

Independent report into issues  
faced by voters in Newcastle-  
under-Lyme at the 8 June 2017  
general election

Andrew Scallan CBE

November 2017

# Table of contents

<b>1 Preface</b>	<b>4</b>
<b>2 Executive summary and list of recommendations</b>	<b>6</b>
<b>3 Terms of reference and conduct of independent investigation</b>	<b>12</b>
<b>4 Context of NuLBC</b>	<b>14</b>
<b>Elections office management arrangements</b>	<b>14</b>
<b>5 Electoral registration and the issue of postal votes - what to expect</b>	<b>17</b>
<b>Electoral registration</b>	<b>17</b>
Updates to the electoral register and application deadlines	17
The registration process	18
Statutory timeline of the registration process	18
Following up with applicants	19
<b>The postal voting process</b>	<b>23</b>
Applying for a postal vote	23
Communications to electors about their postal vote application	24
Sending out postal votes to electors	24
Dealing with 'lost' or 'not received' postal votes	26
Changing from voting by post to voting by proxy	26
<b>6 Issues faced by some voters at this election</b>	<b>27</b>
<b>Issue 1: Over 500 electors were not sent their postal vote</b>	<b>27</b>
<b>Issue 2: Absence of postal voting lists at polling stations leads to at least one elector being disenfranchised</b>	<b>33</b>
<b>Issue 3: Documents relating to absent vote and registration applications were lost on council premises</b>	<b>34</b>
<b>Issue 4: Lack of understanding and poor management of the registration process</b>	<b>35</b>

<b>Issue 5: Some electors experienced low standards of customer service when raising issues with the elections office</b>	<b>49</b>
<b>7 Conclusions</b>	<b>52</b>
<b>Performance by the ARO/ERO and his staff</b>	<b>54</b>
Lack of planning	54
The role of consultants	54
Electoral Commission performance standards	56
<b>Outcome of the 8 June election</b>	<b>57</b>
Breach of official duty	58

# 1 Preface

1.1 I began the investigation into the events surrounding the general election in Newcastle-under-Lyme on 27 June 2017. The Chief Executive at Newcastle-under-Lyme Borough Council (NuLBC) considered that the level of criticism and complaints at the general election warranted an independent investigation. I was appointed to carry out this role by the Association of Electoral Administrators (AEA), following an approach from the Chief Executive. The terms of reference for the investigation are set out in Chapter 3. This report and its recommendations have been produced by me without influence from NuLBC or the AEA.

1.2 For many people in Newcastle the general election went well. Registered electors voted in person, or by post or proxy. For a significant number of people, however, election day and the build up to it were fraught with problems and frustration caused by, what the report reveals to be, administrative failures by those responsible for the delivery of the service. This experience contrasted with the elections to Staffordshire County Council held five weeks earlier. At those elections the process of voting and counting received few comments except favourable ones. That is the way it should be. The administration of the poll should not be part of the story of the election.

1.3 The Electoral Commission describes the running of an election as ‘a complex logistical operation with statutory obligations and personal liability for the Returning Officer, involving considerable financial and physical resources and delivered against extremely tight and inflexible timescales’. This complexity and inflexibility means that those running elections need to have a detailed understanding of the legislation and the software systems that support them in carrying out their role. This was not the case in Newcastle at the general election.

1.4 This report sets out what happened and makes recommendations for improvements to make sure that electors receive the service to which they are entitled. Human error and judgement and a lack of knowledge were responsible for the things that went wrong and led to the disenfranchisement of a significant number of people, raising questions about the mandate of the candidate declared elected as Newcastle-under-Lyme’s Member of Parliament.

1.5 I have been struck by the strength of feeling amongst the voters I met or have been in correspondence with about their intense disappointment and frustration at not being able to participate in the election despite following the correct procedures and pursuing their right to vote. The impact of the administrative failures was felt by people across Newcastle-under-Lyme, including by some students and other young people trying to vote for the first time who were let down by the way registration was handled and by some elderly people who were unable to vote for the first time because of the failures in creating postal votes. The view of very many was summed up in a letter to the Chief Executive of the council from a person who applied for a postal vote but didn't receive it . He wrote:

'For me a vote is not merely a mark on a paper; it symbolises my inalienable right to choose who shall govern me and set the tenor of my life for the next five years. This right and privilege has been won for us over many generations by brave and dedicated men and women and is a precious gift. That I have been robbed of it by some administrative incompetence is an insult to their legacy and a grave disservice to me.'

1.6 All who work in electoral administration should take these words to heart in their everyday work.

1.7 Unravelling what happened at NuLBC was more complicated than I had expected and I have been struck by the openness and candour of all the staff I have met at NuLBC, especially John Sellgren and Liz Dodd, and the software supplier, and their willingness properly to understand what went wrong and make sure that nothing like this happens again. The impact of it has clearly been felt throughout the local authority.

1.8 I am grateful to those who took the time to contact me with their experiences as voters and the candidates who stood at the election for their contributions. I am especially grateful to representatives of the Students' Union at Keele University and to Paul Farrelly MP who has been assiduous in pursuing complaints from his constituents before and after 8 June.

**Andrew Scallan**

## 2 Executive summary and list of recommendations

2.1 While the majority of voters in Newcastle-under-Lyme had a positive voting experience, this was not the case for a significant number of voters. This investigation has found that the failings of the Acting Returning Officer / Electoral Registration Officer (ARO/ERO) and his staff directly led to over 500 postal voters in the Newcastle-under-Lyme constituency being disenfranchised, close to 1,000 potential electors not being included in the register for the election across the borough and 2 electors who weren't entitled to cast their vote, to vote.

2.2 Given that there was a difference of 30 votes between the two candidates receiving the highest number of votes, it is impossible not to question the result for the constituency, as it was declared on the morning of 9 June. This does not mean that the candidate who was elected would not have been elected if those votes had been cast - his majority could also have increased or decreased - but it is impossible to know this for certain. In any event, the time available for challenging the outcome of the election has now passed - and had almost passed by the time this investigation began on 27 June. This is because election law only allows the outcome of an election to be challenged through an 'election petition', which must be brought within 21 calendar days of the return of the writ<sup>1</sup>. In the case of Newcastle-under-Lyme constituency, the writ was returned on 9 June.

2.3 As set out in this report, the issues faced by voters were the result of inadequate performance by the ARO/ERO and the consultants, accentuated by the fact that the elections office staff was inexperienced and under-resourced. The inexperience of the elections team, in particular, led to an over-reliance on the elections software system, which was not properly managed, and missed opportunities to identify what had gone wrong and take remedial action. The ARO/ERO and his staff never fully understood why they were facing the problems they did, which led them to underestimate the scale of the issues affecting electors and resulted in an inadequate and misleading response. What became clear in the lead-up to polling day was that the elections office was dealing with an unprecedented number of

---

<sup>1</sup> The only exception allowed to this rigid 21-day timescale is if the petition alleges corrupt or illegal practices involving money, which wouldn't apply in this case.

issues, questions and complaints from electors. However, no advice or support was sought until election week and, even then, the advice sought was limited. Limited discussions were had with neighbouring local authorities and the Electoral Commission and no contact was made with the elections software supplier or the Association of Electoral Administrators (AEA). It is impossible to tell whether such contact or more exhaustive conversations with the Electoral Commission and neighbouring authorities would have ultimately made any difference in the service provided to electors across Newcastle – but because no attempt was made, this will remain an unknown.

2.4 In May 2018, local elections will be taking place all across NuLBC on new boundaries and it is therefore vitally important that lessons are learnt and that the recommendations in this report are actioned. With the planning for those elections in mind, on July 10, an interim recommendation was issued to John Sellgren, as Acting Returning Officer (ARO) and Electoral Registration Officer (ERO), to urgently address the inexperience of elections office staff as the current structure, with a reliance on consultants, is not conducive to building experience across the elections team and more widely within the authority. A recommendation was issued that he should take immediate steps to create a post of Electoral Services Manager at a salary of about £35k and create at least two full-time equivalent posts to support it. If this failed, then it was recommended that he consider pooling his resources by creating a shared service with a neighbouring authority. The Chief Executive has consulted neighbouring authorities on the revised job description. At the time of publication of this report the post is in the process of being advertised and approaches have been made to neighbouring authorities and the AEA.

2.5 The following table lists all of the recommendations to the ARO and ERO that have been made throughout this report:

	<b>Recommendation to the Acting Returning Officer/ Electoral Registration Officer</b>
1.	<p>The inexperience of elections office staff should be urgently addressed. The current structure, with a reliance on consultants, is not conducive to building experience across the team. The ARO/ERO should therefore take immediate steps to create a post of Electoral Services Manager at a salary of about £35k and create at least two full-time equivalent posts to support it. If this fails, then the ARO/ERO should consider pooling his resources by creating a shared service with a neighbouring authority.</p>
2.	<p>To help restore trust in the management of the elections, the ARO should write to all electors who have been affected by any of the issues listed in this report with an apology and explanation.</p>
3.	<p>The ARO/ERO should undertake a thorough independent review, assisted by the Electoral Commission, to ensure that all practices followed in the office are legally compliant.</p>
4.	<p>The ARO should ensure that on-site checks are carried out of all postal vote batches as they are being printed.</p>
5.	<p>Ahead of the next scheduled polls, the ARO should review the process for issuing postal votes to overseas addresses, with a view to ensuring that postal votes being sent abroad are issued in a more timely fashion. While overseas electors are not entitled to vote at local elections, there may well be a number of electors at next year's polls who request their postal vote to be re-directed to an overseas address while they are temporarily away on business, holiday or for any other reason. The smaller scale of postal votes being sent abroad next year may provide the ARO with an opportunity to trial the manual issue of these postal votes.</p>



6.	Confirmation whether an absent vote application has been successful or unsuccessful should, as required by law, be sent to all applicants.
7.	The relevant parts of the absent voting lists, including the list of postal voters, should in future be supplied to each polling station, as set out in the election rules.
8.	Staff at collection points should be fully briefed by the ERO on the importance of keeping registration and absent vote applications secure and transmitting them in a timely fashion.
9.	Especially in light of the upcoming accommodation changes, elections office staff should be reminded to regularly collect documents from those collection points, as well as check all in-trays, post boxes and desks to ensure that no documents are missed. They should also regularly check any generic email addresses used by the elections office, as some electors may have sent in their application to a generic inbox, rather than to any email address specifically set up to receive applications.
10.	The ARO/ERO should, as a matter of urgency, ensure that adequate training on the elections software and law is provided to elections office staff and the Head of Audit and Elections.
11.	The ARO should ensure that future project plans give dates by which the software needs to be switched to 'election mode'. The risk register should also be updated to highlight the risks associated with not doing so.

