

DEMOCRACY VOLUNTEERS

SCOTTISH COUNCIL BY-ELECTIONS
OBSERVATIONS 2020
Interim Statement



Interim Statement on Scottish Council By-elections 2020/21

Executive Summary

Our teams of observers have conducted a short-term observation of the various Scottish council by-elections that have taken place in the autumn of 2020. This is an interim statement as some of those by-elections have been further delayed because of the impacts of Covid-19. Because of the various restrictions and later changes, this observation has taken two forms: limited on the ground observation as well as interviews with key interlocutors, namely elections staff in those councils who have conducted, or further delayed, these by-elections.

We have four interim recommendations ahead of the planned elections in May 2021 and these will be updated following the by-elections in March 2021, which are still due to proceed.¹ These recommendations are:

1. A decision on whether the elections are to proceed should be made as soon as possible, preferably before the end of January.
2. We believe 'advance voting' would be an appropriate solution to some of the challenges that social distancing can cause when attending polling stations. We, therefore, recommend at least one extra day of voting (Wednesday 5th May 2021).
3. We believe that ensuring that all those who have the right to vote should be able to exercise the franchise, but we also believe that the use of emergency proxy votes will not be the solution for some voters, especially in large rural areas. Another arrangement will need to be deployed to allow those who are unable to leave home due to sudden self-isolation, after the deadline for postal votes has passed.
4. Counting the votes will need to be conducted over several days following the close of polls. We recommend there should be no overnight counting on Thursday 6th May and counting will depend on the capacity of local authorities to find suitable accommodation for counting and the number of counting staff, as well as party agents and election observers.

¹ <https://www.emb.scot/elections/log-council-elections?documentId=56&categoryId=3>

Objectives of the Observation

1. To objectively observe the electoral process across the local council by-elections in Scotland taking place over October and November 2020.
2. To advise the local councils and national electoral bodies on the results of the observation for the improvement of electoral practice in these geographies.
3. To support local councils and national election bodies with constructive feedback on areas of concern so that they may consider legislative change and/or remedial action.
4. To provide feedback to local councils and national election bodies on the successes/shortcomings of ameliorations put in place to hold the elections safely during the Covid-19 pandemic.

Methodology

This project comes at a critical and challenging time not only for elections and elections staff but for wider society, as restrictions on citizens' freedoms are in place to help prevent the spread of Covid-19. Due to this, our observation methodology was altered to reflect these health considerations and ensure the health of the wider community, observers, and elections staff.

A small selection of in-person observations were conducted in Aberdeenshire & Edinburgh, alongside meetings which were conducted online with local elections staff. These meetings with the Orkney Islands Council, Comhairle nan Eilean Siar (Western Isles), Aberdeenshire Council, Aberdeen City Council, The City of Edinburgh Council, Perth & Kinross Council & Highland Council provided our team with key information concerning changes not only in the new procedures put in place for polling day but also levels of postal voting and more administrative alterations undertaken. These meetings also discussed the administrative and logistical changes elections staff had made to ensure the voting process could be conducted in a safe manner, how these changes were decided upon and challenges staff anticipated in advance of the wider scale elections to be held next May for the Scottish Parliament. Several by-elections have been held in Scotland since elections restarted in October 2020 with Democracy Volunteers intending to observe several of them. A full list of these can be seen in Appendix B. Two small teams of two observers made 11 separate observations of polling stations across each of the Scottish by-elections visited:

- Ellon & District (Aberdeenshire) – 15th October 2020
- Craiginny/Duddingston (Edinburgh) – 12th November 2020

Each observation was conducted with two observers to allow for objective observation and the observers then agreed their opinions of the electoral process before submitting data to the central team. The observations generally took between fifteen and thirty minutes per polling station as the observers were asked to ensure that they attempted to see the entire process, which included staff greeting electors on arrival at the polling station. As part of the process of exploring election observation in the present context we trialled shorter times in polling stations in Aberdeenshire.

