

LONDON BOROUGH OF CROYDON

REPORT:	General Purposes Committee	
DATE OF DECISION	Monday 9 th October 2023	
REPORT TITLE:	Independent Review of the Verification and Count Arrangements for Croydon Council Elections May 2022	
CORPORATE DIRECTOR / DIRECTOR:	Elaine Jackson, Assistant Chief Executive	
LEAD OFFICER:	David Courcoux, Director Policy, Programmes & Performance	
LEAD MEMBER	Councillor Sean Fitzsimons	
AUTHORITY TO TAKE DECISION:	<p>Part 3 of the Constitution provides, in respect of General Purposes Committee functions that it is authorised to act in relation to:</p> <p>“Any matter not reserved to the Council or delegated to another Committee and related to a non-executive function.”</p> <p>The report is for noting.</p>	
KEY DECISION?	No	Electoral Services are a non-executive function.
CONTAINS EXEMPT INFORMATION?	No	Public
WARDS AFFECTED:	All	

1 SUMMARY OF REPORT

- 1.1** This report to the General Purposes Committee presents the independent Review of the Verification and Count Arrangements for Croydon Council Elections and seeks the committee feedback and adoption of the findings and recommendations, and approval of the action plan devised to implement the review recommendations.
- 1.2** The independent review was commissioned following the Croydon Council elections on 5 May 2022. The review report concluded that the outcome of the verification and count of the votes cast for the 2022 borough wards and Executive Mayor was transparent, safe and secure. However, there are lessons to be learned with regard to the resource arrangements and the effectiveness of the processes and policies in place.

- 1.3** Whilst the delivery of elections is the personal legal responsibility of the Returning Officer, this report is provided to give assurance to Members that the independent review has been fully considered and an action plan developed.

2 RECOMMENDATIONS

For the reasons set out in the report and its appendices, the General Purposes Committee is recommended:

- 2.1** To note the report of the Review of the Verification and Count Arrangements for Croydon Council Elections May 2022 at Appendix 1, in particular its finding that the election was conducted lawfully and that it was transparent, accurate, safe and secure.
- 2.2** To note the recommendations of the review in full.
- 2.3** To note the action plan for implementing the review recommendations at Appendix 2.
- 2.4** To note the progress made against each recommendation since May 2022, as detailed in the action plan at Appendix 2.
- 2.5** To note that the Returning Officer and Deputy Returning Officer did not take the RO fees for the May 2022 Election and that the £8k fee for the independent review was paid from that unclaimed RO expenditure.

3 REASONS FOR RECOMMENDATIONS

- 3.1** The recommended option is to implement fully the recommendations of the Review of the Verification and Count Arrangements for Croydon Council Elections May 2022 so as to make best use of the resources available and ensure the effectiveness of the processes and policies in place for delivering transparent and secure elections in the future.

4 BACKGROUND

- 4.1** Scheduled polls held on Thursday 5 May 2022 to determine the election of 70 Borough Ward Councillors for the 28 Borough Wards were combined with the first election of an Executive Mayor of Croydon. The count was held at Trinity School and the Council would like to offer thanks for accommodating the extended count period.
- 4.2** The verification and counts were held at Trinity School, Shirley Park from Thursday evening on 5 May 2022 through to Sunday 8 May 2022, exceeding timeline expectations and coupled with adverse comments from some stakeholders and social

media. This resulted in the Returning Officer's decision to commission an independent review.

- 4.3** The review was conducted by Mark Heath, Returning Officer at Southampton City Council and SOLACE Elections Spokesperson, and Robert Curtis, Head of Electoral Services at the London Borough of Tower Hamlets and ex Chair of the Association of Electoral Administrators (AEA).
- 4.4** The Returning Officer withdrew from managing the report process and this was passed to Alison Griffin, Chief Executive Officer of London Councils. Elaine Jackson, Assistant Chief Executive acted as the Council lead.
- 4.5** On 8 August 2023, the Independent Review Report was published on the Council's website and an email was written to all elected members advising them of the report and the findings.

