

Proposals for updating estate resident ballot processes



Sian Berry, Green Party member of the London Assembly
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Mayor's resident ballot commitment – Feb 2018

"My guide sets out how I will use my investment powers in a way they have never been used before, by requiring resident support through a ballot for new plans involving demolition where City Hall funding is involved.

"I want to make sure people living on social housing estates, who have the greatest interest in their future, are at the heart of any decisions from the outset. By involving residents and putting social housing first, we can make sure plans for estate regeneration help build a city for all Londoners."¹

Proposals to Tom Copley, Deputy Mayor for Housing and Residential Development

Dear Tom,

Introducing approval from a democratic resident ballot as a binding funding condition for estate redevelopment proposals involving the demolition of social housing was a very positive step for housing policy in London.

I know that, while you were an Assembly Member, you were very supportive of this policy, and that you want it to work as well as possible.

In my continuing role providing scrutiny of the Mayor's housing policies, I have been carrying out research with residents on estates that have faced demolition plans and ballots, to investigate whether there are any problems with the process or conduct of these ballots that might require improvements in the guidance.

Unfortunately, I have found a number of problems with conduct and process in several of the ballots I have studied, and I believe it is time for a review and update of your policy.

A detailed summary of findings and evidence from residents who have taken part in recent ballots in Newham, Haringey, Lewisham, Southwark, Camden and Kingston is included in my accompanying report, **Estate resident ballots: are they working well?**²

Here I will briefly outline the various issues I have identified and make proposals for specific improvements in the conduct rules you specify for ballots, as well as changes that ought to be made in a refresh of the overall process.



The ballot policy and rules set out in funding guidance were finally introduced on 18 July 2018. They are both four years old now and it is important to refresh them at this time. This will help make sure that ballots on the ground are working in a way that is fair and robust, and help to put your own stamp on this positive policy that was introduced by your predecessor.

I hope you will review this evidence and these proposals and make the relevant changes as soon as possible.

Yours sincerely,



Sian Berry
Green Party member of the London Assembly

Problems identified with ballot conduct

My work with residents has shown a number of problems they have experienced with the conduct of ballots, several of which would breach the rules of a democratic election:

- a lack of defined spending limits during an official 'election period'
- limitations on the ability of residents opposed to demolition to make the case for a particular voting outcome
- information about individual resident turnout being provided to the proposers of demolition
- paid agents and consultants of the promoters of demolition going door to door promoting a particular vote (in democratic elections, paid canvassing is prohibited), and even handling ballots themselves
- concerns about the lack of detail in some landlord offer documents
- a lack of neutral or balanced promotion of voting in the ballot, with all official material promoting turnout also promoting one outcome of the vote
- confusion and inconsistency in who is being made eligible to vote in ballots by landlords and Independent Bodies
- concerns expressed by residents about confidence in their votes being recorded, and unanswered questions about safeguards against multiple votes being recorded when a range of different methods of voting are available
- reports of incentives and rewards being offered to residents (in democratic elections, 'treating' voters is prohibited).

Improvements needed to the ballot checklist and methods of redress

When I raised issues with individual ballots with you before, you referred me to the requirement for an Independent Body to be commissioned to conduct the ballot and count the votes, and then sign off on the conduct of each ballot via the ten-point checklist, which is reproduced below.³

However, many of the issues above are not covered by the checklist and, when I have raised them with Independent Bodies, they have said that the checklist is all they can use to judge the process and referred me back to you.

Clearly, there is a simple gap in accountability and redress, and in the specificity of the rules around a number of these issues, which could be filled with a review and update of the checklist.

I have made comments and suggestions for an updated checklist below in green, which I believe would help close some of these gaps, followed by related updates needed to the funding guidance document.

GLA Resident Ballot Compliance Checklist

		YES/NO
1	Were sufficiently robust processes used to identify eligible voters? (See paragraph 8.4.5)	
2	Was an Independent Body appointed to undertake the ballot? (See paragraph 8.5.2)	
3	Did the ballot offer a “yes or no” vote to eligible residents? (See paragraph 8.5.6)	
4	Did a simple majority of those eligible residents voting choose “yes” – that is, vote in favour of the Landlord Offer to regenerate the estate – and have the results been disclosed to the GLA? (See paragraph 8.5.7)	
5	Was the question posed to eligible residents in the ballot unambiguous and direct? (See paragraph 8.5.8)	
6	Was an appropriate range of ways to vote in the ballot offered to eligible residents? And were transparent and verifiable processes in place to ensure all votes were counted using each method, and that multiple votes were not able to be cast using different methods? (See paragraphs 8.5.2 to 8.5.5 and 8.5.9)	
X (add and number)	Were appropriate spot checks carried out to ensure that votes cast in the ballot were recorded and counted accurately, that votes were cast only by eligible voters, and that the overall result is accurate? Please provide details of the number and results of these spot checks under separate cover. (See paragraphs 8.5.2 to 8.5.5) [Note: these spot checks are already in the guidance, covered by sections 8.5.2 to 8.5.5]	
7	Were ballot papers delivered to eligible residents under separate cover from any consultation material and/or the Landlord Offer? (See paragraph 8.5.10)	
8	Did the Landlord Offer give sufficiently detailed information to residents of all tenures to show what would happen to their homes and tenancies/leaseholds if the proposals received a ‘yes’ vote? adequately explain the arrangements for casting votes in the ballot	

