulsory
  - to prevent personation, there should be a requirement to state one's date of birth to the Presiding Officer
  - voters should prove their ID (with the use of an ID card) before receiving a ballot form
  - ballot paper order should not be printed alphabetically but randomly
  - the amount allowed to spend on election expenses is unfair to independent candidates
  - we should be pursuing internet voting.



## Appendix 4 The Opt2Vote System

### Fully Enclosed Postal Ballot Solution

The fully enclosed postal provision solution that **OPT2VOTE** has developed includes:

- Project Management;
- Full Quality Assurance;
- Data Management;
- Ballot Paper design – Single Ballot Paper, with unique Ballot Paper Number;
- Pack Design, with appropriate outbound, return and secrecy envelopes, accompanying Declaration of Identity and instruction leaflet;
- Amendments/changes to mailings i.e. 'pulls';
- Collation of Ballot Packs;
- Enclosing of Ballot Packs;
- Issue of Ballot Packs to Royal Mail.

The postal pack itself comprises of the typical postal ballot elements as detailed in the statutory regulations. However **OPT2VOTE** has introduced specific innovations to its own design. This solution, which is the copyright of **OPT2VOTE**, reduces the number of matched inserts and makes the handling of the returned mail, by local authorities, very much easier.

The address information on the mailer fits in the windows of the designed envelopes with the Royal Mail required specified clear space.

The bottom panel is a manufactured envelope with an extended flap which incorporates a sealed envelope flap, a declaration of identity and address carrier. There is a perforation between the address carrier and the Declaration of Identity and another perforation line between the DOI and the envelope flap. The envelope flap has a fold line at the top of the envelope and has a glue strip on the reverse.

### Returned Ballot Managed Services

**OPT2VOTE** has designed a unique software solution that removes much of the manual effort required during the management of returned postal ballot packs. The scanning solution ensures that every postal ballot paper included in the final count is accompanied by a valid declaration of identity.

The Returned Ballot Managed Services includes:

- Project management;
- Scanning equipment and all associated hardware;
- **OPT2VOTE** software;
- Validation of returned Declarations of Identity (DOI)



## Electoral Matters 2005

The solution scans the returned declaration to identify those without a signature in the 'set' area(s), as a further back up to the manual check.

- Authentication of returned ballot papers

The solution will 'match' all ballot papers and declarations. Provisionally rejected ballot papers will be included in the count when matched with a DOI.

- Marked register (if required)

On close of the election a marked register will be produced.

- Reports any replaced ballot papers – ensuring any fraud attempts are always detected
- Reports all duplicate ballot papers, acting an effective fraud deterrent
- Accurate count of returned postal ballots
- Clear audit trail for postal votes