5 REVIEW FINDINGS

- 5.1** The independent review found that the Returning Officer and her core team fulfilled all the statutory requirements in terms of running the election, namely:
 - a) an accurate verification;
 - b) an accurate Mayoral count;
 - c) 28 accurate Borough Ward Counts;
 - d) no potential candidate was denied the right to stand;
 - e) no voter was disenfranchised; and
 - f) the results declared reflected the will of the electorate and the elections were conducted in an apolitical manner.
- 5.2** The report notes that two council by-elections have been held in Croydon since then without incident and complaint.
- 5.3** The report recognises the particular challenges involved in running the election in Croydon:
 - a) The Returning Officer as CEO of the Council was dealing with a multiplicity of significant and highly challenging issues at the Council with consequential pressures on time.
 - b) It should also be noted that this was the first election of its kind for Croydon.
 - c) Croydon had more ballot papers to count than any other London Borough including other Mayoral Authorities. Croydon had 27,387 more ballots than Tower Hamlets, the second highest in London with comparative polls held and 81,975 more than Hackney.

- d) The Croydon Mayor result after the first preference count showed a difference of 2,061 between the top two candidates. In comparison the next smallest difference after first preferences was Tower Hamlets with a difference of 11,639.

The final result, after the second preference count, was extremely close – a difference of 589. The corresponding differences in Tower Hamlets, the only other borough to go to a second preference count, were much larger and required no recount or assurance checks for the results to be accepted. To note that Croydon had 97,458 Mayoral election ballot papers compared to Tower Hamlets who had 86,009. This does not include local election ballot papers.

- 5.4** The review found in fact that although the Returning Officer's decision on accuracy contributed to delays, this was the correct methodology to adopt given the difference of only 589 for the Mayor poll, and the lack of legal challenge to the outcome endorses the action taken.
- 5.5** The review recognises that those attending the venues were subject to delays in getting into the venue, periods of inactivity in the halls by counters and the mayoral count extended beyond the predicted 10pm outcome.
- 5.6** The following contributory factors were nevertheless considered to be examples of good practice:
- a) The Returning Officer's decision to pay for a sweep of sorting offices for postal ballots on the evening of polling day enabled them to be included in the count and followed good practice.
 - b) The review found that the time taken to verify ballot papers was not unreasonable or a matter for legitimate complaint.
 - c) The Returning Officer's decision to adopt a zero tolerance to ensure accurate results, based on the knowledge of historically close polls at Croydon was considered to be sound and represented good practice.
- 5.7** The following contributory factors were identified as areas requiring improvement:
- a) Project planning for the polls was not based on a formal auditable process with structured minutes, delegated tasks, and accountability if deadlines were not met.
 - b) While the Core Elections Team was similar in size to other boroughs' teams, it undertook other functions that reduced capacity and most officers lacked relevant electoral services qualifications and experience.
 - c) While count supervisors received comprehensive training, it was confusing for inexperienced staff as it did not reflect the arrangements at the Count.
 - d) There was a plan to ensure arrangements for the reception of staff and candidates, agents, guests and the media to observe the verification and count. This was not enacted as effectively as it could have been.

- e) There was a need for contingency planning for scenarios such as the need for extra staff in extended counts.
- f) The procedures for escalating issues to the Returning Officer did not work well.
- g) Issues that contributed to the time taken for the count included: the efficiency of the IT; the PA system not operating as expected; the delays to opening of all receipted postal votes on polling day; understanding of verification and count tolerances; the process of dealing with doubtful papers; and communication between Count Supervisors, Deputy Returning Officers and the top tables.

5.8 As part of the review stakeholders were approached for their observations, including representatives from political parties, along with those responsible for project planning and for the delivery of the polls.