12.	The ARO should review the means of communication between polling station inspectors, polling station staff and the elections office.
13.	The ERO should review the office's resource requirements to ensure that staff are able to deal with any peaks in activity ahead of an election and contact, where necessary, those applicants who need to supply further information or evidence in order to register.
14.	To avoid confusion by those who applied to register after the deadline for an election, the ERO and his staff should familiarise themselves with the contents of all the letters generated by the elections software and review the timing of the issue of confirmation of registration letters ahead of each future election.
15.	All elections office staff and any other staff dealing with electors, including temporary staff, should receive training in good customer care ahead of next year's scheduled polls.
16.	At future elections, senior staff in the elections office should provide scripts to anybody dealing with the public and keep these under review, so that accurate information can be provided to electors who may be experiencing particular issues.

2.6 This investigation has also identified a number of related recommendations for the Electoral Commission, the UK Government and Cabinet Office, software companies and the Association of Electoral Administrators:

- **Recommendations to the Electoral Commission**

The Electoral Commission should consider making explicit reference in its guidance and templates for Returning Officers to switching the

elections software to 'election mode' and carrying out any necessary checks.

The Commission should assist the ARO/ERO in their recommended review of office practices to ensure that they are all legally compliant.

- **Joint recommendation to the Electoral Commission and the Cabinet Office**

The Electoral Commission and Cabinet Office should review the appropriateness of the wording of the confirmation of registration letter in the context of an election and provide advice on the timing of its issue.

- **Recommendation to the UK Government**

The circumstances in Newcastle-under-Lyme demonstrate the need for the petition process to be modernised and the UK Government should reconsider the appropriateness of the current method of challenging the outcome of elections.

- **Recommendation to IDOX and other elections software companies**

IDOX and other software houses should consider if there is any more they could do to help their customers check that their software has been set to 'election mode'.

- **Recommendation to the Association of Electoral Administrators (AEA)**

The AEA, as the largest provider of consultants and temporary electoral services staff, should review its procedures for allowing members onto its panel and consider how they can ensure that their consultants do not give advice contrary to law or not in the voters' interests for the sake of administrative convenience.

### **3 Terms of reference and conduct of independent investigation**

3.1 For this investigation, the following terms of reference were agreed with NuLBC:

**The council has commissioned the investigation with the AEA and it will cover all issues relating to the election, including:**

- the election planning process
- the factors that led to postal voting packs not being received or being received too late to be returned before the close of poll
- the management of the electoral registration function
- an assessment of the number of voters affected
- the approach, effectiveness and timeliness of remedial action taken to rectify each issue once the ARO became aware of the issue
- the advice and guidance supplied by the EC and any other party
- the staffing and resourcing of the customer service centre
- the effectiveness of communications
- the general effectiveness of the election and registration function
- the robustness of systems and processes in place

3.2 The work of the investigation commenced on 27 June and, as part of it, the following interested parties were contacted for further information or invited to provide their views on specific issues:

- the ARO/ERO, his staff (including polling station staff and inspectors) and consultants
- the AROs for the three other constituencies that NuLBC is a part of
- Newcastle-under-Lyme's MP
- the Conservative Party's candidate and the Liberal Democrats' candidate at the election
- electors with complaints about the management of the election
- the Vice-Chancellor of Keele University
- Keele University Student Union representatives
- IDOX (the ARO/ERO's election software supplier)

3.3 All Presiding Officers who worked at the election were also surveyed, as well as 87 students who claimed they had been prevented from voting at the election.

3.4 Open-door sessions were held to allow anyone who so wished to make any comments or detail their experience.

3.5 What emerged from these evidence-gathering exercises was a very complex picture of administrative mistakes revolving around the electoral registration and postal voting processes. Data recorded by the elections software in the run-up to 8 June had to be analysed in order to understand the complexities surrounding the individual mistakes.

## 4 Context of NuLBC

4.1 Elections and electoral registration are conducted in England by independent statutory officers at each district, unitary, metropolitan and London borough local authority. These statutory officers, usually the Chief Executive of the local authority, are independent of the local authority when exercising their elections and registration functions.

4.2 Responsibility for the management of electoral registration lies with the Electoral Registration Officer (ERO). That person, by law, becomes the Acting Returning Officer (ARO) for parliamentary elections. In Newcastle-under-Lyme, John Sellgren, the Chief Executive of the council fulfils these roles.

4.3 While, as ARO, he was responsible for the election in the Newcastle-under-Lyme constituency only, electoral registration is conducted on a local authority basis. This means that, as ERO, he was also responsible for the processing of registration and absent vote applications for those electors living in those parts of NuLBC that were included in the Stone, Stoke-on-Trent North and Staffordshire Moorlands constituencies.

4.4 For a full description of the responsibilities of the ERO and ARO see, respectively, [Part 2 of the Electoral Commission's guidance for EROs](#) and [Part A of its guidance for AROs](#).

### **Elections office management arrangements**

4.5 The electoral services team at Newcastle-under-Lyme was subject to considerable change throughout 2016 because of staff absences and the departure of Senior Electoral Services Officer and her line manager. In November 2016, line management responsibility for elections was taken on by the Head of Audit and Monitoring Officer. The vacant Senior Electoral Services officer post was advertised on a number of occasions in a variety of publications in the autumn but it was not possible to make an appointment. At the time of the May 2017 elections, an experienced electoral administrator (referred throughout this document as Consultant 1) was working three days a week supplemented by an experienced but temporary full-time member of

staff, an experienced permanent part-time member of staff and two internal secondees. The elections in May were considered to have been well-run and the issues that arose in June did not emerge then.

4.6 So what was different about the management structure in June?

Crucially, there were further changes in the personnel in the office.

Consultant 1 was only in the office for five days after the May election and went on holiday from 18 May. The experienced, but only temporary, member of staff left on 19 May. To mitigate the impact of these departures another experienced electoral administrator (referred throughout this document as Consultant 2) was appointed on a part-time basis. He had previously worked at the elections office and was supported by an agency worker who had experience of election work in a neighbouring authority. The agency worker was employed to work on the elections on a full-time, although temporary, basis. The team was managed by the Head of Audit and Elections (and Monitoring Officer). The Head of Audit and Elections and Consultant 2 were formally appointed as deputy AROs by the ARO.

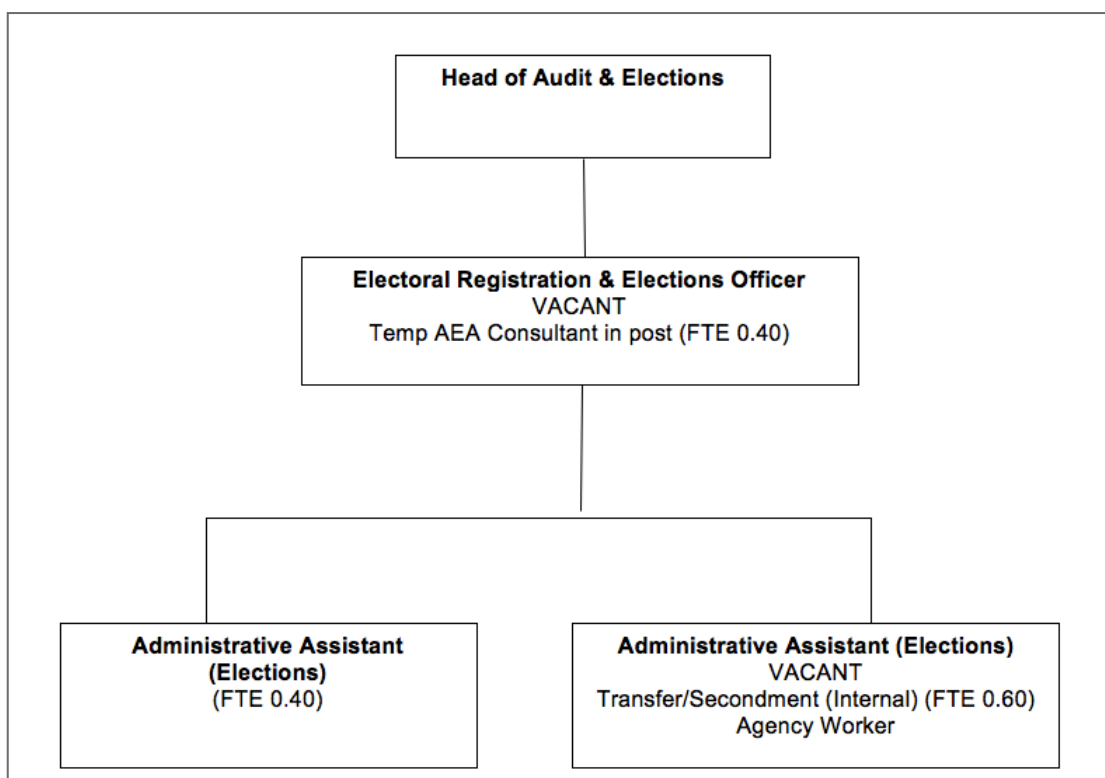
4.7 The supplier of the elections software (IDOX) provided training for the new team on 23 May.

4.8 The calling of the general election on 18 April took everyone by surprise and presented particular challenges to electoral administrators because the general election timetable and the timetable for the elections on 5 May overlapped. Within an hour of the election being announced, Consultant 1 contacted the Head of Audit and Elections to confirm his lack of availability to work on the general election beyond 17 May. The Head of Audit and Elections immediately sought and was given approval from the Cabinet Office to fund the appointment of another consultant. Despite contacting the AEA and SOLACE and asking neighbouring authorities if they had any capacity to provide assistance, it was not possible to find a consultant or staff from another authority able to work for the period of the election which was why Consultant 2 was recruited along with the agency worker. However, Consultant 2 had only limited availability in the weeks leading up to the general election and while his duties included the registration of electors, he had little experience and knowledge of the detail of individual electoral registration (IER).

4.9 This was not a situation that any ARO/ERO would have wanted to find him or herself in, but the ARO/ERO at Newcastle-under-Lyme took reasonable steps to fill the knowledge and experience gap created by the departure of the two experienced team members in the middle of May. The majority of elections offices across the country are staffed by permanent staff employed by the local authority. Many of those dedicated staff will have had leave cancelled or disrupted to ensure the smooth running of the general election.

4.10 The changes in personnel were in large part at the root of the problems that arose at the 8 June election.

4.11 Newcastle-under-Lyme's current staffing structure is as follows, containing two vacant posts and no full-time ones, save for the Head of Audit and Elections:





## **5 Electoral registration and the issue of postal votes - what to expect**

5.1 The investigation has found that the issues that affected a significant number of voters at the general election in Newcastle-under-Lyme revolved around two specific electoral processes:

- the processing of electoral registration applications
- the postal voting process

5.2 This chapter summarises the legal framework and some of the key steps that should be followed by the Electoral Registration Officer (ERO) and the Acting Returning Officer (ARO) to ensure a well-run registration and postal voting process.

