

Request for Greater London Returning Officer (GLRO) Decision – GLRO24-01

Title: Count process for Mayor of London, the London-wide Assembly Members and Constituency Assembly Member elections on Thursday 2 May 2024.

Executive Summary:

The Greater London Returning Officer (GLRO) is asked to approve the move from an electronic ballot paper count to a manual count process for the 2024 ordinary Greater London Authority Elections (GLA) to be held on Thursday 2 May 2024.

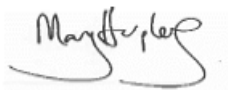
Decision:

That the GLRO decides that an electronic counting system will not be made available to Constituency Returning Officers by the GLRO for use in the next ordinary GLA elections for the Mayor of London and the London Assembly to be held on Thursday 2 May 2024, and so the elections will instead be conducted by a manual count process as described in this Decision Form; including in the event that the GLA elections are combined with a Parliamentary General Election on the same day.

Greater London Returning Officer

The above request has my approval.

Signature



Date 19/08/22

PART I - NON-CONFIDENTIAL FACTS AND ADVICE

Decision required – supporting report

1. Introduction and background

- 1.1 The next set of ordinary elections for the Mayor of London and the London Assembly (together “GLA elections”) will be on Thursday 2 May 2024. To date the GLA elections have always been conducted with the use of an electronic counting system (e-count system) provided to Constituency Returning Officers (CROs) by the Greater London Returning Officer (GLRO) consisting of computer hardware, software and other equipment or services, for the purpose of counting the number of ballot papers, to verify the ballot paper accounts and to count the votes cast on them.
- 1.2 The GLRO is, after extensive consultation with all key stakeholders, and with a change in law to set the first past the post system for the Mayoral election, invited to decide that on balance the conduct of the count for the 2024 elections should be by a manual process for all three contests: the Mayoralty, Constituency and London-wide Assembly members. In reaching this decision the GLRO is invited to take into account that the GLA Election Rules 2007 already contain provision for a GLA election to be conducted manually either alone or in combination with another poll on the same day e.g., a parliamentary General Election.
- 1.3 Three key issues underpin the GLRO’s consideration of whether counting electronically is the right approach for the GLA elections in 2024 or whether, for the first time, the counting of the number of ballot papers, the verification of the ballot paper accounts, and the count of the votes cast on them should be conducted manually:
- Parliament has confirmed in the Elections Act 2022 (first published as a Bill in July 2021), that the election to the Mayor of London will be conducted on a ‘first past the post’ (simple majority of votes cast) basis in the 2024 election for the first time. The abolition of the second preference vote gives rise to the possibility that a manual count could be carried out in a timely manner at a lower cost than an electronic count.
 - The possibility that a General Election may coincide with the GLA elections in May 2024. This would bring significant additional complexity to the administration of both the GLA elections and the General Election in London – not least to the counting of both, particularly if the General Election ballots were counted manually and the GLA election ballots were counted electronically.
 - The late postponement of the 2020 GLA elections incurred total sunk costs of up to £10m as considerable work to develop and test the e-count software, lease the hardware and three large venues, and train staff had already been undertaken. These costs were met entirely by the GLA. Had a manual count been planned for 2021, the sunk costs of a late postponement would have been very much lower in comparison, as they would only have consisted of unavoidable costs incurred by boroughs and in relation to the statutory booklet.
- 1.4 The Elections Act 2022 received Royal Assent on 28 April 2022. The change in law to the election of the Mayor of London on a ‘first past the post’ basis (including any Mayoral by-election) and abolition of the current second preference vote as currently set out in the Greater London Authority (GLA) Act 1999, requires the Government to pass secondary legislation to implement. It is understood that the Government will now draft and enact

this ahead of 2024 and so the risk of this not being enacted in time for the 2024 GLA elections therefore appears small.

