
ELECTORAL PILOT : NORTH ROAD BY-ELECTION 2004

Responsible Cabinet Member(s) - Councillor John Williams, Leader

Responsible Director(s) - Paul Wildsmith, Director of Corporate Services

Purpose of Report

1. To bring forward a proposal to make application to ODPM to run an all postal pilot by-election for the North Road Ward vacancy arising from the resignation of former Councillor Mrs. S. Walker.

Proposal

2. Members are invited to consider a proposal to run an all postal pilot by-election for the vacancy which has arisen in the North Road Ward from the resignation of former Councillor Mrs. S. Walker and to submit an application to the Office of the Deputy Prime Minister with a view to an Order being made reflecting the following main points :-
 - (a) Voting in the by-election should be on an all-postal basis.
 - (b) No polling stations.
 - (c) A simplified Declaration of Identity form requiring signature by the elector only with the ability to return unsigned Declarations to the elector up to 24 hours prior to the close of poll.
 - (d) A one piece mailer incorporating ballot paper and elector's Declaration of Identify.
 - (e) Alternative measures to test the systems, including the implications for security and fraud.
 - (f) Significant lead in period to give electors longer to send in postal votes (this affects the general timetable, including the time for nomination of candidates).
 - (g) Provision of marked register to Candidates/Agents on a rolling daily basis prior to close of poll.
 - (h) Ballot Papers to be sent to electors 13/14 days before the date of election.
 - (i) Voters may return ballot papers by pre-paid post (envelope provided), by hand or at an assisted drop off point at the Town Hall before close of poll on the appointed date.
 - (j) Votes to be verified locally and counted on the appointed date.

- (k) Wide publicity to be given to the proposals in advance, by leaflets to each elector, publicity in the Town Crier, and local press and appropriate information on the Council's website.
- (l) Lost ballot papers will be replaced up to and including polling day.

Information and Analysis

3. Members will be aware that a vacancy has occurred in the North Road Ward for the election of a Councillor, following the resignation of former Councillor Mrs. S. Walker. Although notice of a vacancy and a request for an election to be held has been received from two electors, in accordance with the relevant legislation, the election process must of necessity be delayed beyond the normal timescale. The reason for that is that the normal statutory requirement is for a by-election to be held within 35 days, calculation in accordance with relevant Regulations from the date when notice of the vacancy is given by two electors.
4. There is however a complication in the particular circumstances pertaining at the moment because of the European Parliamentary Election being held on a pilot basis in the North East region. The Schedule to the European Parliamentary and Local Elections (Pilots) Act 2004 states at paragraph 2 that in determining any period within which a casual vacancy on a Local Authority must be filled in accordance with Section 89(6) of the Local Government Act 1972, the period beginning four weeks before and ending three weeks after the date of the poll at the European Parliamentary General Election must be ignored. The effect of that is that the period of 35 days cannot commence until 2nd July, 2004.
5. The last date on which an election can be held therefore is Thursday, 19th August, 2004.
6. As Members will be aware, in partnership with Local Authorities and the Electoral Commission, the Government has been promoting for a number of years an extensive programme of piloting innovations at Local Elections, particularly involving e-voting and all postal voting. This Council responded to an invitation to pilot the Local Elections in May 2003. In earlier pilots in Local Authorities, all postal voting was the most successful innovation leading to increased voter turnout. Following a report to the Special meeting of the Council on 12th November, 2002, application was made to ODPM for the Council to become an electoral pilot Authority for the elections in May 2003 and ultimately the Government made the Borough of Darlington (All Postal Voting Scheme) Order 2003, which directed the way in which the ballot should be held in Darlington in May 2003. The outcome was very positive with a turnout of 51.1%. Those provisions included all the matters referred to in paragraph 2 above.
7. That pilot was evaluated by the Electoral Commission and their conclusions in a report in July 2003 were as follows :-
 - (a) Given the significant increase in turnout, the Commission believes that all-postal voting was successful in facilitating voting in Darlington.
 - (b) There were no other local factors affecting this election besides some boundary changes. It would be difficult to attribute the increase in turnout to anything other than this all-postal pilot.

