



## Polling stations and hours of polling

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Lengthy queues at a number of polling stations at the close of poll at the general election on 6 May 2010 meant that a number of voters were unable to cast their votes. This Note gives details of the legislative provisions and the Electoral Commission's guidance relating to polling hours, polling stations and the responsibilities of (Acting) Returning Officers.

The Electoral Commission decided to hold an immediate review of problems experienced by voters on polling day and this was published on 20 May 2010. The Commission recommended that the law should be changed to allow people still queuing at polling stations at 10pm to cast their vote. In its report on the administration of the 2010 general election the Commission again called for a change in the law.

The House of Lords Constitution Committee also called for the law to be amended so that voters who are present or in a queue at a polling station at the close of poll should be entitled to cast their votes.

The House of Commons Political and Constitutional Reform Committee and the Government have taken a different view, suggesting that addressing 'inadequate planning processes and contingency arrangements' should be a priority before a legislative solution is sought.

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## 1 Background

General Elections are held on Thursdays by convention, although local elections are held on the first Thursday in May by statute.<sup>1</sup> General elections used to take place over a period of a number of days, often two to three weeks, until after the First World War when the *Representation of the People Act 1918* made provision for general elections to be held on a single day. The first time the general election was held on a single day was Saturday, 14 December 1918.

From 1885 to 1913 the hours of polling at a general election were between 8am and 8pm. From 1913 to 1950 this could be extended by one hour in the morning and/or one hour in the evening if this was requested by any of the candidates. From 1950 to 1970 polling hours were from 7am to 9pm and from 1970 polling has taken place between 7am and 10pm.<sup>2</sup>

## 2 Legislative provisions and Electoral Commission guidance

Rule 1 of the Parliamentary Elections Rules in Schedule 1 of the *Representation of the People Act 1983* states that the hours of polling at a Parliamentary and local election are between 7am and 10pm.

In its guidance for presiding officers at polling stations at the 2010 general election, a *Handbook for polling station staff*, the Electoral Commission states that polling must stop at 10pm and that polling station staff should:

- Make sure that the doors to the polling station are closed at exactly 10pm.
- Anyone who has been issued with a ballot paper by 10pm must be allowed to vote.
- No one may be issued with a ballot paper after 10pm even if they are inside the polling station and waiting to receive their ballot paper.<sup>3</sup>

## 3 Responsibilities of Returning Officers

Returning Officers in England and Wales are treated as honorary positions which are held by a Mayor or Sheriff; it is the Acting Returning Officer who organises the election. The (Acting) Returning Officer is normally the Chief Executive of a local authority. In turn, the ARO will delegate functions to Deputy Returning Officers.

The Electoral Commission's manual for (Acting) Returning Officers for the 2010 general election gives further information about their responsibilities:

### Discharge of duties of the (Acting) Returning Officer

4.5 The duties of the (Acting) Returning Officer are separate from their duties as a local government officer. This follows from Section 27(1) of the RPA 1983, which has the effect of making the office of (Acting) Returning Officer totally distinct from the office by virtue of which they have become (Acting) Returning Officer.

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<sup>1</sup> *Representation of the People Act 1983* (Chapter 2), s37

<sup>2</sup> Table 5.12, *British Electoral Facts 1832 – 2006*, compiled and edited by Colin Rallings and Michael Thrasher. Ashgate, 2007

<sup>3</sup> *Handbook for polling station staff*, Electoral Commission, 2010

4.6 The provision serves to emphasise the independence of the (Acting) Returning Officer at a UK Parliamentary general election from their local authority. They are directly accountable to the courts system as an independent statutory office holder.

#### **Breach of official duty**

4.7 If the (Acting) Returning Officer is, without reasonable cause, guilty of any act or omission in breach of their official duty they are liable on summary conviction to a fine not exceeding £5,000.<sup>14</sup> An (Acting) Returning Officer is, in respect of any breach of their official duty, liable only to the fine imposed by that section. No action for damages lies against the (Acting) Returning Officer or their staff in respect of a breach of official duties.