The Observation Team



Dr John Ault FRSA FRGS is the Director of Democracy Volunteers and is leading the team of observers assessing the election process in the Scottish by-elections.

John has worked in elections throughout the UK and the United States since the 1980s. He has observed on behalf of the OSCE/ODIHR in parliamentary elections as far afield as Kazakhstan and is a former chair of the UK's Electoral Reform Society.

He has observed as Head of Mission on numerous elections for Democracy Volunteers including the UK general elections in 2017 and 2019, the Finnish presidential and Dutch elections in 2017, 2018 and 2019. He has also been a consultant on the subject of electoral and parliamentary reform in Moldova. He is an Honorary Research Fellow at the University of Exeter and has previously lectured at Canterbury Christ Church University and the University of Manchester.



Harry Busz is Democracy Volunteers' Head of Operations and has worked for the organisation since October 2019. He is a graduate, having gained a BSc in Human Geography at Cardiff University and an MA in International Relations from Exeter University.

He has participated in numerous domestic and international observations such as the 2019 local elections in Northern Ireland, the provincial and Water Board elections in The Netherlands, national elections in Austria, Slovakia, Ireland, and Gibraltar. He was also the general election coordinator for the 2019 UK general election for Democracy Volunteers.

Our previous Covid-19 recommendations – ‘Protecting Democracy’²

In the summer of 2020, Democracy Volunteers conducted online meetings with elections staff and administrators from around the world. This included administrators and practitioners from nations who had successfully held elections such as South Korea, and in places where elections were either ongoing or delayed such as in the United States, Canada, and Gibraltar. These were consulted as part of this process. This project resulted in ten recommendations which were published in late July 2020:

- Extra time for election preparation
- Changes to the candidate nomination process for parties
- Introduction of ‘Advance Voting’
- Caution over large-scale extension of postal voting
- Encouraging in-person voting with a clear ‘Code of Conduct’
- Extension of ‘Emergency Proxy’ system for those asked to self-isolate
- Use of ‘Mobile Ballot Boxes’ for those asked to self-isolate
- Use of ‘Chair’s Proxy’ for those asked to self-isolate on polling day
- ‘Election Ambassadors’ at polling stations
- ‘Golden Hours’ for older voters and those most vulnerable to the virus

These recommendations cover the pre-polling day and polling day alterations which have been found to be the most effective for holding safe elections during the pandemic. We were encouraged to hear from some of our interlocutors in meetings held for the Scottish by-elections that they had seen our previous report and it was useful in formulating a plan for holding their elections. As such, this interim statement will draw upon our previous recommendations to see which were followed at the local by-elections held and to see what other measures could be put in place to ameliorate any safety or security concerns.

Meetings with Interlocutors

As limitations were likely on our capacity to attend all the elections, we decided to supplement our data collection from polling stations by conducting meetings with council election staff in areas where both elections took place and those where elections were scheduled to take place but were subsequently postponed. We would like to thank all the council elections staff who took time to hold these meetings with

² <https://democracyvolunteers.org/covid-19/>

us, giving us detailed information on the changed process and their concerns moving forward. A full list of interlocutors can be found in Appendix A.

All these meetings were held online through a variety of platforms and lasted for around an hour in each case. A semi-structured interview allowed our team to collect a full set of responses to key questions from each set of council staff whilst still allowing for new ideas and individual experiences to be interrogated where appropriate.

Safety considerations whilst observing in person

To ensure our observation was conducted in the safest possible way our team took a wide range of precautions. High quality PPE such as KN95 face masks, gloves, face visors and hand sanitiser were given to each observer. In addition to this, observers only entered polling stations where they were certain they would be able to socially distance, staying two metres away from all members of the public and staff members. Generally, polling stations were expected to have hand sanitiser available and observers were asked to use this on entering and exiting polling stations.