	<p>and is a certified copy of the Landlord Offer document attached to this checklist? (See paragraphs 8.5.11, 8.5.13 and 8.5.14) [Note: the level of detail required in the Landlord Offer is in the guidance sections 8.5.11 and 8.5.14 (copied below without changes) but is not properly covered in the current checklist]</p>	
X	<p>Was a recognised resident group wishing to campaign for a ‘no’ vote identified and verified by the Independent Body? [Note: A separate funding guidance item will be needed to help Independent Bodies identify an appropriate resident group, which could mirror the process for appointing a lead campaigner during referendums, which is carried out by the Electoral Commission.⁴]</p>	
X	<p>Was a booklet of information on the arrangements for casting votes circulated separately to any Landlord communications by the Independent Body, containing brief information provided by the Landlord supporting a ‘yes’ vote and by a recognised resident group supporting a ‘no’ vote? (See paragraph 8.5.13) [Note: Paragraph 8.5.13 has been amended below to separate information on the voting process from the Landlord Offer document. This separation is important, and the new requirement proposed mirrors the arrangements for voting booklets accompanying Mayoral elections at a London and borough level]</p>	
X	<p>Was information on the final eligible voter list made available both to the Landlord and the recognised resident group promoting a ‘no’ vote? [Note: This mirrors the distribution of the electoral register for an area to all candidates equally in an election]</p>	
9	<p>Was there an appropriate amount of time between the distribution of the Landlord Offer to residents and the beginning of the ballot period to allow residents sufficient time to consider the information in the offer? (See paragraph 8.5.17)</p>	
10	<p>Was the ballot period open for an appropriate length of time and was the date the ballot period ended not more than six months after the date the Landlord Offer was published? (See paragraph 8.5.17)</p>	
X	<p>Was detailed information on turnout – ie the details of voters who had not yet cast their ballot – distributed equally to both the Landlord and the recognised resident group promoting a ‘no’ vote? [Note: In democratic elections no such detailed turnout information is recorded or made available to candidates, and I would prefer a provision in the guidance that prevented this information from being circulated at all, in order to preserve privacy and prevent the potential for undue levels of communication to voters who had decided to abstain.]</p>	
X	<p>Were appropriate limits applied to spending on promoting either a ‘yes’ or a ‘no’ vote (at £X per eligible voter) during the voting period,</p>	

	which starts on the day the Landlord Offer was published and ends on the closing date of the ballot?	
X	<p>Were the following prohibited activities during the voting period communicated to Landlords and recognised resident groups in a pre-ballot advisory note from the Independent Body?</p> <p>a) Paid door-to-door canvassing for either a 'yes' or 'no' vote</p> <p>b) Handling of ballot papers or ballot boxes by Landlords or recognised resident groups</p> <p>c) Incentives and rewards for voters, including 'treating' of residents with food, drink or events.</p> <p>d) Publicity for either a 'yes' or 'no' vote kept separate from any venue or space where ballot boxes are made available for voters to deliver votes.</p> <p>(See paragraph 8.5.9)</p> <p>[Note: provision d) above is already covered by paragraph 8.5.9 of the guidance]</p>	
X	Were any complaints received about breaches of guidance by those campaigning either for a 'yes' or a 'no' vote? If so, please provide a summary of each complaint and how it was dealt with under separate cover, suitably redacted for transparent publication.	

Short-term updates needed to improve the funding guidance

Some of the issues listed above are not easy to solve through simple additions to the checklist, and several parts of the checklist refer to funding guidance provisions which would also need adding to, amending or clarifying to match the improved checklist.

In addition to amendments to match the improved checklist, I believe we also need further guidance to create a transparent separation of the Landlord from the Independent Body conducting the ballot. Part of this can be achieved by the new requirement to have a separate booklet of information provided to residents about the ballot process which is not part of the Landlord Offer document.