4.8 The (Acting) Returning Officer has the power to correct procedural errors they have made, an Electoral Registration Officer, a Presiding Officer, a person providing goods or services to the (Acting) Returning Officer and any Deputy or authorised assistant of any of the above. Where an (Acting) Returning Officer remedies an act or omission by using this power, they will not be guilty of an offence of breach of official duty, except where any conviction for such a breach is made before the act or omission has been remedied in full.<sup>4</sup>

Section 64 of the *Representation of the People Act 1983* and section 46 of the *Electoral Administration Act 2006* govern breaches of official duty and make provision for powers to remedy procedural errors. (Acting) Returning Officers can also be the subject of electoral petitions under Part III of the *Representation of the People Act 1983* if there are questions as to the conduct of the election.

For further information see Library Standard Note SN/PC/5302 which sets out the general responsibilities of Returning Officers and Acting Returning Officers in Great Britain. The Note also gives information about the performance standards for Returning Officers issued by the Electoral Commission and funding for elections generally.<sup>5</sup>

## **4 Provision of polling stations**

Electoral law does not set out specific rules about the logistics of polling places and polling stations although there are statutory rules about opening hours, staffing, voting procedures and the notices which have to be displayed. In *Running Elections 2009* by Roger Morris and David Monks of the Society of Local Authority Chief Executives, the authors noted that local practice will vary as to the choice and arrangement of polling stations:

The number of stations must be adequate: one station might be quite adequate for, say, 1250 electors if you expect a 30% turnout over fifteen hours at a local election, but need doubling up for an anticipated 70% turnout over that period at a Parliamentary election. Similarly, the first station might have a presiding officer (compulsory) and one polling clerk: two poll clerks, however, might be necessary in the second case to allow the staff both to keep proper control without too much queuing and also to take proper breaks during a long day.

Polling stations need to be reasonably suitable for their purpose, and have access for the disabled...That also includes people who are so-called 'semi-ambulant' – an elderly person, for instance, may find a long walk in from the

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<sup>4</sup> [http://www.electoralcommission.org.uk/\\_\\_data/assets/pdf\\_file/0011/83369/Part-A-Final-Proofs-ok-web.pdf](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0011/83369/Part-A-Final-Proofs-ok-web.pdf)  
<sup>5</sup> SN/PC/5302

pavement just as much of a deterrent as steps are to a wheelchair user or to a parent with a pushchair.

The *Representation of the People Act 1983* placed an obligation on local authorities, so far as reasonable and practicable, to designate as polling places only places which were accessible to disabled people and to keep the polling places under review. The Electoral Commission published a report in 2003, *Equal access to democracy*, which looked at the application of the *Disability Discrimination Act 1995* to polling stations. The Commission noted some of the key issues:

2.1 Perhaps the most fundamental point concerning polling stations is that there are virtually no purpose-built polling stations, if any at all. Moreover, none are owned by the Returning Officer, but rather hired for the day. Premises used range from village halls, community centres and schools to more unusual locations such as private garages, fish and chip shops, pubs and supermarkets. In many areas, electoral administrators have reported that there is very little choice as what to use as a polling station, either because suitable buildings just do not exist or their owners will not allow them to be used as polling stations. There is an inherent difficulty in any obligation on Returning Officers to make polling stations accessible in premises which they hire for only one or two days a year. They also have to consider the needs of all electors in allocating a polling place and at times there can be a conflict between providing a fully accessible polling station and providing one which is in a convenient location.

#### **4.1 Reviews of polling places**

Following the recommendations of the Electoral Commission, and pressure from SCOPE and other organisations, the *Electoral Administration Act 2006* amended section 18 of the RPA 1983 to make it a duty for local authorities to review polling places. The first review had to take place within 12 months of the coming into force of part 4 of the *Electoral Administration Act 2006* (this was by the end of 2007). Local authorities are required to carry out a further review within four years of this review. The term 'polling place' refers to the area in which a polling station is situated. The main purpose of the changes to the legislation was to ensure that local authorities improved the accessibility of polling stations for disabled people.

The Electoral Commission has issued guidance for Returning Officers about reviews of polling districts, polling places and polling stations but it does not directly oversee the reviews; the Commission only becomes involved if representations are made to it that the review process was not conducted correctly (this has to be done within six weeks of the publication of the review).