Furthermore, all observers were asked to monitor their health and check for any Covid symptoms in advance of polling day. This included observers taking and monitoring their temperatures, reducing any social contacts in the run up to polling day and monitoring if they had a fever, a dry cough or change in taste or smell. If any observer were to display any symptoms, they would not have been sent into any polling station, although this measure did not need to be taken as no observers displayed symptoms.

Time to Plan

Above all other concerns, elections staff we spoke to were most concerned about the amount of time they would need to institute any substantial changes to the voting process, general electoral management or organisation and argued that this would need to be announced as soon as possible. Whilst staff were confident that they could institute changes as required the desire for clarity was the most significant aspect of our conversations with interlocutors. It should be remembered that elections teams are not large bureaucracies that have limitless staff to resolve substantial changes rapidly. Whilst they do have the capacity to call on large numbers of personnel for polling day and counting operations this can sometimes mask the reality that elections teams are small teams of sometimes no more than 3-5 staff who deliver elections, sometimes across large geographical areas.

Advance Voting

It has been suggested that voting may take place across more than one day in Scotland for the May 6th Scottish Parliamentary elections.³ Advance voting was something that Democracy Volunteers recommended in our July report on the Covid-19 pandemic – ‘Protecting Democracy’. Several of our interlocutors indicated that this was something that they had considered and felt that if there were proposed changes, which included the introduction of ‘advance voting’ this should be something that returning officers should have considerable notice of. Although it may seem a simple and arguably desirable response to allow in-person voting over a longer period the practical considerations of staff recruitment, venue hiring, and security of ballots overnight are aspects of advance voting which should be considered. Whilst it was been assumed that this would be available across all polling stations in some countries advance voting has been available in specific central locations rather than at all polling stations.

Use of Emergency Proxies

As part of our report on Covid-19 in July we identified the specific challenge that some voters may have if they are required to self-isolate due to testing positive or because they have been contacted by contact tracers because they have been in contact with someone who has, leading to their self-isolation. This requirement to self-isolate would be effectively the same as a voter being refused access to a polling station and a clear infringement on their right to vote whilst also being a necessary requirement during the pandemic.

The solution offered in the by-elections has been an extension of the availability of emergency proxies to those in such situations. However, concerns were raised that whilst this might be possible with a small-scale by-election this would be a much more challenging methodology in some of the larger constituencies in May and could lead to administrative challenges if there is a largescale necessity for this form of voting.

Counting

Whilst we are making several comments and recommendations concerning the conduct of voting procedures, we also believe that elections staff are especially engaged with the necessity for counting of the votes to be done over several days in May’s parliamentary elections. Whilst we understand the media and public interest in fast results we believe, as did most of our interlocutors, that counting will be much slower than usual to ensure the Covid-security of counting centres and because fewer

³ <https://www.parliament.scot/parliamentarybusiness/CurrentCommittees/116509.aspx>

staff, party representatives, media etc. will be able to have access to counting venues. There was especial engagement with the view that on-the-night counting was not desirable and that arrangements would need to be in place for counting to be conducted over several days, especially in those count venues that could have regional as well as multi-constituency counts to conduct. Several areas indicated that there were only so many suitable venues in their area limiting the capacity to move this to a series of counting venues.

Interim Recommendations

Whilst we will have a greater number of recommendations following the conclusion of our in-person observations in March there are four recommendations that we would urge the Scottish Government to consider in advance of the elections. We are also aware that the Scottish Government's Scottish General Election (Coronavirus) Act has now been enacted meaning several different options now stand as the way forward for the May elections, including the possibilities of advance voting, wider use of postal voting and potentially a short period of postponement.

1. Time to Plan

Whilst we appreciate that the present health crisis continues, making planning extremely challenging for government, ensuring that local election teams have sufficient time to plan their operations will be essential. Any final organisational requirements, for election administrators to arrange elections, should be in place by the end of January 2021. However, to afford staff time for any changes or adaptations they are required to make the time required to implement any of the potential solutions should be indicated as early as possible.