- (c) The procedures for voting, when considered alongside the large increase in turnout for the election, suggest that the majority of those who participated in the ballot found the procedures reasonably straightforward and easy to use. The major area of confusion was around the declaration of identity. Over 2,000 votes were invalidated through the declaration not being returned or being returned unsigned.
 - (d) The Commission has no evidence to suggest that the pilot scheme led to an increase in impersonation or other malpractice although some concerns persist among electors and party agents about the system potentially being more open to fraud and abuse. There is insufficient evidence to judge whether the watermark, barcode or declaration of identity contributed in practice to protecting the integrity of the election.
 - (e) The 83% increase in costs on a conventional election is worth noting. However, given the significant rise in turnout, the increase in cost per vote cast is of the order of 21%. This would appear, therefore, to present reasonable value for money.
8. The Electoral Commission carried out evaluations at all pilots carried out in 2003 and reported later in 2003 to the Government in very positive terms, which were subsequently adopted by Government itself. The conclusion was that all-postal elections are ready to be made available at all Local Government elections in Great Britain. Having said that, the legislation is not yet in place to enable that to happen; each prospective pilot authority needs to make application to ODPM for specific approval by way of a Parliamentary Order. Such applications are encouraged unless there are compelling reasons why an all-postal ballot would be inappropriate or disadvantageous for a group or group of electors.

Proposals for North Road Ward

9. Given the overwhelming success of the all-postal pilot for the Local Elections in May 2003, it is suggested that that initiative should be taken forward into the single ward situation so that the effect of an all-postal ballot in that situation as opposed to the whole Council election can be assessed. The Government will continue to look for applications which include proposals for fraud and security arrangements and it is proposed to accommodate that.
10. Other key aspects of any proposal, which were all included in the 2003 pilot, would be a marked register and widespread publicity with a simplified Declaration of Identity form requiring signature by the elector only.

The Marked Register

11. When this was piloted in 2003, the aim was to establish whether the right balance can be struck between the benefits to the political parties (to turnout) and the risk of public hostility to heavily targeted campaigning could be achieved. There was minimal adverse reaction to the concept of a marked register and certainly the political parties found it extremely helpful. In fact having been piloted in our local elections in 2003, and in some others across the nation, a marked register has been a requirement of the recent European Parliamentary pilot in the North East region. There are certain benefits for electors arising from such an arrangement. First, Candidates/Agents know which electors have already returned their ballot paper and canvassing can be better focussed. Second, the security of the ballot can be improved because a check can readily be made through the bar coding system if an elector claims to have not received or to have lost a ballot paper. If a ballot paper has already been

returned, the Returning Officer would cause enquiries to be made.

12. Checks on a random basis against fraud would be carried out as in the 2003 pilots.

Declaration of Identity

13. It is suggested that a simplified Declaration of Identity form still be required. This would be much simpler than the Declaration of Identity which has been used nationally and follow the format used at the 2003 Borough Council elections. The form would still require signature by the elector but there would be no requirement for it to be witnessed. This maintains a degree of security but will significantly reduce the number of votes/Declarations of Identity which are not correctly completed and which can ultimately be rejected. Even so, it has to be mentioned that the total number of ballot papers invalidated due to a problem with even the simplified Declaration of Identity was 2,338, representing 6% of the turnout. Clearly if any form of Declaration of Identity is to be continued with, attention needs to be given to the content of the explanatory notes which are sent to electors with ballot papers. As with the recent European Election consideration can also be given to returning unsigned Declaration of Identity to voters prior to the close of poll. The alternative would be to dispense with the need for any form of Declaration of Identity, as has happened with some pilots in 2003 for Local Elections but the advice of the Electoral Commission is that if and when all postal voting at Local Elections is rolled out nationally rather than on a pilot basis there ought to be some form of security statement requiring the voter to sign a statement to indicate that he or she is the individual to whom the ballot paper was addressed. Effectively that is the system the Borough Council adopted in 2003 in any event.

Additional Factors – Disabilities

14. Apart from the demonstrated advantages of an all-postal vote by way of increased voter turnout, there are at least two additional factors which are persuasive in looking at an all-postal ballot. Firstly, electors with a disability have no problems regarding parking or accessibility at polling stations. Accessibility is an issue which has been discussed with representatives of the disabled over the last twelve months and improvements are certainly being made, although in many cases conventional Polling Stations are not in buildings over which the Borough Council has any control. Secondly, an all-postal ballot does mean that there is no disruption caused to the venues which will be needed to house polling stations.

Costs

15. There are a number of areas where significant savings can be made when conventional election, such as hire of polling stations, transport of equipment to polling stations, staffing of polling stations, polling station inspectors, poll card production and delivery. Conversely there is extra expenditure on staffing and to send out postal votes and receive and count them on return and postages/or hand delivery, production and delivery of explanatory leaflets and general publicity. The Electoral Commission evaluation on the pilot operated by the Borough Council in May 2003 indicated in respect of costs that overall there was an increased cost associated with running an all-postal pilot of 83%. However, given the significant rise in turnout, the increasing cost per vote cast was of the order of 21% which in their opinion presented reasonable value for money.