- 1.5 It is noted that the election systems to the London Assembly –both Constituency (first past the post) and London-wide Members (modified d’Hondt proportional representation) – remain unchanged, and the counting of votes for these two contests does not depend on an e-count system. The counting of both is very straightforward, as is the calculation of the allocation of London-wide seats.
- 1.6 The Dissolution and Calling of Parliament Act 2022 received Royal Assent on 24 March 2022 and repealed the Fixed-term Parliaments Act 2011. It means that the next General Election must be held before 25 January 2025. While a General Election can now be called at any time, it is reasonable to consider the risk of a General Election coinciding with the GLA Elections in May 2024 as high.
- 1.7 If the General Election and the GLA elections coincide and so are combined, the General Election will be the primary election and will be counted first. However, election law requires that the verification of all ballots cast in ‘combined’ elections is completed before the ballots from any of the two elections are counted. The most practicable way of achieving this is to have all the ballots at the same count location – that is, in these circumstances, the locations at which the parliamentary counts are being held. Counting the GLA elections electronically across more than 30 such locations is not considered a viable proposition. Counting the GLA elections manually mitigates significantly the complications arising from a combined election.
- 1.8 Now that the Elections Act 2022 is law, the GLRO has indicated it is her intention not to provide to CROs an e-counting system for the 2024 GLA elections and instead to conduct that election, including the counting of ballot papers, verification of ballot paper accounts, and the count of ballots cast on them, on a manual basis. Not only should this reduce the cost of the GLA elections, it also will reduce the risk of significant issues arising from a General Election being combined with the GLA elections. Although it is unlikely that the May 2024 elections would be postponed again, counting manually would remove the risk of a repeat of the significant sunk costs incurred in 2020 when the elections in May that year were postponed because of the coronavirus pandemic. This Decision Form formalises that approach.
- 1.9 The GLRO has worked very closely with the Chair of the London Elections Management Board (LEMB) over many months to ensure that the issues related to this decision have been considered and understood by serving Returning Officers, borough election managers and other stakeholders. There is good support for this proposed decision from those who will be instrumental to the delivery of the 2024 elections, largely on account of considerable concern about the significant complications of a coinciding General Election.

2. Issues for Consideration

- 2.1 Moving to a manual count of the GLA elections in 2024 gives rise to several other differences when compared to previous GLA elections.
- 2.2 Firstly, timing of the declarations of the results. While the abolition of the second preference vote for the Mayor renders the count more straightforward, it does not change the number of ballot papers which will need to be counted -- nearly 8m papers in 2021 from a turnout of 42%.

- 2.3 Modelling undertaken with the support of some of the most experienced borough election managers suggests that a manual count of ‘standalone’ GLA elections could be completed in two days starting on Friday 3 May (8AM) May, meaning that with the count in all GLA contests we could expect to declare the result of the Mayor of London and London Assembly elections , respectively, on Saturday 4 and Sunday 5 May at the latest. A coinciding General Election would delay the start of the count of the GLA elections by up to two days e.g. until Sunday 5 May. However, verification of all GLA ballots would have already been completed alongside the parliamentary ballots and would start as soon as possible after close of polls on Thursday 2 May. Although turnout at a combined election is likely to be higher, modelling suggests that the GLA declarations (Mayor and Assembly) should all be made by Monday 6 May.
- 2.4 The production and printing of ballot papers has previously been included as part of the e-count contract, given the technical requirements of ballot papers which are to be scanned at speed. Ballot papers would need to be procured separately by London Elects and this procurement would need to commence this year, as will the normal procurement of the election booklet.
- 2.5 Count arrangements will also need to be redesigned. For example, the GLA would no longer manage either an electronic vote-counting contract or three large count centres. Instead, Constituency and Borough Returning Officers and their teams would be primarily responsible for providing suitable count centres (potentially for counts of combined elections over several days) and running their manual counts under the direction of the GLRO. The previous management of European parliamentary elections in London – where boroughs counted locally and reported results to a ‘regional returning officer’ - offers some useful precedent here. But the GLA elections are more complex because of the overlay of Assembly Constituencies. Achieving successful, consistent counts is going to rely on agreement to a new set of ‘directions’ from the GLRO to Returning Officers. Work with boroughs to agree these will have to start soon.