### **Electoral registration**

#### **Updates to the electoral register and application deadlines**

5.3 The electoral register is published on 1 December<sup>2</sup> and monthly updates are made as people apply to register throughout the year. These monthly updates are published on the first working day of the month, with an application deadline in the first half of the preceding month. If an election is called, additional updates to the register are made in the immediate run-up to it. In that case, the final register update before the election is published on the 5<sup>th</sup> working day before the poll, with an application deadline of 12 working days before the poll.

5.4 Had the general election not been called, the application deadline for being included in the 1 June update would have been 10 May. However, with the general election taking place on 8 June, potential electors now had until 22 May to apply to be included in the 1 June elections update and therefore be able to vote at the general election.

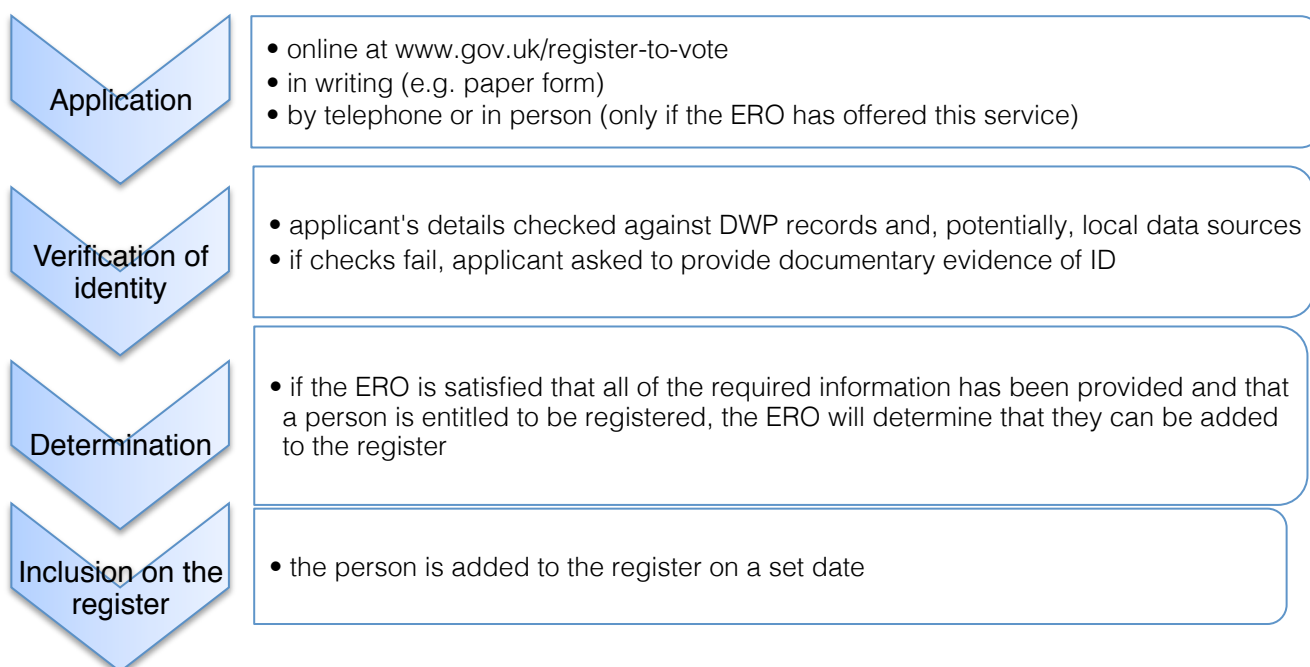
---

<sup>2</sup> Except in areas with by-elections between 1 July and 1 December, where the ERO may decide to suspend the publication until 1 February in the following year.

5.5 To give effect to this change in application deadlines, the election software needed to be updated in each local authority and set to 'election mode'.

## The registration process

5.6 In order to be able to vote at an election a person must be registered. The statutory deadline for applying to register to vote at the general election was 22 May. However, a person's inclusion on the electoral register is not immediate on submitting an application – their identity needs to be verified first and the ERO has to be satisfied that a person is entitled to be registered. Broadly speaking, a successful application will go through the following stages:



## Statutory timeline of the registration process

5.7 The registration process is carried out to strict deadlines set out in law. The deadline for receiving complete applications ahead of an election is, at all elections, the twelfth working day before the poll. This is to accommodate a clear period of five working days during which the ERO may receive objections to any application they have received. All applications, once received, are listed and available for public inspection so that anybody may review them and, if they have any concerns about the person's entitlement, make an objection. If an objection is received within those five working days,

then the ERO must suspend the application until it is determined – unless the objection is clearly without merit, in which case, the application proceeds as planned. It is only once this 5-day objection period has passed that the ERO may determine whether an application for registration has been successful and the person can be added to the register.

5.8 The register is updated for the last time ahead of an election on the fifth working day before the poll. No further updates can be made to the register ahead of polling day, unless the ERO determines that the register contains a clerical error. The ERO can correct any clerical errors made by themselves or their staff until 9pm on polling day. Examples of a clerical error are where information on a paper application is wrongly transcribed from the form onto the software system, or where someone failed to add a successful applicant to the register due to a processing error.

5.9 The reason that the legislation provides for the final register update to be published on the fifth working day before the poll is two-fold. Not only does it afford the ARO a few days to print the relevant parts of the register for individual polling stations but, crucially, it means that candidates, who are entitled to receive all register updates ahead of an election on request, have an opportunity to canvass any new electors that have been added through the final update. The image below summarises this:

Statutory process	last day for applications	objections period	objections period	objections period	objections period	objections period	determination deadline	final register update							Polling day
Working days before poll	-12	-11	-10	-9	-8	-7	-6	-5	-4	-3	-2	-1	0		
Comment	Must be received by 12 midnight	Legislation requires a clear 5-day-period for objections					Must take place on day before register update	Must be published five working days before the poll	Opportunity for candidates to canvass new electors						
Comment								Update notice made available to candidates							

## Following up with applicants

5.10 There are two main reasons why there may be a delay in the processing of an application:

- the application is incomplete
- the applicant’s identity could not be verified through DWP or local data

5.11 In both these cases, the ERO will need to follow up with the applicant.

5.12 [Template letters](#) are available on the Electoral Commission's website for use when following up because a person's details could not be verified. Where an applicant may have omitted to include some of the required information on their application, the ERO will also need to follow up with the applicant to ensure that they are made aware of this and are given the opportunity to provide the missing information. This can be done by letter, email or phone and the contents of the communication will depend on what required information was missing from the application.

5.13 Ahead of an election, it is particularly important that any follow-up (either because a person's identity could not be verified or because the application was incomplete) takes place as quickly as possible to ensure that all those who are eligible to vote at the election are able to do so.

5.14 To take effect in time for an election, any missing information from an incomplete application must be provided by the registration deadline. Any missing information provided after the deadline cannot be considered by the ERO in time for the poll. By contrast, a person's identity can be verified after the registration deadline has passed and up until the statutory deadline for the ERO to make their final determination ahead of the election. Documentary evidence of identity (for example, a passport copy) can be provided by the applicant until then.

5.15 To support effective follow-up, a clear audit trail of applications is required, which is why [Part 4 of the Commission's guidance manual for EROs](#) advises EROs that:

**4.19 You should keep a record of any incomplete applications or applications where you have requested further information and keep track of these, so that you can follow up with the applicant if they do not respond to your initial request for information. You should inform the applicant by which date you expect them to**

## Incomplete applications

5.16 One of the benefits of the online application system - and most of the applications in NuLBC were made online - is that it does not allow the applicant to submit their application until all of the required fields have been

completed. It is possible, however, to supply incorrect or incomplete information within each field (for example, an incomplete address), which the ERO then has to follow up on.

5.17 At the 8 June general election, complete applications had to be received by the ERO by 22 May in order to be effective for the poll. If an applicant had failed to submit a complete application, any missing information had to be provided by the elector by 12 midnight on 22 May.

5.18 For an application to be classed as complete it must include all of the following information<sup>3</sup>:

- The applicant's full name.
- The address where the applicant is resident on the date of the application and in respect of which they are applying to be registered.
- Any address where the applicant has ceased to reside in the 12 months prior to the date of the application and, where that address is not in the UK, an indication of whether that person was registered as an overseas elector during this period.
- An indication of whether the applicant is resident at any other address, including any address where the applicant is currently registered and claims to be entitled to remain registered.
- The applicant's date of birth or, if they are unable to provide this information, the reason why they are not able to do so and a statement as to whether the applicant is under 18 years old or aged 76 or over.
- The applicant's National Insurance Number or, if they are not able to provide this information, the reason they are not able to do so.
- The applicant's nationality or nationalities or, if they are not able to provide this information, the reason why they are not able to do so.
- An indication of whether the applicant requests their name to be omitted from the edited register.
- A declaration that the contents of the application are true.
- The date of the application.

---

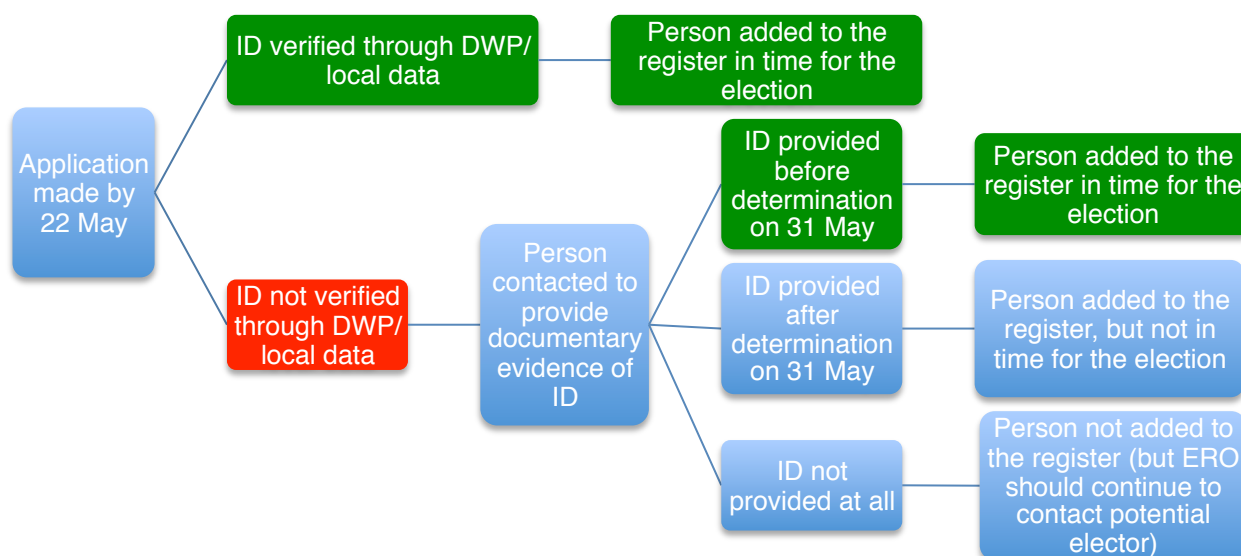
<sup>3</sup> These requirements apply to most applicants. There are slight variations in requirements for 'special category electors', such as military service personnel or UK citizens living overseas.