The Electoral Commission's circular, EC28/2007, sets out the requirement that a notice of the review must be publicised and that representations by electors may then be made to the local authority.<sup>6</sup> The Circular sets out the considerations that the local authority must take into account before drawing up the new proposals. Once this has been done the Returning Officer for Parliamentary elections must comment on the proposals; the Electoral Commission notes in the Circular that:

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<sup>6</sup> The Circular is available at [http://www.electoralcommission.org.uk/\\_data/assets/electoral\\_commission\\_pdf\\_file/0013/12622/EC282007Reviewsofpollingdistrictspollingplacesandpollingstations\\_26586-19804\\_\\_E\\_\\_N\\_\\_S\\_\\_W\\_\\_.pdf](http://www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0013/12622/EC282007Reviewsofpollingdistrictspollingplacesandpollingstations_26586-19804__E__N__S__W__.pdf)

The location of the proposed polling districts and places are the responsibility of the local authority and the locations of the polling stations are the responsibility of the Returning Officer.<sup>7</sup>

The local authority then has to publish the Returning Officer's comments within 30 days of their receipt and publicise them. The local authority must consult widely on the review and has to take into account all the representations made before finalising its proposals and the council has to agree them. Once the council has agreed them the details of the new polling districts and polling places must be made available to the public. Local authorities may carry out another review earlier than the four year maximum period and the polling districts and places must be kept under review between major reviews. There is no reason why changes should not be made to polling districts and places between reviews.

The Electoral Commission's guidance on how to decide on polling districts and polling places includes the following considerations:

30. Administrators should decide on the appropriate number of electors per polling station and place. If there appears to be a need in all or particular elections (considering, for example, UK Parliamentary elections may have a higher turnout than local government elections) for multiple polling stations in a polling place, it will need to be considered if the polling place can accommodate them. Consideration should be given to the numbers of electors who now vote by post as they will not be voting at the station itself although they may cancel their absent vote before the deadline or drop off their postal ballot pack on polling day.

31. The choice of polling place will often be a balance between the quality (access, facilities, etc.) of a building and the distances between the residents and that building compared to other options for polling places. There is no fixed rule on how to decide how this should be done. The legislation provides that all electors in a constituency should have such reasonable facilities for voting as are practicable in the circumstances. Administrators should show they followed a reasonable methodology in arriving at their choice.<sup>8</sup>

On 13 July 2011 the Government published draft legislation on three electoral administration provisions for pre-legislative scrutiny. These draft provisions extend the timetable for UK Parliamentary elections from 17 to 25 working days; allow Parliamentary election candidates jointly nominated by two or more political parties to use an emblem on the ballot paper and make changes to the timing of polling place reviews in Great Britain to bring them into line with the new arrangements for fixed-term Parliaments and the five year cycle for boundary reviews.

## 5 Election petitions

A Parliamentary election can only be questioned by a petition complaining of an undue election or undue return presented in accordance with the procedure laid down by Part III of the *Representation of the People Act 1983*. An election petition can be presented by:

- a person who voted as an elector at the election or had a right so to vote;

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<sup>7</sup> ibid

<sup>8</sup> Circular EC 28/2007, [http://www.electoralcommission.org.uk/\\_data/assets/electoral\\_commission\\_pdf\\_file/0013/12622/EC282007Reviewsofpollingdistrictspollingplacesandpollingstations\\_26586-19804\\_\\_E\\_\\_N\\_\\_S\\_\\_W\\_\\_.pdf](http://www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0013/12622/EC282007Reviewsofpollingdistrictspollingplacesandpollingstations_26586-19804__E__N__S__W__.pdf)

- a person claiming to have had a right to be elected or returned at the election; or
- a person alleging himself to have been a candidate at the election.<sup>9</sup>

The Member whose election or return is complained of must be a respondent to the petition, and if the petition complains about the conduct of the (Acting) Returning Officer or their staff during the election, the (Acting) Returning Officer is deemed to be a respondent.

The petition must be issued within 21 days after the date of the return of the Writ (which in most cases will be the day after the election) and can be issued at any time up to, but no later than, midnight on the last day. However, if the petition complains of corrupt or illegal practices involving the payment of money or other reward that has taken place since the election, or an illegal practice relating to election, further time may be allowed.