3 Equality comments

- 3.1 There are no specific impacts on those with protected characteristics as per the public sector equality duty in section 149 of the Equality Act 2010 arising from this decision.

4. Financial Comments

- 4.1 This GLRO is invited to approve the decision that an electronic counting system will not be made available to Constituency Returning Officers by the GLRO for use in the next ordinary GLA elections for the Mayor of London and to the London Assembly to be held on Thursday 2 May 2024, and so the elections will instead be conducted by a manual count process as described in this Decision Form, including in the event that the GLA elections are combined with a Parliamentary General Election on the same day. Reason for this is outlined in this GLRO above.
- 4.2 It should be noted that the total manual costs are estimated to be lower than total e-count costs creating an estimated net saving of circa £4 million from a £28 million budget. The saving will be because of less spend on electronic equipment, staff costs, count venues, contractual pledges/changes with e-count provider, not requiring a particular design of ballot box etc. In

the unlikely event that elections had to be postponed as happened in 2020 then there will also be far less sunk costs incurred.

- 4.3 London boroughs will incur most of the costs related to the manual counts and they will reclaim these costs from the GLA via the Maximum Recoverable Amount process. Estimated costs for manual count is likely to be approximately in the region of £8m and will be mostly spent in 2023-24, with borough claims on costs to be re-paid in 2024-25. The cost of manual count will be met from the 2024 Election budget that is funded from Election reserves.
- 4.4 It should also be noted that while savings are anticipated overall regardless, the estimated figures in paragraph 4.2 above may reduce in the event that inflationary or other pressures increase actual costs in relation to items such as ballot papers and borough costs.

5. Legal Comments

- 5.1 Under the GLA Election Rules 2007 the GLRO already has discretion about whether to provide an e-counting system to CROs for use in the GLA elections, or for those elections combined with another election. Where she does provide an e-count system, then the default position under the Rules is that CROs must use it or must obtain written permission from the GLRO to conduct a manual count (including recount). Therefore, as a consequence of a decision by the GLRO not to make an e-counting system available for use in all three contests at the 2024 ordinary GLA elections, the counting of ballot papers, verification of ballot paper accounts, and the count of ballots cast on them in those elections will be performed manually. The GLRO has the same discretion about whether to provide an electronic counting system where the GLA elections are combined with another one such as a General Election.
- 5.2 The GLA Election Rules 2007 are written on the basis of an electronic counting system being made available as the default position. However, the 2007 Rules already contain provisions for manual counts of a GLA election. These modify the normal default rules and are set out in the Manual Count Rules contained in rule 4 and Schedule 4 to the 2007 Rules. When the GLA elections are combined with another election (such as a General Election or ward councillor by-election) and are to be conducted manually, then the Combined Manual Count Rules set out in rule 6 and Schedule 8 apply.
- 5.3 The decisions requested of the GLRO fall within the statutory powers.

Appendices and supporting papers:

None

Public access to information

Although the GLRO is not subject to the Freedom of Information Act 2000 (FOI Act), the information in this form will be published on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it will be deferred until a specific date. Deferral periods will be kept to the shortest length strictly necessary.

Note: This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

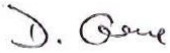
Part 2 Confidentiality: Only the facts or advice whose publication may be prejudicial or commercially sensitive should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:	Drafting officer to confirm the following (✓)
Drafting officer: <u>Lea Goddard</u> has drafted this report in accordance with GLA procedures and confirms that the <u>Finance and Legal</u> teams have commented on this proposal as required, and this decision reflects their comments.	✓
The Deputy GLRO has reviewed the request and is satisfied that it is correct and can be referred to the GLRO for approval	✓

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature  Date **04/08/22**