## Verification of identity

5.19 The identity of most applicants is verified against Department of Work and Pensions (DWP) records or local data sources. However, there will be some applicants whose details cannot be verified through this process. In this case, the ERO must ask the applicant to provide documentary evidence to prove their identity<sup>4</sup> so that the ERO can determine their entitlement to be registered. This documentary evidence can be supplied after the application deadline, but there is a cut-off by which an applicant must have been verified in order to be added to the register in time for an election. It is therefore important that, particularly in the run-up to an election, EROs contact those who have failed the DWP and local data checks as soon as possible.

5.20 At the 8 June election, EROs had until 31 May to determine whether or not someone who had applied on or by 22 May was entitled to be registered to vote.

5.21 While verifications of identity would still have taken place after the registration deadline and up to 31 May, no applications (whether complete or incomplete) received after the 22 May registration deadline could be legally processed by the ERO in time for the election.



<sup>4</sup> For those who cannot provide documentary evidence there is a separate attestation process.

## The postal voting process

### Applying for a postal vote

5.22 Anyone who is registered to vote can apply to vote by post at an election their franchise entitles them to vote at. A person who is not yet registered to vote, but who is applying or has applied to be registered, can also submit an application to vote by post. In this case, the postal vote application can only be granted once the ERO has made a formal determination that the applicant will, in fact, be added to the electoral register.

5.23 In order to be able to vote by post at an election, an application must have been received by the ERO by 5pm on the 11<sup>th</sup> working day before the poll. At the 8 June general election, the cut-off was 5pm on 23 May.

5.24 This deadline is prescribed in legislation and cannot be moved for any reason. EROs should process postal voting applications as soon as possible after receipt and on a continuous basis in the run-up to an election. This enables them quickly to identify any incomplete applications they receive and follow up with the relevant applicant to request any missing information. In dealing with such incomplete applications swiftly, applicants are given an opportunity to supply any missing information in as timely a manner as possible, which ultimately helps to ensure that everyone who is entitled to vote at the election can do so using their preferred method of voting.

5.25 As applications must be received by the ERO by the statutory deadline, EROs need to be mindful that electors may well deliver their application to reception or other staff at the council. Equally, if forms have been scanned and emailed, they may have been emailed to a different elections office email inbox that is not necessarily the one that has been designated for the receipt of postal votes. This is why the Commission advises EROs as follows:

**2.48 Electors may well deliver an application form to a local authority contact or enquiry centre. You should consider where you will receive absent vote applications – for example, will you appoint staff at contact, reception or enquiry centre as your clerks for the purposes of receiving application forms? If you do, you should ensure that these staff are also aware of the postal voting deadlines and you should emphasise the importance of transmitting to you any absent vote applications they receive in a timely fashion.**

2.49 You should also ensure that all in-trays, post boxes and desks of any absent registration staff are checked regularly to ensure that no forms are missed.

## **Communications to electors about their postal vote application**

5.26 EROs are legally required to write to all applicants to let them know whether their application has been successful or has been rejected. This is a safeguard against fraud, but also helps to safeguard against any potential misunderstanding on the part of the elector about how they will be able to vote. Anyone who is a postal voter cannot, by law, vote in person at the polling station.

5.27 The law also requires that, ahead of an election, postal voters are sent a postal poll card to let them know that they will be voting by post at that election.

5.28 Where an application to vote by post has missed the deadline for a forthcoming election, the Electoral Commission advises EROs to notify the elector and highlight the option to vote by proxy (provided the deadline to apply for a proxy has not yet elapsed)<sup>5</sup>.

5.29 The lists of postal voters are available to candidates and must be supplied to each polling station to assist in the administration of the poll.

## **Sending out postal votes to electors**

5.30 By law, the ARO must issue postal votes to electors as soon as is practicable. In practice, this means once the ballot papers can be printed, which is only after the ARO knows for certain who will be standing for election in their constituency. All AROs at the 8 June general election will have had this information at 4pm on 11 May, which was the deadline for the withdrawals of candidate nominations. After 4pm on 11 May, AROs were able to start the process of signing off and printing the ballot papers, including those for inclusion in postal ballot packs.

---

<sup>5</sup> See paragraphs 2.42-2.43 of [Part 5: Absent voting](#) of the Commission's manual for EROs.



5.31 Clearly, to maximise the time available to electors to receive, complete and return their postal vote, AROs should be issuing postal votes promptly. To meet the Electoral Commission's performance standards, AROs need to ensure that postal votes are received as soon as possible so that voters have the maximum amount of time to act on the information (see paragraph 7.14 below for more information on the Electoral Commission's performance standards for AROs).

5.32 Postal votes are typically issued in batches in the run-up to an election. The first batch is usually the largest. This is because the majority of postal votes are so-called 'permanent' postal votes - used by electors who find postal voting convenient and who therefore have a standing postal vote in place for all elections. At any election, electors can also apply for a postal vote for that particular election because of holidays or other circumstances that may affect their ability to get to the polling station on polling day. The first batch of postal votes will be sent to those electors who already have a permanent postal vote in place, as well as to those who have made an early application to vote by post at the particular election. After the first batch of postal votes has been issued, further issues are required so that postal votes can be sent to electors who applied to vote by post closer to the deadline, or who did not yet appear on the electoral register by the time of the first issue.

5.33 Data is sent to those printing the postal ballot packs at contractually agreed times during the election timetable. The timing of the data transfers to the printers and, therefore, the issue of postal votes is usually linked to the times when the register is updated in the run-up to an election. This optimises the timing of when postal votes can be sent.

5.34 To support the prompt dispatch of postal votes, in particular to overseas electors and service voters, Parliament passed legislation ahead of the 2015 general election that added two further points at which the register had to be updated ahead of an election.

5.35 In the month before the election, the register should have been updated on three separate occasions, with AROs timing their postal vote issues around these. The first update should have taken place on 11 May; the second, on a day of the ERO's choosing between 12 May and 31 May; and the third, on 1 June.

## **Dealing with ‘lost’ or ‘not received’ postal votes**

5.36 Legislation allows the ARO to issue a new postal vote to an elector who claims that they have not received or that they have lost their postal vote. As a safeguard against fraud, the ARO must only re-issue a postal vote if they are satisfied as to the postal voter’s identity and have no reason to doubt that they have lost or did not receive their original postal vote. In most cases, this involves the ARO asking the elector to attend the council offices with some form of ID.

5.37 While AROs are able to replace postal votes they have issued, the legislation restricts the earliest time that such a replacement can actually take place to the fourth working day before the poll. This means that at the 8 June election, postal votes could only legally be replaced from the Friday before polling day, i.e. from 2 June, until 5pm on polling day.

5.38 To ensure that any replacements are received in time for the poll, if the elector requests a replacement between 5pm on the day before polling day and 5pm on polling day itself, the legislation specifies that the voter must apply for a replacement in person and, in those circumstances, the ARO can only issue a replacement by hand.

## **Changing from voting by post to voting by proxy**

5.39 Any postal voter can change their mind and request to vote by proxy rather than by post (or cancel their postal vote altogether). However, the deadline for requesting such a change is not the deadline for appointing a proxy, i.e. 5pm on the sixth working day before the poll, but earlier at 5pm on the 11<sup>th</sup> working day before the poll – the same as the postal vote application deadline. For the 8 June election, this would have been 5pm on 23 May.

5.40 Most postal votes would not have been delivered to electors by then, which is why, in most cases, EROs/AROs cannot offer the option of voting by proxy to electors who complain that their postal vote has failed to arrive.

## **6 Issues faced by some voters at this election**

6.1 It is important to remember that the majority of voters in Newcastle-under-Lyme had a positive voting experience. However, the election in Newcastle-under-Lyme constituency has been undermined by several issues that affected a significant number of electors. This chapter sets out the issues experienced by these electors in the run-up to the election and on polling day itself. It covers the impact that the issues had, alongside an assessment of why they occurred and whether any remedial action taken was effective. The description of each issue is followed by recommendations to avoid the same issue affecting any future polls.

### **Issue 1: Over 500 electors were not sent their postal vote**

6.2 Over 500 electors who had successfully applied for a postal vote in time for the general election, did not have their postal vote sent to them.

#### **391 postal votes with UK addresses**

6.3 A batch of 391 postal votes with UK addresses was not sent for printing. After speaking to electors, elections office staff and the elections software supplier to establish what happened, it is clear that the source of the problem was a failure by a member of the elections office staff to correctly operate the elections software. Consultant 2 failed to complete the necessary stages in the software system to send the batch for printing. While the batch was created in the software system, the relevant data was not sent to the printers. In creating the final batch on the system, Consultant 2 had ignored an on-screen warning message. The impact of this was that the software system showed that the batch of 391 postal votes had been created and issued when in fact it had not been. Staff were therefore advising that postal votes had been issued when, actually, the necessary data had not been sent to the printers.

6.4 A total of 68 electors who were included in this batch successfully contacted the elections office to complain that their postal vote had not arrived and were issued with a replacement postal vote. This leaves 323

postal voters of that batch who never had a replacement issued. These 323 were, by law, unable to vote at the polling station because they would have been marked as a postal voter on the electoral register.

6.5 The failure to correctly complete all of the steps required by the elections software system resulted in 323 electors being denied their right to participate in the election.