However, given the reports I have received of, for example, the co-location of the Independent Body with the Landlord's promotional team in spaces on estates, I believe we also need to add further guidance to ensure that residents clearly see the Independent Body acting independently of the Landlord. This will help prevent trust in the process being undermined by issues such as shared events or offices and pop-up hubs used by the Independent Body branded with 'yes' material.

I am therefore requesting brand new sections of the guidance to cover the following new provisions:

- sharing of eligible voter and turnout information,
- spending limits,
- prohibited activities during the voting period,
- process for handling complaints transparently,
- transparent separation of the Independent Body and Landlord.

In addition, I also propose the following amendments to existing sections of the resident ballot funding requirement guidance to match the improved checklist, with my proposed edits again shown in green.⁵

8.4.2. To ensure resident ballots are consistent across London, Investment Partners do not have discretion to set the voter eligibility criteria for ballots. Ballots must be open to all residents on an existing social housing estate – not just those currently occupying homes that are due to be demolished – that fall into one or more of the following three eligibility criteria:

- Social tenants, **affordable housing tenants and shared owners** (including those with secure, assured, flexible or introductory tenancies named as a tenant on a tenancy agreement dated on or before the date the Landlord Offer is published – see from paragraph 8.5.11 for further information about the Landlord Offer).
- Resident leaseholders or freeholders who have been living in their properties as their only or principal home for at least one year prior to the date the Landlord Offer is published and are named on the lease or freehold title for their property.
- Any resident whose principal home is on the estate and who has been on the local authority’s housing register for at least one year prior to the date the Landlord Offer is published, irrespective of their current tenure.

8.4.3. In the above criteria, “social tenants” includes tenants or leaseholders of affordable housing (whether low-cost rental accommodation or low-cost home ownership accommodation), whose direct landlord is an IP1, whether or not the direct landlord is the IP proposing regeneration of the estate². It does not include members of a tenant’s/tenants’ or a leaseholder’s / leaseholders’ household who are listed on the tenancy agreement or lease. For the avoidance of doubt, leaseholders living in shared ownership properties are considered “social tenants”, named as a tenant or leaseholder on the tenancy agreement or lease respectively but residents who are living in temporary accommodation are not. Residents that are living in temporary accommodation can only vote if they have been on the local authority housing register for at least one year prior to the date the Landlord Offer is published.

[Note: The change above is needed to make 8.4.2 consistent with 8.4.3 and to make sure that tenants of affordable housing are not excluded from ballots, as was seen in the example in my evidence document]

8.5.2. There must be sufficiently robust, **transparent and verifiable** processes put in place to ensure resident ballots are held securely and deliver accurate results. IPs must appoint an Independent Body to undertake the resident ballot. IPs must only appoint an Independent Body with the appropriate knowledge and expertise necessary to supervise ballots effectively. For trade union ballots and elections, central Government publishes an Order listing Independent Scrutineers (see <http://www.legislation.gov.uk/ukxi/2017/877/made>). IPs could consider appointing an organisation from this list as its Independent Body, provided that the organisation also has relevant experience operating in the housing sector. Alternatively, IPs could consider using another organisation that has relevant expertise and experience operating in the housing sector.

8.5.3. The Independent Body is required to:

- review the arrangements for voter registration and identification;
- undertake or oversee the distribution of the Landlord Offer to eligible residents;
- advise IPs on the question to be put to residents in the ballot;
- ensure that votes cast in ballots are recorded and counted accurately; and
- confirm that the ballot is held in accordance with this guidance by signing the GLA Resident Ballot Compliance Checklist (see paragraph 8.5.19).

8.5.4. The Independent Body may determine it is necessary to undertake spot checks to ensure that ballots have been undertaken properly. For example, where the result is close, it may check that votes have been cast only by eligible voters.

8.5.5. In the event that the Independent Body identifies that votes have been cast fraudulently, these votes may be excluded from the results. Further spot checks may be required in order to determine whether the overall result is accurate.

8.5.9. The GLA is not prescribing the method by which eligible residents may cast votes in ballots. It is up to IPs to offer an appropriate range of ways to vote to encourage eligible residents to participate. Where residents are invited to cast their votes in a ballot box, such a box should be placed in a neutral venue and not in the vicinity of any publicity encouraging a vote either way.

8.5.10. Ballot papers should be delivered to eligible residents under separate cover from any consultation material and/or the Landlord Offer.