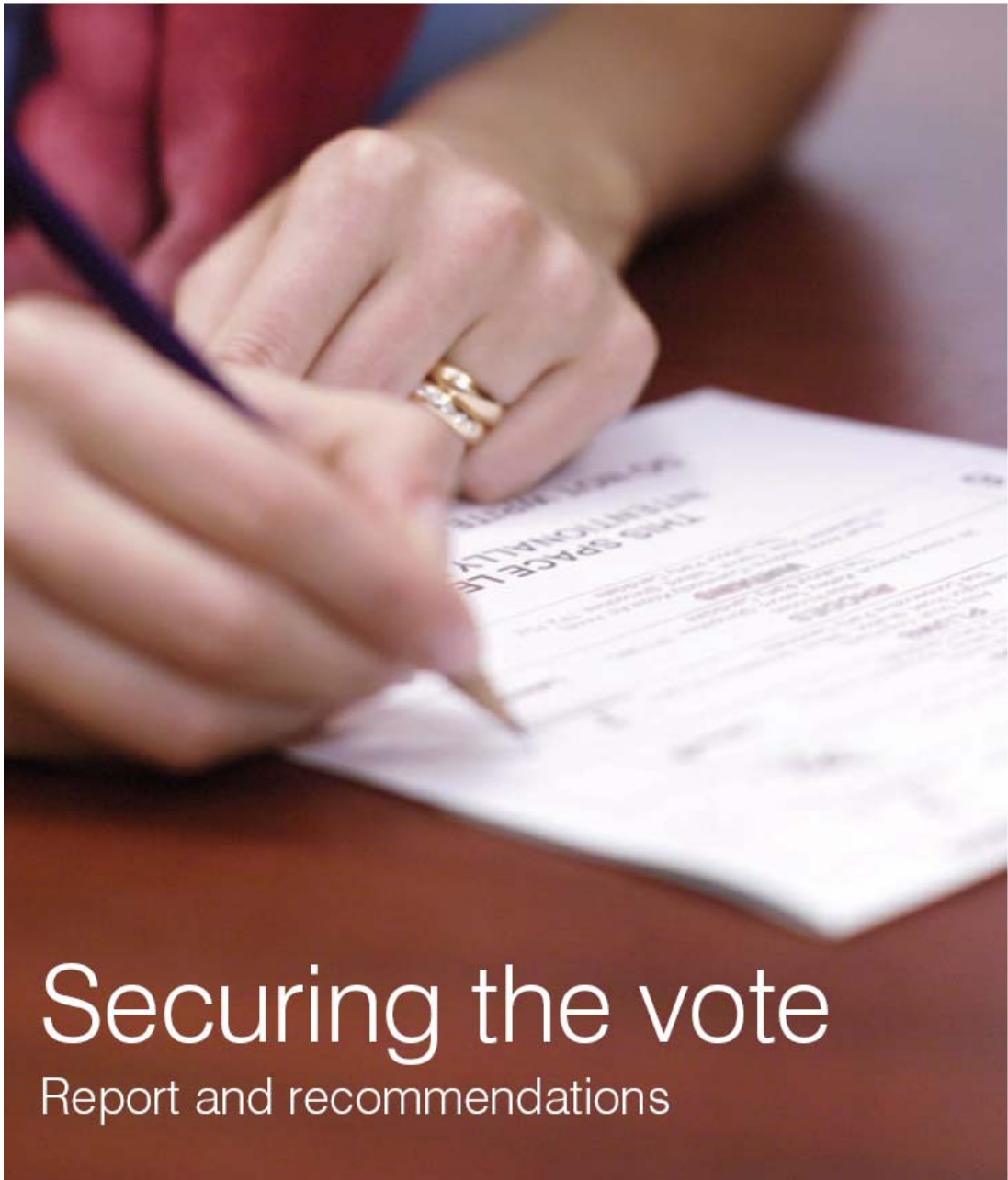
# **Appendix 5    Securing the Vote – Executive Summary**



## Electoral Matters 2005

May 2005

The  
Electoral  
Commission



# Securing the vote

Report and recommendations



## Executive summary

The Electoral Commission has made a series of recommendations, since its establishment in 2000, for improving the voting system in the UK. This report brings together the key changes which the Commission believes are necessary in order to ensure continued public confidence in UK elections.

The Commission thinks it is right to continue to offer electors a choice of ways in which to cast their vote. However, using methods other than voting in person at a polling station carries various consequences, and electors must make a positive choice for those methods; in other words, the polling station should remain the foundation of our voting system for the present. Over time, the Commission continues to support the goal of offering a variety of methods of voting, including electronic voting options.

But any method of voting which is offered to electors as an alternative to the polling station must command public confidence, and must in particular involve high standards of security and reliability.

In this context, the Commission continues to support the availability of postal voting on demand in Great Britain. However, we believe that changes to improve the security and reliability of postal voting on demand are essential to secure its future as part of the electoral process.

All-postal voting should not be pursued for use at future statutory elections or referendums in the UK, and the option of sending ballot papers automatically to every registered elector should not be pursued.

This report sets out a package of recommendations for change to the process of registering to vote and applying for, receiving and casting a postal or proxy vote, together with recommendations relating to the process of voting in person at a polling station. We believe



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that these changes are essential measures to secure the future of postal voting. We also regard it as essential that any changes to reform the foundations of electoral processes in the UK are realistically and appropriately resourced, in order that they can be implemented effectively and in a timely fashion.

### Main recommendations

The Commission's full set of recommendations is set out in detail in chapter 6 of this report, but these are the main points.

#### Improving the registration process

The current system of household registration should be replaced by individual registration. All electors should be required to provide individual identification details (we recommend signature and date of birth) in addition to their name and address when registering to vote.