6.6 The issue was compounded by a number of factors:

- Crucially, elections office staff did not identify the source of the postal voting problem and which batch of postal votes had been affected – this only crystallised as part of the post-election investigation. Up to and immediately after 8 June, the cause had been wrongly identified as a fault in delivery by Royal Mail of a batch that had been printed. Staff dealt with enquiries from electors on this assumption and asked electors to continue to wait for their postal votes to arrive.
- Had elections staff noticed at the time that the data of one particular batch had not been transferred correctly to the printers, new postal votes could have been issued to all in that batch. Instead, postal voters were left to query the non-arrival of their postal votes with the elections office themselves, generating phone calls and personal visits which, in addition to being unnecessary burdens on voters, put a strain on the ability of the organisation to cope.
- Opportunities to spot the error were missed by staff not being present at the printer's premises to carry out checks for each issue. While staff were present at the first issue, acting on the advice of Consultant 1, they did not attend any subsequent ones where the problems with the particular batch of postal votes would have been identified. The ARO had recently changed the printer of postal votes following a competitive tendering process. Despite the successful tenderer scoring highly in the evaluation because of the arrangements they offered for on-site inspection of the materials they produced, on-site checks were not undertaken beyond the first issue. Instead, and in line with the approach at the May election, a limited number of random off-site checks took place through an online data exchange mechanism. However, these online checks did not take place until election week as

Consultant 2 was not available in the week before the poll and were limited to the final batch.

- Not all electors who complained to the council were offered a replacement. There appears to have been a mixture of lack of understanding of the process and inconsistent messaging. While, by law, replacement postal votes could only be issued from 2 June, the investigation has found evidence that a number of postal voters who had requested a replacement on 2 June had their request refused, or were not offered a replacement.

6.7 The following experience by one postal voter is representative of a number of submissions received as part of the investigation into the management of the election:

#### **Elector submission**

Myself and my wife have direct experiences of the council's failed attempts to provide us with postal votes for the recent general election. In this matter we feel that they have denied us the right to a vote.

We were on holiday for the week of the general election, so a postal vote seemed the right thing to do.

We applied in good time during early May, around the 8th, certainly before the publicised cut off date.

Our holiday started 3rd June, and in the preceding week [I] spoke to council representatives on a number of occasions. On each occasion I was given assurances that our application had been processed and passed to those responsible for producing the documentation and then the post office for delivery.

When pressing them however, I was told that they couldn't guarantee delivery as this was not their responsibility. They were unable to offer a practical alternative to the postal vote that would allow me to vote.

All this was to no avail as we left for holiday on the 3rd, with no postal vote.

To compound matters, when we returned on the 11th June, the postal vote hadn't arrived at all. I feel the council have been unsympathetic to my case, and seemed affected by systemic and management failings in dealing with my application. Staff seemed poorly equipped to deal with these situations.

[...]

I'd booked a day's holiday on the 2nd June, and spoke with council representatives during that morning. I did offer to attend their offices that day and pick up the required documents there and then.

This offer was declined on the basis, that their work was done and my details had been passed onto those responsible for producing the documents.

## **204 postal votes with overseas addresses**

6.8 As mentioned in paragraph 5.34, legislation was amended to give as much time in a tight electoral timetable for postal votes to be sent out, completed and returned before the close of poll. Royal Mail has also made arrangements for the return envelope to be printed with a special international postage licence to facilitate the return of the envelopes. The first batch of postal votes going to overseas addresses, containing 124 postal votes, were issued on 24 May. This batch included all applications processed by 8 May. Applications processed and received after 8 May, 204 in total, were not sent out. This is because Consultant 2 failed to complete the steps required by the software to send this batch to the printers. This batch of 204 postal votes, like the 391 UK postal votes, was never sent for printing. Had the printing of the second batch of postal votes been supervised on-site, there is every likelihood that the complete absence of postal votes to be sent abroad would have been picked up, as they are handled separately by the printers due to the use of the special reply envelope.

6.9 This final batch of postal votes to overseas addresses was due to be sent out with the final batch of UK postal votes on 30 May. It is highly unlikely that many postal votes sent abroad as part of this final batch on 30 May would have been received in time for them to have been returned by the close of poll.

6.10 No arrangements were made for the regular issue of postal votes to overseas addresses between the first and final batch to maximise the time available to electors to receive, complete and return their postal vote. While postal votes can only be issued once someone has been added to the register, the investigation has found that some overseas applications were in the office for up to three weeks before postal votes should have been sent to them.

6.11 It would have been entirely possible for the postal votes going overseas to be created in-house and sent out on a regular basis had the necessary arrangements been made. The decision not to schedule more regular issues does not seem to have been a conscious one, but a practice adopted previously.

### **Failure to send statutory communications to postal voters**

6.12 On polling day, a number of postal voters from the batch of 391 UK postal voters who had not received their postal vote, but who had previously received an ordinary poll card, attended polling stations expecting to be able to vote in person in the absence of their postal vote.

6.13 To avoid any misunderstandings and ensure that electors know that they are voting by post at an election, the legislation requires EROs to send those electors who successfully applied to vote by post (and also by proxy) a confirmation of successful absent vote application, while AROs have to send out a postal poll card to postal voters ahead of each poll. Sometimes, these two communications are combined into one. The content of the postal poll card is prescribed by law, which requires the ARO to make clear that postal voters cannot vote in person at a polling station and include information on how to request a replacement postal ballot pack in case of loss or non-delivery.

6.14 The investigation has found that, as a result of the failures in generating the two batches, postal poll cards were also not printed. In addition, the legally required notification to electors to let them know the outcome of their postal vote application was only sent, via email, to those electors who had emailed in their application documents. This meant that anyone who applied by post and those who had hand-delivered their application, did not receive this notification. A number of older electors who contacted me fell into this

latter category. Some had applied for postal votes for the first time, on the advice of friends and/or neighbours who had found postal voting very convenient. Electors in the batch of 391 included a number of people in their 80s who, having not heard about their application for a postal vote, went to the polling station to be told that they were marked as postal voters and were therefore unable to vote. For some of these electors it was the first time in their lives that they had not voted.

6.15 This contributed to confusion and delays at the polling station, as well as understandable voter frustration. It also contributed to the sizeable increase in the volume of calls received by the elections office on polling day.

6.16 As mentioned in paragraphs 5.36 - 5.38, on polling day itself, postal voters who had not yet received their postal vote had only until 5pm to request a replacement, which could, by law, only be issued in person and on provision of ID. In practice, this would have meant a visit to the council offices by 5pm. It is reasonable to assume that not everybody who attended polling stations expecting to be able to vote in person would have been in a position to do this.

### **Recommendations**

The inexperience of elections office staff should be urgently addressed. The current structure, with a reliance on consultants, is not conducive to building experience across the team. The ARO/ERO should therefore take immediate steps to create a post of Electoral Services Manager at a salary of about £35k and create at least two full-time equivalent posts to support it. If this fails, then the ARO/ERO should consider pooling his resources by creating a shared service with a neighbouring authority.

This staffing recommendation was issued to the ARO/ERO as an interim recommendation on 10 July to enable him to start the recruitment process in good time ahead of next year's local elections.

The ARO/ERO should, as a matter of urgency, ensure that adequate training on the elections software is provided to elections office staff.

The ARO/ERO should undertake a thorough independent review, assisted by the Electoral Commission, to ensure that all practices used in the office are



legally compliant. As ARO, they should also ensure that on-site checks are carried out of all batches as they are being printed.

Ahead of the next scheduled polls, the ARO should review the process for issuing postal votes to overseas addresses, with a view to ensuring that postal votes being sent abroad are issued in a more timely fashion. While overseas electors are not entitled to vote at local elections, there may well be a number of electors at next year's polls who request their postal vote to be re-directed to an overseas address while they are temporarily away on business, holiday or for any other reason. The smaller scale of postal votes being sent abroad next year may provide the ARO with an opportunity to trial the manual issue of these postal votes.

Confirmation whether an absent vote application has been successful or unsuccessful should, as required by law, be sent to all applicants.

## **Issue 2: Absence of postal voting lists at polling stations leads to at least one elector being disenfranchised**

6.17 The law requires that, among other lists, the ARO supply each polling station with a list of postal voters. However, on the advice of Consultant 1, this requirement was not carried out. He had given the same advice at the elections in May, which was followed and had no consequences at those polls. Consultant 1 said that the reason for giving that advice was that as postal voters were marked with the required 'A' against their name on the register to denote that they were postal voters, there was no point in duplicating the information and it also meant there was one administrative task less to do. He was aware that it was a requirement to provide the lists.

6.18 The impact of this advice, in addition to being a breach of the law, meant that polling station staff were left with only a partial picture. The list of postal voters includes the address to which the ballot paper was sent, which would, in the case of at least one elector (Mr C), have identified that the elections staff had made a mistake and he should not have been marked as a postal voter on the register. The postal voters list would have shown that the address that his postal vote had been sent to was the address of a different elector. This would have alerted staff to a processing error, whereby

someone else's postal vote had been mis-allocated to him. This information would have enabled the ERO to correct the error and Mr C would then have been entitled to an ordinary ballot paper in the polling station. However, as staff did not have access to this information at the time, Mr C was prevented from casting his vote.

#### **Recommendation**

The relevant parts of the absent voting lists, including the list of postal voters, should in future be supplied to each polling station, as set out in the election rules.

### **Issue 3: Documents relating to absent vote and registration applications were lost on council premises**

6.19 Applications to vote by post or proxy, and also to register, may be hand-delivered to the ERO. To assist those electors choosing to hand-deliver any such applications ahead of an election, the ERO will often set up specified collection points throughout various council buildings. In addition to the council's main offices, the ERO at Newcastle set up a collection point at the Guildhall.

6.20 However, from testimony collected from a number of electors, it appears that a handful of postal and proxy vote applications were lost on council premises, as well as, in at least one instance, copies of documents confirming a person's ID for registration purposes. In at least one further instance, an elector sent their postal vote application to a generic elections office email address and not to the one that had been specifically set up to receive postal vote applications. As a result, her application was 'lost' and not processed.

6.21 While, overall, the numbers affected would have been small, the fact that applications and supporting documents did get misplaced contributed to a loss of trust in the management of these polls and, in a small number of cases, to more voters being disenfranchised.

## Recommendations

Staff at collection points should be fully briefed by the ERO on the importance of keeping applications secure and transmitting them in a timely fashion.

Especially in light of the upcoming accommodation changes, elections office staff should be reminded to regularly collect documents from those collection points, as well as check all in-trays, post boxes and desks to ensure that no documents are missed.

They should also regularly check any generic email addresses used by the elections office, as some electors may have sent in their application to a generic inbox, rather than to any email address specifically set up to receive applications.

## Issue 4: Lack of understanding and poor management of the registration process

As the postal voting processes are run by individual AROs on a constituency basis, the postal vote issues described above refer only to what happened in the constituency of Newcastle-under-Lyme. However, as electoral registration is conducted on a borough-wide basis, the description and figures provided throughout this section, unless otherwise stated, relate to what happened across NuLBC as a whole. While the bulk of electors affected by the registration issues were those from Newcastle-under-Lyme constituency, a number of electors from Stone, Stoke-on-Trent North and Staffordshire Moorlands constituencies were also affected. Where information was available to this investigation, a breakdown of figures by constituency has been provided.