5.9 Staff who were involved in the review process were offered the opportunity to agree their notes for accuracy. The Head of Electoral Services has also provided points of clarification in response to the review which they asked are shared with the Committee as follows:

Broadly the recommendations contained in the report are fair and our structure for delivery of elections in Croydon will be stronger and more robust from following them. However, while there are justified criticisms contained in the report, we should not lose sight of the fact that with the exception of the count, the rest of the election ran very smoothly - nominations, registration, staffing, poll cards, absent voting, polling stations, ballot papers, candidate address booklets and so on. A lot of good work was done in 2022, and good practice around the delivery of elections in Croydon has been developed over many years. It is important that the good work and practice that exists is enhanced by the recommendations rather than replaced.

The methodology of the review process, with individuals being interviewed separately has meant that while individual recollections may have been accurately reflected in the report, these individual recollections on occasion were provided without a full understanding of what was happening at that time. As a result there are some factual inaccuracies in the report including in the recommendations.

Electoral Services core team

Paragraph 3.8 states that two full time staff were unavailable in the lead up to polling day, one on long-term sick and the other retired. Paragraph 3.9 states that two inexperienced temporary staff were brought in to cover. This is inaccurate - we recruited to fill the vacancy created when one of the Electoral Services Officers retired at the end of 2021. A full time replacement was in post before the election. Another Electoral Services Officer had been off on long-term sick,

however they had returned to work full time before the election. Therefore the permanent Electoral Services team was fully staffed prior to the election. Temporary staff were brought in to supplement the permanent team, not to fill vacancies.

The verification / reception

Recommendation 14.6.1 states 'Attendees/observers into the venue should be informed categorically of a deadline for applying to attend'. The statutory deadline was communicated on numerous occasions to candidates and agents both in writing and at a specific briefing for candidates and agents on the count arrangements. The impression given in the report that there was widespread changes to those attending the count after the deadline for appointment of agents is inaccurate. There were a very small number of amendments and these were reflected on the attendance lists.

Paragraph 6.9 states that 'Interviews confirmed ... lists of attendees were inaccurate' and 'some attendees were not on the lists at all and had to have their names added.' The lists of attendees were accurate, however there were occasions where staff struggled to find individuals on the list.

The report correctly says that on the night that some candidates and agents were delayed getting into the count (paragraph 6.15). I think it would be helpful to clarify that this was acknowledged on the night, and therefore the Returning Officer made the decision that no ballot boxes from polling stations would be verified until everyone had gained access. Only the postal vote ballot boxes, which had already been open to scrutiny by candidates and agents at the postal vote opening sessions were verified prior to everyone accessing the verification.

Mayoral Count

Paragraph 7.16. 'The Returning Officer also explained that there was a particular issue with doubtfuls being adjudicated by count staff rather than DROs. As a result of which a large number of papers needed re-adjudication and this had a direct impact delaying the count.' This was the key issue that held up the Mayoral count and subsequently effected the rest of the count schedule on the Friday night. There has been criticism that staff were sitting around for long periods not doing anything and not being utilised. It was very difficult to utilise additional staff to help rectify the problem – moving the ballot papers to other parts of the count venue so that other staff could count them would have sped-up the process but would have caused understandable concerns about the transparency of the count. What we failed to do here is communicate properly with agents and candidates so they understood what the delay was and how long the delay would be.

Staff training and count supervisors

There is a misunderstanding in the report on how training was delivered to staff, which gives the impression that supervisors were not prepared for the count.

In recommendation 14.3.1 it states that 'Training was provided to Count Supervisors prior to the elections in May using an external supplier supported by the electoral services team and the Director of Policy, Programmes & Performance'. This is incorrect.

We did use an external supplier to train the staff inputting information into the Xpress Count software system. This was delivered by Civica who are the software suppliers. Unfortunately this training was too detailed, covering everything that the software could do. It should have focused on the specific limited functionality that the staff would use, and how the software fitted in and supported the wider Croydon Count processes. However this was a small element of the count training provided.