8.5.11. IPs must make Landlord Offer documents easily accessible. Offer documents must contain sufficient information for eligible residents to make an informed decision about the future of their estate. As a minimum, the Landlord Offer must include the following:

- The broad vision, priorities and objectives for the estate regeneration, including information on:
 - Design principles of the proposed estate regeneration.
 - Estimated overall number of new homes.
 - Future tenure mix.
 - Proposed associated social infrastructure.
- Details of the full right to return or remain for social tenants living in homes that are to be demolished.
- Details of the offer for leaseholders and freeholders of homes that are to be demolished.
- Commitments relating to ongoing open and transparent consultation and engagement.

8.5.13. ~~In its Landlord Offer to residents, IPs~~ Under separate cover, the Independent Body must provide a booklet to all residents to explain the arrangements for casting votes in a ballot. As a minimum, ~~IPs~~ this booklet should explain:

- the question that will be put to eligible residents in the ballot;
- details of the timing of the ballot;

- details of the different ways in which eligible residents may cast their vote in the ballot;
- details of when the results of the ballot will be announced;
- details of how the ballot will be undertaken by an Independent Body; and
- contact details for further advice and guidance on any issues related to the Strategic Estate Regeneration Project and/or the ballot.
- a page of information from both the Landlord promoting a 'yes' vote and the recognised resident group wishing to support a 'no' vote. Each page of information should follow a format and length decided by the Independent Body in a guidance note, and should be checked for accuracy by the Independent Body before publication.

8.5.14. IPs must publish one Landlord Offer document containing all the required information and send a copy of the document to the GLA. While it is important for transparency purposes that all information pertaining to a Landlord Offer is captured in one document, IPs may additionally wish to produce separate offer documents for distribution to residents that are tailored to the three following different groups of residents that may be eligible to vote in the ballot (as set out in paragraph 8.4.2):

- Social tenants.
- Resident leaseholders and freeholders.
- Residents living on the estate that are on the local authority's housing register.

8.5.17. There must be an appropriate amount of time between publishing a Landlord Offer and holding a ballot. IPs must publish the Landlord Offer and offer documents must be distributed to eligible residents sufficiently in advance of the vote to allow them a reasonable amount of time to consider the proposals.

- The ballot period – during which time eligible residents may cast their vote – should run for at least 21 days to maximise voter turnout.
- The ballot period must end within six months of the date the Landlord Offer was published.
- For the purposes of spending limits, balance requirements and prohibited activities, the 'voting period' as a whole is defined to run from the publication of the final Landlord Offer and the close of voting.

Problems identified with the wider process

Another important goal of introducing this policy was to create incentives for landlords to develop better options for estates, and to encourage the early involvement of residents in producing these ideas.

By providing residents with the power to reject plans at the final stage, it was hoped by all of us involved that this would mean greater resident involvement in the generation of ideas and options for improving estates from the start.

In theory, landlords would be incentivised by the existence of ballots to involve residents in assessing options at an early stage, and to listen to and evaluate residents' own ideas, including 'people's plans'.

In September 2016 I wrote to then Deputy Mayor, James Murray, proposing a set of principles for estate regeneration that should be included in his new guidance.⁶ These were:

1. No residents excluded from involvement in making plans for the area
2. Full transparency for information on the current state of estates and the basis for new plans
3. Early and wide engagement with residents, when the goals of the regeneration are still open to change
4. Expert support for residents to develop their own plans for their areas
5. A meaningful final say and real decision-making power over the final options, ideally with a ballot for all residents.

In the Appendix is a diagram showing a draft process I proposed for involving residents and including their ideas in new plans from the start in response to the draft estate guidance in March 2017.⁷ Importantly, in respect of ballots, this process envisaged several checkpoints where residents would have their say, including at points before a single option was chosen.

As set out in my proposals and responses to consultations all the way through the development of this policy, I have never been happy with the idea of there being only one viable option for any estate, or with a single binary choice being put to residents at the end of the process.

In addition, the ballot franchise ought to be extended to include more residents, including adult children of tenants and people with private tenancies and businesses.

I would therefore like to see longer-term changes made to the guidance which allowed for more options to be developed (including resident-led proposals) and for alternative non- or low-demolition options to be put out for robust scrutiny at every stage, including the ballot at the end.

In the shorter term, however, something can be done without wholesale change to the process. An important part of this proposal was that residents themselves ought to be able to commission expert help and support both to evaluate landlord proposals independently, and to develop their own plans to a stage where they could be considered as viable options earlier in the process.

This would require resources, and I have consistently put forward ideas and proposals for providing funding for resident empowerment and support during the past four years.