6.22 The investigation has found that nobody with significant experience or understanding of running registration under the new system of individual electoral registration (IER) was in charge of dealing with applications in the crucial periods running up to the registration deadline on 22 May, the ERO's determination deadline on 31 May and election day. Consultant 2's previous work on elections was undertaken before IER was introduced and even though an agency worker with recent electoral registration experience in a

neighbouring authority was brought in on 18 May, the only person with substantial experience of administering IER at NuLBC was the temporary member of staff who left on 19 May, i.e. three days before the registration application deadline.

6.23 As mentioned in paragraph 5.4, when the general election was called, the application deadline for being added to the register on 1 June and, therefore, in time for the election, changed from 10 May to 22 May. To assist EROs, the software supplier issued circulars to all its customers on 26 April, explaining all the amendments necessary for the software to be correctly switched to 'election mode' and for the deadline to be updated. However, the investigation has found that the necessary amendments to the system were not made until 18 May, meaning that electors whose applications had been received after 10 May and before the switch-over on 18 May were marked for inclusion on the July register.

6.24 Relatively inexperienced members of staff processed registration applications. Although they received training by the software supplier, this training took place on 23 May - a day after the registration deadline. While working hard, the inexperienced staff were clearly overwhelmed with the number of applications received in the run-up to 22 May. This meant that by polling day, 439 applications that had been received in time, needed no follow-up action and could have been determined within the statutory timescales, were left unprocessed. There were also 509 applications that had been processed, but had been added to the July register as a result of the delay in switching the software to 'election mode'. A yet-to-be-determined number of applications had also been received in time, but were either incomplete or had failed the DWP checks and therefore needed further follow-up by the ERO.

### **The elections office is contacted by 86 potential electors in the run-up to polling day**

6.25 In the lead-up to 8 June the elections office received enquiries from 86 individuals. On inspecting their records, it became clear that applications of these 86 potential electors had been received before the application deadline, but:

- had not been processed or had only been partly processed and still needed to be determined, even though the applications were complete and had passed DWP checks, or
- had been processed, but had been included on the 1 July register update, rather than the one for the election. The reason for this was the delay in setting the elections software to 'election mode', but this was not appreciated by staff at the time, which had severe implications for them on polling day.

6.26 Because these 86 applications had been received in time, had passed the DWP identity checks and their omission from the register was the result of either a processing mistake or a delay in the processing of applications, the ERO and the Head of Audit and Elections, in consultation with office staff, decided to use the ERO's power to correct clerical errors to add these 86 individuals to the polling station registers. Early on polling day, elections office staff started to contact all Presiding Officers and asked them to write in these electors' details. All affected stations were informed of the names by midday. If one of these 86 attended to vote before the message had got through, all polling station staff had been given contact numbers for the office and mobile phone numbers for assistance (although one of the mobile numbers was wrong and it took some time to get the amended number circulated).

6.27 The provision that allows EROs to correct clerical errors until 9pm on polling day does not set out in detail the types of errors it covers. It is an untested area of law and it is up to the ERO to determine whether the register contains a clerical error, fully considering the risks of amending the register and keeping in mind that there is a statutory 5-working-day objection period, as set out in paragraph 5.7 above. Through the investigation, it has become clear that even though the decision was made to rely on the power to correct clerical errors because the elector had submitted an application in time and had been omitted from the 1 June update through no fault of their own, no consideration was given to the statutory 5-day objection period and how this relates to the determination deadline (see paragraphs 5.7-5.9 above). That part of the registration process was simply not understood. No consideration was given to the impact on candidates and no attempt was made to let candidates know what was happening or who was being added to the registers. In this context, it is worth noting that the statutorily required first update of the register during the election period was also not published and

therefore not made available to candidates. The first update should have been published on 11 May.

### **Applications from 439 electors should have been processed but weren't**

6.28 The investigation has revealed that, across NuLBC, applications from 439 electors were received in time to be added to the register without the need for any follow-up action on the ERO's part, but were not processed in time because staff were struggling to deal with the volume of registration applications received.

6.29 The following table provides a breakdown by constituency for the figure of 439 electors whose application was received in time, required no follow-up by the ERO, but was not processed within the statutory timescales:

Constituency	Number affected
Newcastle-under-Lyme	368
Stoke North	35
Stone	28
Staffs Moorlands	8
<b>NuLBC total</b>	<b>439</b>

### **509 electors determined between 11 May and 22 May are missed off the polling station registers as a result of the delay in switching the software to 'election mode'**

6.30 There was another group of people missing from the polling station registers - not because they weren't determined by the statutory deadline, but because of the delay in setting the elections software to 'election mode'. This was not appreciated at the time and was only discovered as part of this investigation. As a result of the delay in this switchover, which did not happen until 18 May, 509 people whose applications were processed were written to and told, wrongly, that their names would be added to the register from 1 July, i.e. after the election. The letter, the contents of which are prescribed, also said that if an election was called before 1 July they would be able to vote.

6.31 The following table provides a breakdown by constituency for the figure of 509 electors whose applications were determined in time, but who did not appear on the polling station registers due to the switchover delay:

Constituency	Number affected
Newcastle-under-Lyme	397
Stoke North	61
Stone	44
Staffs Moorlands	7
<b>NuLBC total</b>	<b>509</b>

**A yet-to-be-determined number missed out on their opportunity to vote at the election because they needed to provide further information to be registered but were not contacted in time by the ERO**

6.32 The other electoral registration issue that impacted on 8 June and the build-up to it was the way in which applications to register that required follow-up were dealt with. As outlined in paragraph 5.10, if an applicant's identity cannot be verified through the DWP or local data checks, or their application is incomplete because it does not contain all of the legally required information, an application is put on hold. The ERO should then be following up with the relevant applicant to obtain the necessary information to progress the application (see paragraphs 5.10 - 5.15). Where an application was missing any of the information required by law, the missing information needed to be obtained by 22 May in order for the person to be registered and able to vote at the election. Where an application failed the DWP or local data checks, this additional information could have been provided until the point that the ERO had to make his final determination on 31 May.

6.33 It is clear from the investigation that no follow-up letters were sent to a yet-to-be-determined number of people who had applied to register in time for the election. The majority of applicants passed the DWP/local data checks but elections office staff required more information from them in order to progress their application. Where this was because some of the required application information was missing, electors only had until 22 May to

provide the missing information. Those applicants who did not pass the DWP/local checks, needed to be contacted to supply the necessary documentary evidence before the ERO's determination deadline on 31 May.

6.34 A failure to follow up on applications in a timely fashion is not only a breach of statutory guidance issued by the Secretary of State, but it also created more work for the office in dealing with aggrieved applicants in the build-up to polling day and on polling day itself. It also put pressure on the polling station staff who, as the front-line and accessible part of the elections service, bore the brunt of this serious omission.

6.35 When discussing the issue with Consultant 2, he also mentioned that some of the applications that were not processed did not contain the address of the applicant in full. While it was clear to him and others that many of these applications were from Keele University students, it appears that a lack of experience meant that no consideration was given to checking whether the address, as it was provided, could be 'commonly understood' and, therefore, be accepted without further action.

6.36 The Head of Audit and Elections has stated that she was not made aware of full addresses not being provided by some electors and that this is why wrong information was given to anyone who complained about their registration.

**Some electors who applied after the registration deadline were given the impression they would be registered to vote in time for the election, when they weren't**

6.37 Applications to register come in every day and are dealt with as described in paragraphs 5.6 - 5.13. However, electors who had applied after the deadline for the general election were given the impression that they would be able to vote at the election. This is because, ahead of polling day, they were sent a letter stating that they would be added to the register in July, but that if an election was held before then, they would be able to vote.

6.38 The wording of this letter is prescribed and cannot be amended. It was approved by the Minister for the Cabinet Office and made available by the Electoral Commission. It became clear during the investigation that the contents of the letter had not been considered by the Head of Audit and



Elections, the ERO or his staff, given the consequences of issuing it before polling day. Whilst the wording of the letter is mandatory, the timing of its issue is left to the ERO's discretion and the ERO should have suspended the issue of these letters until after polling day. An unintended consequence of not switching the software to 'election mode' as described in paragraph 6.23 was that the system did not alert staff to the issue of these letters, or place them into a queue for dispatch after polling day. However, had anyone in the elections office read any of the letters before they were sent, it would have been evident that they were going to confuse electors. Had advice been sought from more experienced local authorities or the Electoral Commission about the letters, they would have advised to keep the letters on hold until after 8 June.

6.39 A large proportion of the people, including students, who had applied after the registration deadline for the election but had received the letter did attend polling stations expecting to be able to vote. Staff in the stations were then required to contact the office to check the status of their registration.

6.40 The letter sent out by the ERO to electors explaining that they would be added to the register in July contained the wrong date. The earliest that a person could have been added to the register in July was the first working day in July, i.e. Monday 3 July, and not the 1<sup>st</sup>, as the letter suggested. This small mistake clearly had no impact on the election itself, but is another example where, had staff understood the law and given consideration to the wording of the letter before issue, the error could have been spotted.

## **Polling day**

6.41 On polling day, in addition to the usual polling day enquiries, the elections office and council switchboard were overwhelmed with calls from those people who were affected by the poor management of the registration process:

- potential electors whose application had been received in time, did not need any follow-up, but had not been processed within the statutory timelines
- electors who had been accidentally missed off the election register because of the failure to switch the software to 'election mode'

- potential electors who had applied in time, but whose application was not processed because it required follow-up by the ERO
- people who had applied after the registration deadline, but were left with the impression that they were entitled to vote because of the wording on the confirmation of registration letter they received

6.42 As queries were being received on polling day about people's entitlement to be registered, the decision was taken that anyone who contacted the elections office (either directly or via their polling station's Presiding Officer) and, effectively, fell into the first two categories would be added to the register as a clerical error, mirroring the approach that had been adopted for the 86 electors who had contacted the elections office in advance of polling day (see paragraphs 6.26 above). It is important to note, however, that there was no understanding at the time of there being these distinct categories of electors who were affected.

6.43 As reports of people having been missed off the registers started to spread, this was picked up by the media. There was lots of activity on social media and in the local media, with some reporting being inaccurate, and the office was not adequately resourced to deal with the number of phone calls it received on polling day.

6.44 The investigation has found that on 8 June, the council switchboard received 349 calls, of which 256 were answered. The elections office received 235 calls, of which 139 were answered. So, a total of 584 calls were received on polling day, but just under 68% were answered. For some, the delays in confirming their status took so long that, because of other demands on their time, they left the polling station and didn't return. Others had to make repeat trips to the station to find out if their status had been established and they could be added under the clerical error provisions.