The petition itself should follow the form prescribed by the *Election Petition Rules 1960*, and include the following information:

- in which capacity the petitioner or petitioners present the petition;
- the date and result of the election in question and, in the case of a Parliamentary election, on which the return was made to the Clerk of the Crown;
- the date from which the time for lodging the petition is calculated, if not within 21 days;
- the grounds on which relief is sought; and
- the relief claimed.

The petition must be signed personally by each petitioner. The petition must be presented together with three copies at the elections petitions office at the Royal Courts of Justice (or the Petitions Office of the Court of Session in Edinburgh). A copy will be sent to the Returning Officer of the constituency to which the petition relates and he has a duty to publish it in the constituency.

Election courts are held when a petition is issued following an election, whether parliamentary or local. Election courts to hear petitions relating to parliamentary elections were established in the nineteenth century, when the Commons ceded the power to investigate disputed results to the courts.

The trial of a petition takes place in open court without a jury, and is tried by two judges who are on a rota for the trial of parliamentary election petition. This is known as an election court under s123 of the *Representation of the People Act 1983*. An election court has the same powers, jurisdiction and authority as a judge of the High Court and is a court of record.<sup>10</sup>

A written Parliamentary Question answered on 22 March 2007 gives details of the grounds and results of election petitions that have been heard in England and Wales since 2000.<sup>11</sup>

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<sup>9</sup> *Representation of the People Act 1983* Section 121 (1)

<sup>10</sup> In England they are basically the same as a Divisional Court of the Queen's Bench Division of the High Court. In Northern Ireland petitions are heard by the High Court. In Scotland they are heard by the Court of Session

<sup>11</sup> HC Deb 22 March 2007 c1104W. Available at <http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070322/text/70322w0016.htm>

## 5.1 Petitions about polling stations

### ***Islington West Division case 1901***

In their book, *Running elections 2009*, Roger Morris and David Monks (of SOLACE, the Society of Local Authority Chief Executives) noted that:

Voters who have actually been issued with a ballot paper before 10pm must be allowed to vote, but even if there is a queue inside the actual polling station no further ballot papers can be issued after that exact time: see the Islington West Division Case, *Medhurst v Lough and Gasquet* (1901) 17 TLR 210.<sup>12</sup>

The case that Morris and Monks referred to was an election petition heard on 21 January 1901. Mr Medhurst, the petitioner, was a candidate at the general election of 1900 for the West Division of Islington. He was defeated by 19 votes and his petition was that the election should be held void 'on account of breaches of the law relating to Parliamentary elections' which he alleged had 'been committed by presiding officers and their assistants at certain polling stations in three out of the five polling stations into which the constituency is divided.'<sup>13</sup> The poll should have closed at 8pm but it was alleged that some 50 – 60 votes were cast after this time at these polling stations. The judges hearing the petition heard arguments that no ballot paper, even if given to the voter before 8pm should be allowed to be placed in the ballot box after that time; that any voter who was in the polling station before 8pm was entitled to receive a ballot paper, even after 8pm, and cast his vote; and an argument that every voter who 'either by voice or gesture or position, eg., by visibly forming part of a queue or string of voters leading up to the polling station, has given a reasonably clear indication before 8pm of his being a voter and of his desiring to vote, ought to be held entitled to receive a ballot paper though 8 o'clock has struck, and to vote by means of that paper.'<sup>14</sup>

The judges' final decision was as follows:

We are of opinion that the true dividing line is the delivery of the ballot paper to the voter. If he has had a ballot paper delivered to him before 8pm he is entitled in our judgment to mark that ballot paper and deposit it in the ballot box before the ballot box is closed and sealed.

The judges also held that, although some votes were improperly received by the presiding officers at the polling stations, the number of these was not sufficient to affect the result of the election. The petition was therefore refused.