The deadline for registering to vote for a particular election should be moved until after the election has been announced – for a UK Parliamentary general election,<sup>1</sup> it should be moved to 11 working days before polling day.

Electoral registers should be maintained electronically and continuously updated.

#### Voting in the polling station

Where a Presiding Officer in Great Britain has doubts about a voter's identity, they should be empowered to ask the voter to confirm their date of birth, which would be checked against the information held on the new register.

<sup>1</sup> Hereafter referred to as 'general election'.

#### Postal voting

All postal and proxy vote applications should include the personal identification details (date of birth as well as signature) collected at registration. Electoral Registration Officers in Great Britain should check personal identification details against the new register.

The deadline for electors to apply for a postal vote should be moved from six to 11 working days before polling day, to allow time for more efficient and accurate production of postal ballot packs.

All applications for postal votes must bear the return postal address only of the Electoral Registration Officer; or, if an alternative option is needed, the address of a central sorting house which is operated independently of political parties.

The lists of electors who have asked for a postal or other remote vote should be made available for public inspection before the close of poll. Copies of the lists should be made available to election candidates, agents and political parties for electoral purposes.

Electoral Registration Officers should provide written confirmation of all decisions on postal voting applications, rather than providing them only 'where practicable'.

All voters should be sent a pre-polling information card, telling them how to vote as well as when and where to do so.

Postal ballot papers should be accompanied by a 'plain English' guide explaining how to complete them correctly.



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The current declaration of identity should be replaced with a new security statement to accompany postal ballots. This security statement should include a statement signed by the voter that they are the individual to whom the ballot paper was addressed, and the voter should give their date of birth.

Secrecy warnings should be included on postal and proxy voting literature.

Registered postal voters should be able to apply in person for a replacement ballot paper at any point up to 5pm on polling day.

Returning Officers should check the individual identification details provided on the security statement for every postal vote against the details provided on the postal vote application form and on the new electoral register.

There should be new offences designed to prevent fraudulent applications for postal or proxy votes.

### Wider issues

Core funding for electoral services (i.e. funding for staffing, training, infrastructure, registration services and conducting UK elections and referendums) should come from the Consolidated Fund via The Electoral Commission, so that the funding can be matched with national standards which the Commission would also establish.

The existing provisions relating to personation should be extended to give the police the power of arrest, based on 'reasonable suspicion' of personation at any location, not just at polling stations.

The law on undue influence should be revised to clarify the nature of the offence.

Returning Officers and Electoral Registration Officers should be given powers to provide key statutory forms (including registration forms, polling station notices, etc.) in a variety of languages and formats in addition to English and Welsh. The languages used would be at the discretion of the Returning Officer. We would recommend that, where this power is used, both English and the second language should appear on the relevant form.

The legal position of Electoral Registration Officers and Returning Officers in relation to funding publicity to encourage participation should be clarified.

The Electoral Commission looks forward to working with the Government, all political parties, those involved in the administration of the electoral process and others to move towards the implementation of the recommendations in this report at the earliest opportunity.





## Appendix 6 Background Documents

1. Display of Election Posters on the Highway – Revised Arrangements: Note prepared for the Inquiry by Alistair Campbell, Head of Constituency Services, Highways Service, and circulated to Members of the Committee in November 2004
2. Executive Summary of the Judgment in the matter of a Local Government Election for the Bordesley Green Ward of the Birmingham City Council held on 10<sup>th</sup> June 2004 and in the matter of a Local Government Election for the Aston Ward of the Birmingham City Council held on 10<sup>th</sup> June 2004
3. Electoral Commission Circular EC24/2004, “Post-election integrity checks”, 24 May 2004.
4. House of Commons ODPM Housing, Planning, Local Government and the Regions Select Committee, Report on Postal Voting, 11 May 2004
5. Electoral Commission, “Securing the Vote”, May 2005
6. Department for Constitutional Affairs, “Electoral Administration – A Policy Paper for Discussion”, 25 May 2005
7. Birmingham City Council, Report of the Chief Legal Officer to the Council Business Management Committee, “Department for Constitutional Affairs – Policy Paper for Discussion”, 21 June 2005