This has included my:

- letter to James Murray in September 2016⁸
- initial response to the Mayor's first draft estate guidance in December 2016⁹
- full response to the guidance in March 2017¹⁰
- response to the technical requirements for ballots in March 2018.¹¹

In 2022, the City Hall Greens group budget amendment, which I seconded, won the support of the Assembly in amending the Mayor's draft budget to include an initial £500,000 for a Resident Empowerment Fund, to provide funding for independent expert support and activity for recognised resident groups to engage in major development plans.¹²

Therefore, in addition to the ideas above for improvements to the funding guidance, I am asking again for this kind of support to be considered for resident groups. This could be made available at all stages of the process, from initial ideas right through to the final 'voting period' as laid out above.

Potentially, you could require support at each stage to be provided by landlords through the guidance. (Although the purpose of each aspect of the approx. £350,000 spent by Newham Council on its engagement and ballot for the Carpenters Estate is a point of disagreement between us, it is clear that some of this funding could have been made available to further develop resident ideas early in the process, and for residents opposed to demolition to put their case in an accountable and verifiable way during the ballot process.)

Alternatively, you could (as I have proposed in the past) provide funding to suitable resident groups wholly independently of landlords, through the GLA.

References

- ¹ Ground-breaking plans by Mayor for estate regeneration ballots. Mayor of London, Feb 2018
<https://www.london.gov.uk/press-releases/mayoral/ground-breaking-plans-for-estate-regen-ballots-0>
- ² Estate resident ballots: are they working well? Sian Berry AM, Jul 2022 <https://www.london.gov.uk/about-us/london-assembly/assembly-members/publications-sian-berry/publication-sian-berry-estate-resident-ballots-are-they-working-well>
- ³ Resident ballot compliance checklist, Mayor of London, Feb 2019
https://www.london.gov.uk/sites/default/files/section_8_gla_resident_ballot_compliance_checklist_clean_fe_b_2019.pdf
- ⁴ Under the Political Parties, Elections, and Referendums Act (2000), the Electoral Commission designates lead campaigners. The Commission must apply certain statutory tests when designating lead campaign groups in the run up to the EU Referendum. Any registered campaigner can apply to the Commission to become a lead campaign group. Campaigners are assessed based on the statutory tests. The tests are: a) if there is only one applicant for an outcome, the Commission shall designate an applicant unless it is not satisfied that it adequately represents those campaigning for that outcome, b) if there is more than one applicant for an outcome, the Commission shall designate whichever of the applicants appears to the Commission to represent to the greatest extent those campaigning for that outcome. More information about this process is on the Electoral Commission website here: <https://www.electoralcommission.org.uk/i-am-a/campaigner/referendum-campaigner>
- ⁵ Resident Ballot Requirement funding condition guidance. Mayor of London, version as last updated June 2021 https://www.london.gov.uk/sites/default/files/3_cfg_section_8_resident_ballots_-_18_june_2021.pdf
- ⁶ Letter to James Murray. Sian Berry AM, Sep 2016 <https://www.london.gov.uk/press-releases/assembly/sian-berry/mayor-must-keep-promises-to-estate-residents>
- ⁷ Response to the Mayor's draft Estate Regeneration Best Practice Guidance. Sian Berry AM, Mar 2017
<https://www.london.gov.uk/press-releases/assembly/sian-berry/mayors-guidance-wont-stop-estate-demolitions>
- ⁸ Mayor must keep promises to London's council estate residents. Sian Berry AM, Sep 2016
<https://www.london.gov.uk/press-releases/assembly/sian-berry/mayor-must-keep-promises-to-estate-residents>
- ⁹ Gaping holes for resident rights in Mayor's estate guidance. Sian Berry AM, Dec 2016
<https://www.london.gov.uk/press-releases/assembly/sian-berry/gaping-holes-for-residents-in-estate-guidance>
- ¹⁰ Mayor's guidance won't stop estate demolitions. Sian Berry AM, Mar 2017
<https://www.london.gov.uk/press-releases/assembly/sian-berry/mayors-guidance-wont-stop-estate-demolitions>
- ¹¹ Response to consultation on technical requirements for ballots. Sian Berry AM, Mar 2018
<https://www.london.gov.uk/about-us/london-assembly/assembly-members/publications-sian-berry/publication-sian-berry-response-mayors-plans-resident-ballots-regeneration>
- ¹² Assembly amends budget to introduce a Resident Empowerment Fund. London Assembly, Jan 2022
<https://www.london.gov.uk/press-releases/assembly/assembly-amends-mayors-budget>

Appendix – previous proposals for a suitable process for applying funding conditions

Conditions for funding: choosing options for estate improvements