### ***Fermanagh and South Tyrone 2001***

The most recent example of an election petition after a polling station had stayed open longer than 10pm is Fermanagh and South Tyrone in the 2001 general election where the Unionists brought a petition against the Sinn Fein successful candidate, Michelle Gildernew. The Unionists lost the petition because the number of people was not judged to have affected the overall result. It should be noted that elections in Northern Ireland are run by the Chief Electoral Officer, not by Acting Returning Officers as in Great Britain.

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<sup>12</sup> *Running elections 2009*, by Roger Morris and David Monks. SOLACE, (the Society of Local Authority Chief Executives), p137

<sup>13</sup> Controverted elections (Islington): judgment. HC 43, 3 February 1902.

<sup>14</sup> *ibid*



## 6 Queues at polling stations at the 2010 general election

After the close of poll at the general election on 6 May 2010 the media reported that there had been lengthy queues at some polling stations and that some of the voters in these queues had been unable to cast their votes. The following day the BBC reported that

Police were called to a polling station in Lewisham, south London, where about 300 people had still to vote by 2200 BST.

- In Hackney, London, angry would-be voters staged a sit-in when polls closed.
- In his Sheffield Hallam constituency, Liberal Democrat leader Nick Clegg went to offer his apologies to frustrated voters at a polling station in Ranmore after they queued for more than three hours.
- Doors were closed on 200 potential voters in Ladybarn in Withington, Manchester.
- In Liverpool, voters were left waiting when one polling station ran out of ballot papers.
- Voters were turned away amid long queues in St Paul's Church in Birmingham, and long queues were reported in Mere Green polling station in Sutton Coldfield.
- There were reports of voters being turned away after long queues in Weybridge, Surrey.
- Long queues were reported at two polling stations in Newcastle.

A spokesman for Gordon Brown said the prime minister was "very concerned" about the reports of people being turned away from polling stations and "would support a thorough investigation into them".<sup>15</sup>

On 8 May 2010 the *Times* reported that voters had been turned away in the following constituencies:

### **Battersea**

C gain, majority, 5,977. Turnout 65.67%. Some voters turned away

### **Birmingham Ladywood**

Lab gain, majority 10,105 Turnout 48.7%. Investigating if ballot papers issued after 10pm

### **City of Chester**

C majority 2,583. Turnout 67.9%. 600 voters reportedly turned away, but the figure is disputed by the council.

### **Hackney South and Shoreditch**

Lab hold, majority 14,288. Turnout 58.9%. 150 reported voters turned away.

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<sup>15</sup> [http://news.bbc.co.uk/1/hi/uk\\_politics/election\\_2010/8666338.stm](http://news.bbc.co.uk/1/hi/uk_politics/election_2010/8666338.stm)

### **Islington South & Finsbury**

Lab hold, majority 3,569. Turnout 64.38%. 40 voters turned away.

### **Islington North**

Lab hold, majority 12,401. Turnout 65.41%. Some voters turned away.

### **Lewisham Deptford**

Lab hold, majority 12,499. Turnout 61.5%. Some voters turned away.

### **Liverpool Wavertree**

Lab hold, majority 7,167. Turnout 60.6%. Polling stations ran out of ballot papers in the early evening.

### **Manchester Central**

Lab hold, majority 10,439. Turnout 44.31%. Some voters turned away.

### **Manchester Withington**

Lib Dem hold, majority 1,850. Turnout 62.2%. 150 voters turned away at three polling stations.

### **Milton Keynes North**

C gain, majority 8,961. Turnout 62.78%. Some voters turned away.

### **Newcastle-Upon-Tyne North**

Lab hold, majority 3,414. Turnout 65.48%. 450 voters turned away at two polling stations.

### **Newcastle-Under-Lyme**

Lab hold, majority 1,522. Turnout 62.21%. 50 ballot papers handed out after 10pm.

### **Penistone and Stocksbridge**

Lab hold, majority 3,049. Turnout 67.91%. Some voters turned away.

### **Runnymede & Weybridge**

C hold, majority 16,509. Turnout 66.4%. Some voters turned away.

### **Sheffield Hallam**

Lib Dem hold, majority 15,284. Turnout 73.7% Up to 500 voters turned away .

### **Sheffield Heeley**

Lab hold, majority 5,807. Turnout 62.0%. 200 voters turned away.