2. Advance Voting

We believe 'advance voting' (where voters can attend physical polling stations ahead of the traditional Thursday polling day) would be an appropriate solution to some of the challenges that social distancing can cause when attending polling stations. The volume of voters attending at busy times in the evening would make this challenging. We, therefore, recommend at least one extra day of voting (Wednesday 5th May 2021) and encourage those who consider themselves most vulnerable to attend during so-called 'golden hours' when polling stations are less busy.⁴

⁴ <https://democracyvolunteers.org/covid-19/>

3. Emergency Proxies

We agree that ensuring that all those who have the right to vote should be able to exercise the franchise, but we also believe that the use of emergency proxy votes will not be the solution for some voters, especially in large rural areas. Another solution to this should be found either using our suggestion of 'chair's proxies' or else through an extension of the time allowed for the return of postal votes until a few days after the election.

4. Counting

Counting the votes will need to be conducted over several days following the close of polls. We recommend there should be no overnight counting on Thursday 6th May and counting will depend on the capacity of local authorities to find suitable accommodation for counting and the number of counting staff, as well as party agents and election observers.

We appreciate that whilst some of the above recommendations are already subject to legislation in the Scottish General Election (Coronavirus) Act 2020, some will be subject to ministerial decision following its passing.

Credits

We would like to thank the councils and staff who welcomed our observers and held meetings with our team, providing information on the practical running of the election during the pandemic and the ameliorations that had been put in place to protect the safety of voters.

Funding Declaration

Democracy Volunteers observers deployed for the observations in Scotland during October & November did so at their own cost, or they were supported from the general funds of the organisation. This was arranged by Democracy Volunteers, and this covered their travel and accommodation. No other funds were sought, and no funding was received from Government or any party or campaigning organisation contesting the election.

Appendix A – List of Interlocutors

Aberdeen City Council

David Gow (Depute Returning Officer)

Aberdeenshire Council

Martin Ingram Temporary Elections Coordinator & Senior Solicitor

City of Edinburgh Council

Chris Highcock (Depute Returning Officer)

Scott Russell (Elections Team Staff)

Comhairle nan Eilean Siar (Western Isles Council)

Derek MacKay (Depute Returning Officer)

Highland Council

David Sutherland (Elections Manager)

Orkney Islands Council

John Mundell (Returning Officer and Acting Chief Executive)

Karen Greaves (Head of Executive Support)

Perth & Kinross Council

Scott Walker (Depute Returning Officer)

Christine Grant (Elections Team Staff)

Pam Rogalski (Elections Officer)

Appendix B – List of By-elections⁵

Aberdeen City

Kincorth/Nigg/Cove postponed until 5 November 2020

Aberdeenshire

Ellon and District postponed until 15 October 2020

Argyll and Bute

Helensburgh and Lomond South scheduled for 11 March 2021

Isle of Bute scheduled for 11 March 2021

City of Edinburgh Council

Craigentinny/Duddingston postponed until 12 November 2020

Clackmannanshire

Clackmannanshire East postponed to 19 November 2020

Comhairle nan Eilean Siar

Na Hearadh agus Ceann a Deas nan Loch on 8 October 2020

Highland

Aird and Loch Ness is postponed, date to be advised

Orkney

North Isles postponed until 1 October 2020

North Lanarkshire⁶

Thorniewood postponed until 19 November 2020 (rescheduled to 4 March 2021)

Fortissat postponed until 19 November 2020 (rescheduled to 4 March 2021)

Perth and Kinross

Perth City North Ward postponed until 26 November 2020

Perth City South Ward scheduled for 26 November 2020

Scottish Borders

Leaderdale and Melrose postponed until 11 March 2021

West Lothian

Livingston South postponed until 11 March 2021

⁵ <https://www.emb.scot/elections/log-council-elections?documentId=56&categoryId=3>

⁶ Both North Lanarkshire by-elections were postponed again on 18 November 2020