The count supervisor training was very different. This was very comprehensive, and delivered in-house by the Head of Elections. This covered all aspects of the verification and mayoral and council counts. While there are lessons to learn and improvements to the training that could be made, it was well received at the time and supplemented by written guidance.

In recommendation 14.3.4 it states that 'Reports were also received from observers that some supervisors were clearly inexperienced and that they needed help.' Many of the count staff that are employed are Croydon Council employees. There has been a significant turnover of staff at the Council in the past few years and this has impacted on election staffing. This turnover means that there were some inexperienced staff, but even experienced staff were faced with two different contests with different, complex counting methodologies (supplementary vote and multi-member wards) which many had not done before. This is why the supervisors received detailed training and written guidance and why the structure of the count management included Senior Count supervisors who were appointed to trouble-shoot and support a small number count team supervisors (4 or 5 each).

6 REVIEW RECOMMENDATIONS

6.1 To address the issues listed in 4.7, the report makes recommendations in eleven areas:

1. Structured and Effective Project Planning
2. Organisational Structure, capacity and qualifications of the Core Elections Team

3. Training of Staff
4. Decision on a Count Venue at least 6 months before a scheduled poll
5. Planning for the Count
6. Attendance at the Count
7. Systematic Approach to Managing Access to the Count
8. The Reception Arrangements at the Count
9. Staffing at the Count
10. An Effective Escalation Procedure
11. Length of Time taken to Undertake the Count

6.2 An action plan to implement the review recommendations and the progress achieved since May 2022, is at Appendix 2.

7 ALTERNATIVE OPTIONS CONSIDERED

7.1 Not implementing the review recommendations would miss an opportunity of improvement. The council would lose the opportunity to make contingency plans for unexpected pressures, with an associated risk to the council of reputational damage.

8 CONTRIBUTION TO COUNCIL PRIORITIES

8.1 Implementation of the review recommendations will support the council priority to 'Ensure good governance is embedded and adopt best practice' (Outcome 1, priority 4 of the Mayor's Business Plan).

9 IMPLICATIONS

9.1 FINANCIAL IMPLICATIONS

9.1.1 There are no financial implications for the Council arising directly from the recommendations of this report. The cost of preparing the report of £8,000 was covered by the Returning Officer fee which was not taken. Any cost implications of proposals arising from the outcome of the review of the organisational structure of the Core Elections Team (recommendation 2) will be considered under the usual governance arrangements.

Comments approved by Lesley Shields, Head of Finance for Assistant Chief Executive and Resources on behalf of the Director of Finance. 28/09/23

9.1 LEGAL IMPLICATIONS

- 9.1.1 Section 35 of the Representation of the People Act 1983 ('the 1983 Act') requires the Council to appoint an officer of the Council to be the Returning Officer for the election of councillors. This is an independent statutory role with the office-holder being directly and personally accountable to the courts. Section 35(3) provides that they will also be the 'proper officer' of the borough at an election of London borough councillors. Whilst he or she cannot delegate the personal responsibility for delivering the election the Returning Officer may appoint one or more persons to support and assist in the discharge of his or her functions under section 35(4). In addition, the Council is required to place the services of its officers at the disposal of the Returning Officer for a Council election within its borough by section 35(6).
- 9.1.2 Full Council has appointed the Chief Executive as Returning Officer. Her duties as Returning Officer are separate to her responsibilities as Head of Paid Service and Chief Executive. As Returning Officer, she is personally responsible for undertaking all such acts and things as may be necessary for effectively conducting the election including publishing the notice of election, administering the nomination process, printing the ballot papers, publishing the notice of poll, statement of persons nominated and notice of situation of polling stations, the provision of polling stations, appointing Presiding Officers and Poll Clerks, managing the postal voting process, verifying and counting the votes and declaring the result.
- 9.1.3 Separately, the Council is required to appoint an officer of the Council to be Electoral Registration Officer under section 8 of the 1983 Act responsible for the registration of electors. The Council has also appointed the Chief Executive as Electoral Registration Officer under section 8.
- 9.1.4 The Electoral Administration Act 2006 gives the Electoral Commission powers to set and monitor performance standards for electoral services. Updated guidance produced on 20 January 2023 entitled *Guidance: Performance Standards for Returning Officers*