### **Sutton Coldfield**

C hold, majority 17,005. Turnout 67.9% Voters locked in polling station after 10pm to enable them to vote.

## Tyneside North

Lab hold, majority 12,884. Turnout 59.73%. Some voters turned away.<sup>16</sup>

On 11 May 2010 the BBC reported that Sheffield City council's Chief Executive and (Acting) Returning Officer, John Mothersole, had decided not to claim his fee for the election after long queues had prevented people voting:

Sheffield City Council's boss has given up his £20,000 returning officer fee after long queues stopped people voting at the general election. Police were called to sit-in protests at three polling stations in the city after hundreds were unable to vote. The council's chief executive, John Mothersole, who was responsible for voting, apologised and admitted the council had "got things wrong". The Electoral Commission is carrying out a review into what happened. Mr Mothersole said: "I recognise everyone has a right to be able to cast their vote. In some locations in Sheffield we got things wrong and that's unacceptable. I do not excuse nor hide from this fact. I have made the decision not to claim the fee for the role of Acting Returning Officer which would have been paid after the elections.

Sheffield City Council is responding to The Electoral Commission's request for information as to what happened last week. We are also doing our own review into what happened on Thursday so that we can avoid these problems occurring in the future."

[...]

Some students reported being put in a separate queue from residents while the residents' queue was said to have moved more quickly. Mr Mothersole has written to the student union presidents at the University of Sheffield and Sheffield Hallam University to apologise for the problems. He said the council would meet with student representatives to discuss the situation and work on improvements for the future.<sup>17</sup>

## 7 The Electoral Commission's interim review

After the initial reports about voters not being able to cast their votes because of queues at 10pm at some polling stations, the Electoral Commission issued a statement around midnight on 6 May giving an undertaking to review what had happened. The Commission said that all those who had been given a ballot paper by 10pm should have been able to cast their vote. On 8 May 2010 an article by Jenny Watson, chair of the Electoral Commission, was published in the *Times*. Ms Watson pointed out that the Commission was an independent watchdog and that it did not 'manage the arrangements that returning officers put in place' but she noted that:

Everyone involved in preparations knew about the high levels of registration, and the likelihood of a higher turnout. Returning Officers should have made arrangements to cope with greater numbers – making sure that there were enough polling stations and staff, enough space for voters, and efficient arrangements for checking voters off on the electoral register before they cast their votes.

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<sup>16</sup> <http://www.timesonline.co.uk/tol/news/politics/article7118998.ece>

<sup>17</sup> [http://news.bbc.co.uk/1/hi/england/south\\_yorkshire/8674891.stm](http://news.bbc.co.uk/1/hi/england/south_yorkshire/8674891.stm)

On election day itself, returning officers should monitor developments and respond quickly – for example by moving staff to polling stations where there is high demand. At all times, returning officers should be doing everything to ensure that everyone who is entitled to vote can do so.<sup>18</sup>

Jenny Watson urged all voters who had experienced problems on polling day to contact the Commission which would publish an interim report within a week or so on problems at polling stations; the Commission's report on all aspects of the election would be published in July 2010.

The Electoral Commission subsequently published the terms of reference of its review on its website; these were to

- Establish the extent and nature of the problems experienced by voters on polling day
- Consider the planning and management by local Returning Officers – the people responsible for running elections - before polling day
- Consider the general management by Returning Officers during polling day
- Consider the specific responses adopted by Returning Officers to problems they encountered on polling day
- Consider the impact of guidance, advice or support provided by the Electoral Commission prior to and during polling day
- Identify any factors common to the range of issues that arose at polling stations
- Identify any factors unique to problems in particular areas<sup>19</sup>

The interim review was published on 20 May 2010.<sup>20</sup>

The Commission noted in the review that

Queues built up at polling stations on 6 May for various reasons. But in most cases, the common factors were inadequate planning processes and systems – in particular unrealistic, inappropriate or unreliable assumptions; and inadequate risk management and contingency planning.<sup>21</sup>

[...]