6.45 According to a survey of Presiding Officers in the Newcastle-under-Lyme constituency, which was responded to by 40 out of 62, at least 42 electors left before their status was confirmed and did not return to attempt to vote later in the day.

6.46 Information that was printed on the front sheets of the polling station registers added to the sense of confusion at polling stations. The front sheets had the date of 1 December printed on them, leading many frustrated

potential voters to assume that the cause of the problem was a straightforward one of using registers that were months out of date, when this was not the case.

6.47 Amidst the confusion surrounding electors' entitlement to vote, two electors in the constituency of Newcastle-under-Lyme who were ineligible because they had applied after the deadline for registering in time for the election, were given a ballot paper and voted.

6.48 The under-resourcing of the phone lines also led to delays at polling stations, as staff were placed into call queues for several minutes at a time when dealing with questions about whether or not someone's name should be added to the polling station register. A polling station inspector described the difficulties that Presiding Officers and polling station inspectors encountered when dealing with the volume of individuals whose entitlement to vote had to be established:

**Submission by polling station inspector**

'[...] it was extremely difficult to speak to any of the office based election staff by telephone because they were inundated with calls and all the lines were continually busy. I can only speak for the wards that I was responsible for but it became a "Catch-22" situation. Presiding Officers were phoning me with problems, then phoning the office because my phone was engaged as I was trying to resolve another problem, but when they did get through to me I had the same problem contacting the office. I personally made, tried to make, or received over 70 phone calls so had to return to the office on a number of occasions to check voters' eligibility and get an electoral number for electors who had been promised a phone call or had been asked to return to the polling station later in the day.'

6.49 Some of those who had applied in time but whose application still needed to be followed up received misleading information when they contacted the council. The response they received was that something must have been wrong with their application and that the office would have written to them for more information, or that something had gone wrong with the DWP system. This misinformation was not wilful, but was the direct result of the lack of understanding that surrounded the registration process.

6.50 A significant number of these complainants were first-time applicants and included a number of students who, not unreasonably, attended polling stations and tried to vote but discovered their names were not on the register. This led to immense frustration because of the difficulties in getting through to the office, with a number of people attending the council offices to try and resolve the issue.

### **Additions to the polling station registers on polling day**

6.51 The failure by those involved in the registration process to understand what had gone wrong meant that they were only able to take a reactive approach on polling day. Only those people who called the elections office (either directly or indirectly via their polling station's Presiding Officer), managed to get through and were confirmed by 9pm as a clerical error, were eventually added to the polling station registers.

6.52 Some people would not have been prompted to check their registration status with the elections office and may have simply assumed and resigned themselves to the fact that they were not going to be able to vote. For example, if they belonged to the group of 509 electors who were affected by the delay in switching the software to 'election mode', they may have thought they were not entitled to vote as a result of the confusing letter they received stating they would not be registered until 1 July - a message that would have been reinforced by not having received a poll card. Similarly, those electors who were not added to the polling station registers despite having applied in time and passing the DWP checks, would not have received any information about the election from the ERO/ARO and they may have assumed they were not going to be able to vote.

6.53 The following table provides a breakdown by constituency of the total number of electors added to the polling station registers as a clerical error on polling day:

<b>Constituency</b>	<b>Number added to the polling station registers</b>
Newcastle-under-Lyme	329
Stoke North	49

Stone	38
Staffs Moorlands	13
<b>NuLBC total</b>	<b>429</b>

6.54 The next table shows this information set against the number of electors whose applications had passed the DWP checks but weren't processed within the statutory timelines, and those affected by the delay in switching the software to 'election mode':

Constituency	Number of complete and DWP-verified applications not processed	Number affected by delay in software 'switchover'	Number added to the polling station registers
Newcastle-under-Lyme	368	397	329
Stoke North	35	61	49
Stone	28	44	38
Staffs Moorlands	8	7	13
<b>NuLBC total</b>	<b>439</b>	<b>509</b>	<b>429</b>

6.55 This shows that out of a total of 948 people across NuLBC who should have been registered in time for the election but were omitted from the polling station registers<sup>6</sup>, less than half were added to the registers on polling day. The Newcastle-under-Lyme constituency was the worst affected. In that case, 765 people should have been registered in time, but only 329 (i.e. 43%) were added on polling day.

6.56 Following an inspection of the polling station registers for Newcastle-under-Lyme constituency, it is also clear that not everybody who was added to the registers in that constituency also voted. Of the 329 who were added, only 294 were recorded as being given a ballot paper. There could be several reasons for this and it is impossible to establish why individual

---

<sup>6</sup> This excludes the undetermined number of applications that were incomplete or did not pass the DWP checks and should have been followed up by the ERO, but weren't.

electors did not vote, but it is clear from the information obtained through the Presiding Officer survey (see paragraph 6.45), that some people could not cast their vote because they were unable to wait for the elections office to confirm their registration status to the polling station staff and/or return to the polling station later on polling day.

### **Allegations that electors with poll cards were turned away from polling stations prove to be unfounded**

6.57 This investigation also looked into claims that some electors who had been sent poll cards and had taken them with them to the polling station were prevented from voting. Following a survey of all Presiding Officers, it appears that this claim was unfounded. There were two things that contributed to the mistaken impression that people with poll cards were being turned away from polling stations:

- Some people who had applied to register in time for the election showed polling station staff the 'acknowledgement of registration' letter that is automatically generated on submitting an online application. However, this acknowledgement letter is not proof of registration and Presiding Officers could only hand out a ballot paper if the individual appeared on the polling station register or their addition as a clerical error had been confirmed by the elections office.
- As described in paragraphs 6.12 to 6.16, a number of postal voters who had not received their postal vote in time for the election, but who had previously received an ordinary poll card, attempted to vote in person. However, these voters could not, by law, be given an ordinary ballot paper in the polling station and, before 5pm, were being directed to the elections office for a replacement postal vote.

### **Summary**

6.58 The management of the entire registration process was chaotic. Nobody was in charge of a process that was left in the hands of staff who had neither the knowledge nor experience to deliver an effective registration service. The hardworking staff were overwhelmed by the volume of applications. The main consequences of this were that, across NuLBC:

- 439 applications were received in time, passed the DWP checks and didn't require any follow-up, but were not processed by the statutory deadline
- 509 applications were received and processed by the statutory deadline, but accidentally added to the July register, rather than the one for the election
- a yet-to-be-determined number of applications were left unprocessed because they required further action on behalf of the ERO
- some electors were left with the impression that they were registered to vote at the election when they weren't

6.59 Where a potential elector fell into the first two categories, their addition on the register - and therefore entitlement to vote - was determined by whether the elector contacted NuLBC to enquire about their registration status. Where they attempted to contact the elections office on polling day, their addition also depended on whether they managed to get through and wait until the elections staff could establish whether they had applied in time and then confirm their addition as a clerical error to staff at the polling station.

6.60 The decision to rely on the clerical error provision, while it enabled people to vote who had been missed off the registers through no fault of their own, was not based on a sound understanding of this particular provision or the registration process as a whole and no legal advice was sought.

6.61 Amidst the chaos on polling day, two electors who had applied to register after the deadline, were allowed to vote.

6.62 It wasn't just the voters of Newcastle-under-Lyme who were let down by the poor management of the registration process. At no point were candidates informed about what had happened, nor told about the additions under the clerical error provisions. In addition to not being kept informed about what was happening, they were denied the opportunity to access the first interim update to the register, as this update was never produced.

## **Recommendations**

As set out earlier in this report, the inexperience and under-resourcing of elections office staff should be urgently addressed, so that, in future, any

problems are better understood and more accurate resourcing needs assessments can be made.

The ARO/ERO should, as a matter of urgency, ensure that adequate training on the registration process and the elections software is provided to elections office staff.

The ERO should also review the office's resource and training requirements to ensure that staff are able to deal with any peaks in registration activity ahead of an election and contact, where necessary, those applicants who need to supply further information or evidence in order to register.

The ARO should ensure that future project plans give dates by which the software needs to be switched to 'election mode'. The risk register should also be updated to highlight the risks associated with not doing so.

The Electoral Commission should consider making explicit reference in its guidance and templates for Returning Officers to switching the elections software to 'election mode' and carrying out any necessary checks.

IDOX and other software houses should consider if there is any more they could do to help their customers check that their software has been set to 'election mode'.

The ARO/ERO should review the means of communication between polling station inspectors, polling station staff and the elections office.

To avoid confusion by those who applied to register after the deadline for an election, the ERO and his staff should familiarise themselves with the contents of all the letters generated by the elections software and review the timing of the issue of confirmation of registration letters ahead of each future election.

The Electoral Commission and Cabinet Office should review the appropriateness of the wording of the letter in the context of an election and provide advice on the timing of its issue.



## **Issue 5: Some electors experienced low standards of customer service when raising issues with the elections office**

6.63 From the submissions received it is clear that a number of electors who experienced problems at these elections did not receive the levels of customer service that they should be entitled to expect. This led to a sense of frustration among these electors and contributed to a loss of trust in the professionalism of those managing the election.

6.64 Staff were clearly overwhelmed with the number of problems they had to deal with in the run-up to polling day and on polling day itself. Yet there should have been a recognition by the ARO/ERO and his staff that something out of the ordinary was happening and that a greater than usual number of issues were being raised at this election compared to previous ones. Had this been recognised, appropriate resources could have been put in place. Also, the unprecedented scale of problems warranted seeking advice and guidance from organisations with more experience, but such advice was not sought.

6.65 Staff also lacked clarity when explaining to enquirers the specific reasons for their registration application not having been processed in time for the election. A number of students were left with the impression that their National Insurance number or date of birth had been missing altogether from their online application when this was not the case. Many students were fully aware that the online application system would not allow them to submit an application without this information, or at least without an explanation as to why it could not be provided, and therefore the response they received from the elections office and/or the switchboard fuelled their mistrust in those running the election. There were also reports of electors being told there were problems with the processing of applications by the DWP. Paul Farrelly MP raised this issue with the Cabinet Office and was assured by the Minister that there had been no disruption to the service.

6.66 The failure to understand what was happening was carried through in the letters that the ARO subsequently sent to any postal voters who had complained that their postal vote had not arrived. These complainants were sent a statement from the ARO explaining that the problem related to the final

batch of postal votes and that 82% of postal votes from this batch had been completed and received back by the ARO. A number of letters apologised for 'any inconvenience caused'. Many people who contacted me felt that this phrase failed to acknowledge the seriousness of a person's loss of their right to take part in the election.