Political Support

16. The Government would normally look for broad cross party support for any proposals. This is defined as the support of two or more parties. If that political support is split, it would be expected that the objecting party should justify its position, setting out clearly the grounds for the objection. The Government would then decide whether or not the proposals can be approved.

Timetable

17. An application would need to be submitted for an all-postal pilot at the earliest opportunity to enable statutory processes to be completed, culminating in an Order signed by the appropriate Minister. In deciding whether to approve the proposals, the Deputy Prime Minister will consider the proposal against the objectives set out in the prospectus relating to pilot elections.

Conventional Election

18. An alternative to applying to ODPM for approval for an all-postal pilot is to run the election on a conventional basis. Again, it would not be possible to start that process until 2nd July, 2004 at the earliest and the last date for an election to be held would be 19th August, 2004. Within that timeframe the only alternative date for a Thursday by-election would be Thursday, 12th August, 2004. It is not possible within the statutory provisions to shorten that process. A conventional election therefore offers no advantages by way of timescale. It would be possible to abbreviate the timescale by a matter of up to six days using a conventional election approach but that does not offer any perceived advantages from the point of view of the Officers. Whether a conventional or all-postal ballot is the preference of Council, your Officers would recommend that the target date be 19th August, 2004. A conventional election would, of course, take place if ODPM were to decline the application for an all-postal pilot.

Particular Timing Issues

19. It is recognised that the election is bound to fall within a period when a large number of people are on holiday. An all-postal ballot would appear to offer significant advantages over a conventional ballot as it would offer electors more flexibility in when they returned their ballot paper. In addition, it will be possible for electors to request that their ballot paper be sent to an alternative address other than their normal home address, which again should be of benefit during the holiday season.

Future By-Elections

20. In the light of the reports referred to in paragraph 8 above and the general success of all-postal pilots in Local Authority elections, it is reasonable to assume that legislation will be introduced to give an all-postal facility at all future Local Authority elections. In the meanwhile, however, it is suggested that the Council authorises the Chief Executive as Returning Officer to apply when appropriate for an all-postal pilot whenever a by-election arises in the future. This will enable prompt application to be made to ODPM for approval, which is vital given that in normal circumstances a by-election must be held within 35 working days of a request being received from 2 electors.

Outcome of Consultation

21. No formal consultation was undertaken in the production of this report.

Legal Implications

22. This report has been considered by the Borough Solicitor for legal implications in accordance with the Council's approved procedures. There are no issues which the Borough Solicitor considers need to be brought to the specific attention of Members, other than those highlighted in the report.

Section 17 of the Crime and Disorder Act 1998

23. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely, the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. It is not considered that the contents of this report have any such effect.

Council Policy Framework

24. The issues contained within this report are required to be considered by Council.

Recommendation

25. It is recommended that :-

- (a) An application be made to the Office of the Deputy Prime Minister for the Council to run an all-postal pilot for the North Road by-election and that they key features of the scheme to be submitted be as set out in paragraph 2 above.
- (b) The Chief Executive, as Returning Officer, be given delegated authority to finalise detailed proposals in conjunction with the Office of the Deputy Prime Minister and in consultation with Group Leaders.
- (c) The Chief Executive, as Returning Officer, be given delegated authority to invite competitive quotations for the printing work required and to let the appropriate Contract.
- (d) The Chief Executive, as Returning Officer, be given delegated authority to apply when appropriate for an all-postal pilot whenever a by-election arises, pending future general enabling legislation.

Reasons

26. The recommendations are supported :-

- (a) To enable an application for a pilot scheme to be submitted to the Office of the Deputy Prime Minister and if approved to carry forward the proposals.
- (b) To increase the efficiency of setting up an all-postal by-election.

Paul Wildsmith
Director of Corporate Services

Background Papers

- (i) Office of the Deputy Prime Minister Prospectus for Electoral Pilots: Local Elections 2003
- (ii) Pilot Scheme Evaluation of Darlington Borough Council Elections 1st May, 2003 – the Electoral Commission
- (iii) Electoral Commission 31st July, 2003 on roll out of all-postal voting
- (iv) Summary Report from Electoral Commission 31st July, 2003 on “The Shape of Elections”

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