It is likely that the problems with queues in some areas would have been less serious had fewer electors been allocated to certain polling stations.<sup>22</sup>

A press release issued by the Commission summarised its findings:

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<sup>18</sup> Voters must never be let down like this again, *Times*, 8 May 2010

<sup>19</sup> <http://www.electoralcommission.org.uk/news-and-media/news-releases/electoral-commission-media-centre/news-releases-corporate/problems-at-polling-stations-we-want-to-hear-from-voters>

<sup>20</sup> *2010 UK Parliamentary general election: interim report, review of problems at polling stations at close of poll on 6 May 2010*, Electoral Commission, 20 May 2010

<sup>21</sup> 3.51, *ibid*

<sup>22</sup> 3.55, *ibid*

- at least 1,200 people were still queuing at 27 polling stations in 16 constituencies at 10pm
- in some areas the numbers of electors allocated to particular polling stations were too high and some polling stations had too few staff
- in all the areas affected there were also local government elections taking place (and, in some, Mayoral elections) which meant it took longer for each voter to vote and arrangements to deal with this were inadequate
- election officials did not identify and respond quickly enough to the problems that emerged on polling day.<sup>23</sup>

The constituencies which were the focus of the interim review are listed below; the review gave details of the problems experienced in each of them.

**Birmingham** – Birmingham Ladywood constituency

**Hackney** – Hackney North and Stoke Newington, and Hackney South and Shoreditch constituencies

**Islington** – Islington North constituency

**Lewisham** – Lewisham Deptford constituency

**Liverpool** – Liverpool Wavertree, and Garston and Halewood constituencies

**Manchester** – Manchester Withington constituency

**Milton Keynes** – Milton Keynes North constituency

**Newcastle-under-Lyme** – Newcastle-under-Lyme constituency

**Newcastle upon Tyne** – Newcastle upon Tyne East and Newcastle upon Tyne North constituencies

**Runnymede** – Runnymede and Weybridge constituency

**Sheffield** – Sheffield Hallam, Sheffield Heeley, and Penistone and Stocksbridge constituencies<sup>24</sup>

The Electoral Commission recommended that the law should be changed to allow people still queuing at polling stations at 10pm to cast their vote. This would address the particular problems experienced by a number of voters on 6 May 2010 but the Commission added that ‘this would not absolve (Acting) Returning Officers from the responsibility of properly resourcing and managing polling stations to avoid unnecessary queues, but would provide a backstop in the event of unexpected late demand.’<sup>25</sup> The Commission also recommended that the Government should consider whether advance polling might help to provide more flexibility for voters. The Commission said that local authorities and Returning Officers should improve their election planning and review their arrangements for polling districts and polling

<sup>23</sup> <http://www.electoralcommission.org.uk/news-and-media/news-releases/electoral-commission-media-centre/news-releases-corporate/electoral-commission-publishes-review-into-polling-station-queues>

<sup>24</sup> 3.2, [http://www.electoralcommission.org.uk/\\_\\_data/assets/pdf\\_file/0010/99091/Interim-Report-Polling-Station-Queues-complete.pdf](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0010/99091/Interim-Report-Polling-Station-Queues-complete.pdf)

<sup>25</sup> 4.6, [http://www.electoralcommission.org.uk/\\_\\_data/assets/pdf\\_file/0010/99091/Interim-Report-Polling-Station-Queues-complete.pdf](http://www.electoralcommission.org.uk/__data/assets/pdf_file/0010/99091/Interim-Report-Polling-Station-Queues-complete.pdf)

stations, making sure that the right number of staff and electors were allocated to each polling station.

In the long term the Commission recommended that ‘the structure for delivering elections in Great Britain should be reformed so that elections are managed more consistently and professionally’.<sup>26</sup>

## **8 Electoral Commission’s report on the 2010 general election**

The Electoral Commission published its report on the administration of the 2010 general election in July 2010.<sup>27</sup> The Commission reported that ‘In the vast majority of constituencies the elections were well run, without major problems’ but

Queues formed at several polling stations on polling day (6 May), and some people in those queues were unable to vote when the polls closed at 10pm. Just over 1,200 people were affected at 27 polling places in 16 constituencies. The main contributory factors were poor planning, the use of unsuitable buildings, inadequate staffing arrangements and the failure of contingency plans.<sup>28</sup>