6.67 These instances of misinformation were not wilful - they simply reflected a lack of understanding of what was actually happening and what, at the time, the ARO/ERO and his staff believed to be the source of each issue. These communications, however, did not match the electorate's experience, leading many of those affected to question the council's competence.

6.68 Many of those dealing directly with the public worked very hard and in very trying circumstances, however, inappropriate language was used in a small number of interactions between elections office staff and electors. One instance stands out in particular. A married couple whose postal vote had not arrived two days before the poll was offered replacement postal votes only after some insistence on their part and were told to arrive at the council offices by 4:45pm at the latest in order to collect their replacements. Even though they arrived in good time, they were not seen by elections office staff until an hour later, at 5:45pm. When they explained to elections office staff that they had lost trust in their competence and that rather than handing their completed postal votes back to them they would be taking them to the polling station (as they were entitled to do), they were allegedly dismissed as 'childish' and told to 'grow up'. While it is clear that elections office staff were dealing with a stressful situation, they should have maintained their professionalism at all times.

### **Recommendations**

All elections office staff and any other staff dealing with electors should receive training in good customer care ahead of next year's scheduled polls.

Senior staff in the elections office should also provide scripts to anybody dealing with the public and keep these under review, so that accurate information can be provided to electors who may be experiencing particular issues.

To help restore trust in the management of the elections, the ARO should write to all electors who have been affected by any of the issues listed in this report with an apology and explanation.

## 7 Conclusions

7.1 Every single voter deserves to be able to cast their vote, irrespective of the method of voting that they have chosen. While not everyone in Newcastle was affected by the issues detailed above, a significant number were and this is clearly unacceptable. In May 2018 every single seat of Newcastle-under-Lyme Borough Council will be up for election and the polls will be conducted on new boundaries. It is therefore crucially important that lessons are learnt and that the recommendations in this report are actioned.

7.2 The following table provides a summary of who, in the constituency of Newcastle-under-Lyme, was affected by the issues described in this report:

Type of elector	Numbers affected
Postal voters denied their vote	527
Potential voters denied their vote because either their postal application, proxy application or registration application was lost on council premises	5-10*  *This number is an estimate based on evidence submitted to the investigation
Potential electors denied their opportunity to vote because their application to register was either: <ul style="list-style-type: none"> <li>not processed, even though no follow-up was required, or</li> <li>processed, but wrongly added to the July register</li> </ul>	471 (368+397-294)  Based on a survey of POs, 42* people did not vote because they were unable to wait to find out their entitlement on polling day. The marked registers show that 35 people whose entitlement was confirmed and who were manually

	<p>added to the register did not vote.</p> <p>*This number is based on 40 out of 62 survey responses. It is therefore likely that this represents the minimum number of people who could not wait to find out their entitlement to vote.</p>
Potential electors denied their opportunity to vote because their registration application was not followed up	Yet-to-be-determined
Ineligible voters allowed to vote	2

7.3 It is difficult to tell exactly how many people were disenfranchised. What is clear is that 527 postal voters were denied their opportunity to vote across the Newcastle-under-Lyme constituency.

7.4 In addition, registration processing errors led to the potential disenfranchisement of at least 471 electors in Newcastle-under-Lyme constituency alone. Had the registration process been well run, these would have been included on the polling station registers. Given that these were all people who applied to register close to the registration deadline, it is reasonable to assume that their motivation to actually vote on polling day would have been high. Even assuming a low turnout of c.50% among this group means that 236 people would have been disenfranchised as a result of the problems surrounding the management of registration.

7.5 At the root of the issues faced by all these electors, or potential electors, was inadequate performance by the ARO/ERO, the Head of Audit and Elections and the consultants, accentuated by the fact that the elections office staff were inexperienced and under-resourced. The inexperience of the elections team, in particular, led to an over-reliance on software systems which were not fully understood, as well as missed opportunities to identify what had gone wrong, take effective remedial action and seek advice from

outside the council. The ARO/ERO made a number of attempts to strengthen the elections team. Ultimately, however, it is the ERO who bears responsibility for managing their electoral registration service and the ARO who bears responsibility for managing the elections service.

## **Performance by the ARO/ERO and his staff**

### **Lack of planning**

7.6 It became clear in the course of this investigation that neither the ARO/ERO, nor his staff, had a project plan and risk register in place to manage the registration of electors ahead of a general election or the poll itself. Even though the production and maintenance of very comprehensive plans and risk registers would have been unrealistic given that the general election was called at short notice, the ARO/ERO should nonetheless have had at least a basic form of these documents in place. To assist AROs/EROs the Electoral Commission provides planning templates and template risk registers and the Commission published updated versions for the general election on 24 April.

7.7 While Newcastle-under-Lyme had planning and risk documentation in place for the May polls, it was not reviewed for the June election.

7.8 The essential nature of a project plan and risk register is consistently emphasised by the Electoral Commission in its guidance to both EROs and AROs. Such documents are particularly important where there is a significant 'churn' of key staff, as occurred in NuLBC. Absence of these documents meant that nobody was in a position to effectively monitor progress and manage risks to the election – a situation exacerbated by the lack of continuity as a result of staffing changes leading up to the 8 June poll.

### **The role of consultants**

7.9 As detailed in Chapter 3 above, the electoral services team at Newcastle was subject to considerable change throughout 2016, with key posts remaining unfilled and being temporarily covered by consultants.

7.10 Consultant 1 was sourced by the ARO from the Association of Electoral Administrators (AEA) to work on the May 2017 elections. The AEA offers

consultancy services, including 'a panel of experienced consultants available to deliver the full range of administration functions, delivering all types of elections and managing the electoral registration process'. The ARO believed he was buying-in the necessary expertise and professionalism that he was missing as a result of the vacant posts.

7.11 During the investigation it became clear that a number of issues that arose at the general election were attributable to Consultant 1, the most senior and experienced person in the office. These included:

- Failing to ensure that the elections software was fully switched to 'election mode', which resulted in the names of 397 electors being missed off the printed polling station registers for the constituency of Newcastle-under-Lyme and a further 112 across the other 3 constituencies included in the borough.
- Failing to draw the ARO's attention to the established office practice of not following the legal requirement to write to postal and proxy voters to tell them whether their application to vote by post or proxy had been successful (as well as postal and proxy poll cards). This resulted in a number of postal voters whose postal votes had not arrived mistakenly thinking that they could vote in person at the polling station instead - rather than prompting them to think that they needed to request a replacement postal vote.
- Recommending that the lists of absent voters should not be supplied to polling stations in breach of the legal obligation to do so.
- Failing to effectively prioritise the issue of postal votes to overseas addresses.
- Advising that staff attend the printer's premises and check the stationery only during the printing of the first batch of postal votes.

7.12 Consultant 2 inherited these office practices when he replaced Consultant 1 after the May elections and was only available for a limited number of days ahead of the general election. Consultant 2 was not employed via the AEA but was appointed by the ARO as he had previous experience of working in the elections office.

7.13 The issues that arose during the general election that were attributable to Consultant 2 include:

- Failing to identify that some of the existing office practices were breaching the law, as well as Ministerial and Electoral Commission guidance (see, in particular, Issues 1, 2 and 4).
- Ignoring a system warning message and failing to send the third batch of postal votes for printing, resulting in a batch of 391 postal votes to UK addresses not being sent (although 68 replacements were eventually issued following complaints from individual electors).
- Failing to effectively prioritise the issue of postal votes to overseas addresses.
- Ignoring a system warning message and failing to send the second batch of overseas postal votes for printing, resulting in 204 postal votes not being sent to overseas addresses.

### **Recommendation**

The Association of Electoral Administrators (AEA), as the largest provider of consultants and temporary electoral services staff, should review its procedures for allowing members onto its panel and consider how they can ensure that their consultants do not give advice contrary to law or not in the voters' interests for the sake of administrative convenience.

### **Electoral Commission performance standards**

7.14 The Electoral Commission has the power to set performance standards for AROs and EROs and has done so. It monitors the performance of AROs and EROs using a risk-based approach to ensure that support can be provided where needed. In light of performance at the May elections and the fact that some experience was gained by permanent staff and the services of consultants had been procured, there was no indication that there was a cause for concern ahead of the general election. It is not possible to monitor in real-time all actions taking place in each individual local authority, or whether the recommendations made by senior staff are made for administrative convenience rather than compliance with the law or in the voters' best interests. In assessing the performance of the ARO at the general election on 8 June, the Commission should take into consideration the conclusions of this report.



7.15 The Commission also has the power to make a recommendation to the Secretary of State that the ARO's 'personal fee' for administering the election is reduced or withheld altogether if, in its opinion, the ARO has delivered an inadequate service. At a parliamentary election the ARO is paid a 'personal fee' for the services they have rendered in connection with the election. The maximum amount an ARO may recover for their services is set out in legislation. In the case of Newcastle-under-Lyme, the maximum amount the ARO could recover as his 'personal fee' in connection with the 8 June election was £3,056. The ARO will not be claiming his personal fee.

## **Outcome of the 8 June election**

7.16 Given the findings of this investigation it is impossible to have absolute confidence that the result that was announced for the Newcastle-under-Lyme constituency reflects the will of the electorate. The mistakes in registering electors and the management of the election had the potential to impact on the outcome of the election – be it to increase, decrease or overturn the Labour candidate's majority of 30 votes.

7.17 However, the time for challenging the outcome of the election has now passed and had almost passed when this investigation got underway on 27 June. The only mechanism available to challenge the outcome of an election is an election petition, which must be brought within 21 calendar days of the date of the return of the writ. In the case of Newcastle, the writ was returned on 9 June, so the 21 days elapsed on 30 June.

7.18 The circumstances in Newcastle-under-Lyme demonstrate why the petition process needs to be modernised, something which has been acknowledged by the UK Law Commissions and the Electoral Commission's response to their proposals. There is of course a public interest in having certainty as quickly as possible after an election that the outcome is final, but there is equally a public interest in ensuring that the outcome does reflect the will of the people. However, currently, the cost and complexity of the election petition process can act as barriers to people challenging the outcome of an election within 21 days, particularly where it may not be clear immediately after the election what exactly has gone wrong and whether it could have had an impact on the result.

## **Recommendation**

The circumstances in Newcastle-under-Lyme demonstrate the need for the petition process to be modernised and the UK Government should therefore reconsider the appropriateness of the current method of challenging the outcome of elections.

## **Breach of official duty**

7.19 AROs, EROs and their staff are subject to breach of official duty provisions under section 63 of the Representation of the People Act 1983. If an ARO or ERO, their deputies or staff working on the election are, without reasonable cause, guilty of any act or omission in breach of their official duty the ARO/ERO (and/or their deputies or staff) are liable on summary conviction to a fine to be determined by the court. The council will wish to consider whether to forward the report to the police.

-----