[Performance standards for Returning Officers - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/performance-standards-for-returning-officers)

is focussed on the outcomes that should be delivered, rather than the processes that are followed, with the objective of helping Returning Officers to make informed decisions on what activities are undertaken, how these activities are carried out and how their limited resources can be deployed efficiently and effectively. The performance standards establish three broad goals namely:

- Electoral services are robust and support the delivery of well-run elections;
- Everybody who is eligible and wants to vote is able to do so and has confidence in the voting process;
- Everybody who is eligible and wants to stand for election is able to do so and has confidence in the process; and
- Everyone can have confidence that the election process is well managed and in the accuracy of the results.

The Commission also has the power to direct Returning Officers and Electoral Registration Officers to provide the Commission with reports regarding their performance against the published standards and publish its assessment of the level of performance by relevant officers against the published standards.

- 9.1.5 By section 38 of the Localism Act 2011 the Council is required to produce a Pay Policy each financial year. The Council's current Pay Policy, approved by full Council, is 2022/2023 and sets out details regarding the fees payable to a Returning Officer.
- 9.1.6 The Council's functions relating to electoral services are designated by law as non-executive functions and so cannot be discharged by the elected Mayor or his Cabinet.
- 9.1.7 Adoption of the recommendations in this report will assist the Returning Officer to fulfil her duties under the Representation of the People Act 1983 in the most efficient and effective manner.

Comments approved by Stephen Lawrence-Orumwense Director of Legal Services and Monitoring Officer. (Date 29/09/2023)

9.2 EQUALITIES IMPLICATIONS

- 9.2.1 As a public body, the Council is required to comply with the Public Sector Equality Duty [PSED], as set out in the Equality Act 2010. The PSED requires the Council to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between different people when carrying out their activities. Failure to meet these requirements may result in the Council being exposed to costly, time consuming and reputation-damaging legal challenges.
- 9.2.2 There are no equalities implications arising from the recommendations of the review. However, the deciding on the count venue at least six months before a scheduled poll and formalising the booking with a written contract (Recommendation 4); making a detailed plan for the Count (Recommendation 5); and organising reception arrangements at the Count (Recommendation 8) will enable proper and timely consideration to be given to the accessibility of the count venue and any reasonable adjustments that may be required.

N.B 6 weeks' notice for a General Election and the availability of a venue may impact upon this.

Comments approved by Naseer Ahmad on behalf of the Equalities Programme Manager. (28/09/2023)

9.3 HUMAN RESOURCES IMPLICATIONS

- 9.3.1 The recommendations of this report relate to the organisational structure of the core Elections team, and the training of staff. The Council will follow the appropriate HR policies and procedures in relation to these recommendations.

9.3.2 Other than those identified in 9.4.1 above, there are no other human resources implications arising directly from the recommendations in this report.

Approved by: Gillian Bevan, Head of HR Resources and Assistant Chief Executives directorates on behalf of the Chief People Officer. (Date: 28/09/2023)

9.4 DATA PROTECTION IMPLICATIONS

9.5.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'? Yes.

9.5.2 Whilst this report does not propose actions which would have a specific data protection impact some of the activities undertaken in delivering the action plan will have a data protection impact for example:

- Records (potentially including photographs) of all candidates, agents, guests and media representatives who are registered to attend the Count, in order to manage access to the venue (Recommendation 7).
- Records of all staff at the Count will be updated on Civica software (MEA) and their right to work in the UK confirmed prior to polling day. These records will include relevant experience of staff (Recommendation 9).

10 APPENDICES

- 1.** Report of the Review of the Verification and Count Arrangements for Croydon Council Elections May 2022.
- 2** Review recommendations: action plan and progress report.