The Commission set out its agenda for the next five years and reiterated its call for the law to be changed:

We want the Government to change the law to make clear that eligible electors who are entitled to vote at a polling station and who are in the queue to enter the polling station at the close of poll will be allowed to vote.<sup>29</sup>

## **9 House of Lords Constitution Committee report**

The House of Lords Constitution Committee took evidence from the Electoral Commission in June 2011 about the queues at polling stations at the general election and published a short report on 25 January 2012.<sup>30</sup>

Baroness Jay, Chairman of the Lords Constitution Committee, said:

If we are to ensure there is never a repeat of the chaotic scenes we saw in 2010 the Government must now amend the law to ensure voters in a polling station, or in the queue at a polling station, at 10pm on polling day are allowed to vote.

This cannot wait for a Law Commission review that doesn’t report until 2017, the Government should make these changes before the next general election.<sup>31</sup>

The Committee noted that the view of the Electoral Commission was that votes may be cast after the close of poll at 10pm only if a ballot paper has already been formally handed to a

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<sup>26</sup> <http://www.electoralcommission.org.uk/news-and-media/news-releases/electoral-commission-media-centre/news-releases-corporate/electoral-commission-publishes-review-into-polling-station-queues>

<sup>27</sup> *Report on the administration of the 2010 UK general election*, Electoral Commission, July 2010

<sup>28</sup> *ibid*, p3

<sup>29</sup> *ibid*, p8

<sup>30</sup> House of Lords Constitution Committee, *Voting at the close of poll*, HL 245 2010-12, January 2012

<sup>31</sup> <http://www.parliament.uk/business/committees/committees-a-z/lords-select/constitution-committee/news/voting-by-10pm-report/>

voter before 10pm but said it was 'not persuaded that the legal position is as clear-cut as the Electoral Commission makes out':

The Electoral Commission relies principally on two precedents, one of which dates from as long ago as 1901. The case law, such as it is, is largely focused on the statutory duties of presiding officers rather than on the right to vote.

5. Suppose that a voter (such as one of the 1200 affected in May 2010), who had presented herself at the polling station before 10.00pm but who was denied her vote because a long queue prevented her from being handed her ballot paper before 10.00pm, sought a legal remedy. Do the precedents cited by the Electoral Commission clearly establish that such a voter would be denied a remedy? Our answer is that they do not.

The Committee recommended that the law should be changed 'so as clearly to provide that voters who are present, or in a queue, at a polling station at the close of poll are entitled to vote'.<sup>32</sup>

## 10 Political and Constitutional Reform Committee report

The House of Commons Political and Constitutional Reform Committee reached a different conclusion in its report *Individual Electoral Registration and Electoral Administration* published on 4 November 2011.<sup>33</sup> The PCR Committee had examined the Government's proposals for individual electoral registration and other draft electoral administration provisions and also commented on the Electoral Commission's written evidence which included a recommendation to allow voters in a queue at close of poll to vote:

98. On the issue of close of poll the Minister set out the Government's position that the issues around close of poll in the 2010 election were "largely around poor planning, poor resource management" and that an attempt to legislate in this area could create more problems than it solved.[106] We agree with the Minister that in this area careful planning and allocation of resources are likely to be more effective in ensuring all those who are eligible can access their vote without resorting to legislation.<sup>34</sup>

The Government published its response to the Political and Constitutional Reform Committee's report on 9 February 2012 and agreed with the Committee that addressing 'inadequate planning processes and contingency arrangements' should be a priority before a legislative solution was sought.<sup>35</sup>

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<sup>32</sup> para 7, House of Lords Constitution Committee, *Voting at the close of poll*, HL 245 2010-12, January 2012

<sup>33</sup> Political and Constitutional Reform Committee, *Individual Electoral Registration and Electoral Administration*, HC 1463 2010-12, 4 November 2011

<sup>34</sup> para 98, Political and Constitutional Reform Committee, *Individual Electoral Registration and Electoral Administration*, HC 1463 2010-12, 4 November 2011

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<sup>35</sup> Government response to pre-legislative scrutiny and public consultation on Individual Electoral Registration and amendments to Electoral Administration law, [Cm 8245](#), February 2012