



Government of South Australia

Department of Planning
and Local Government



**Local
Government
Association
of South
Australia**

Report on Local Government Elections 2010

November 2011

1 Introduction

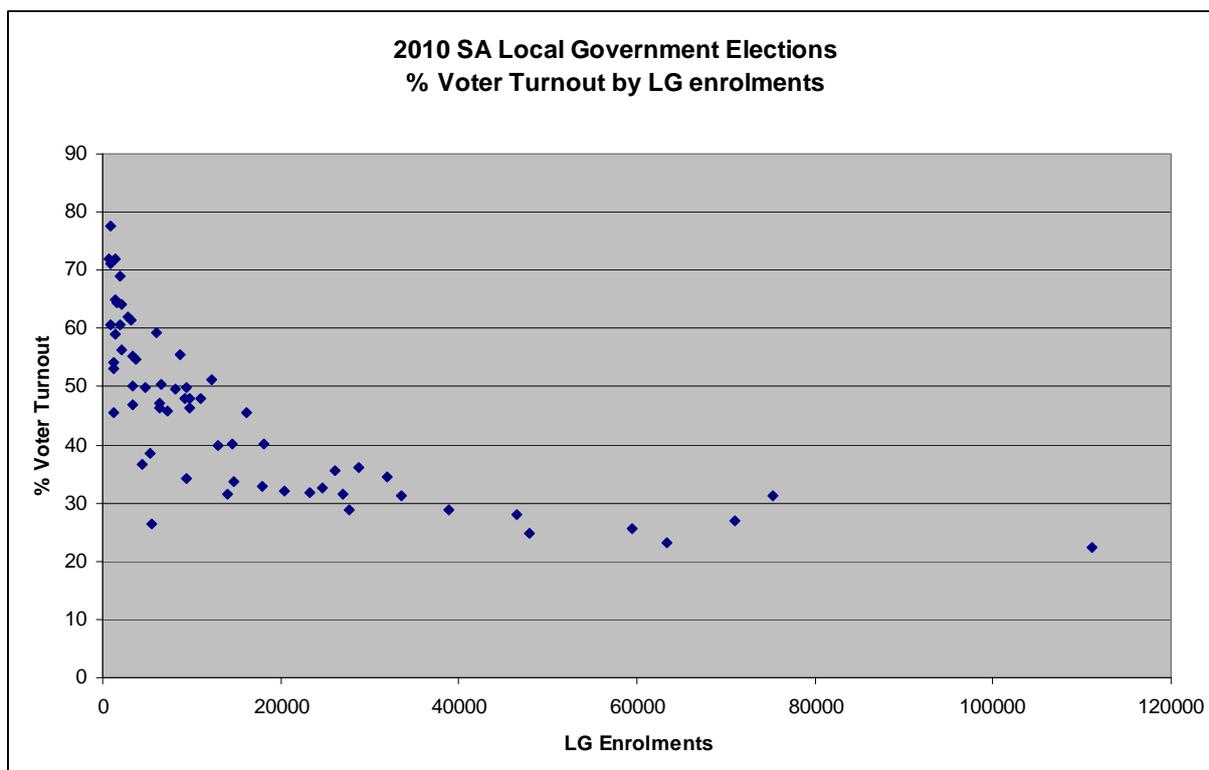
The Local Government elections, held in November 2010, provide an opportunity to review the legislative and policy procedures that govern the elections process. The Department of Planning and Local Government (DPLG) and the Local Government Association (LGA) agreed to prepare a joint report on the elections and to consider whether legislative or policy change is necessary. The report includes consideration of issues arising from the newly introduced 'caretaker' provisions together with a range of other matters that were raised during the elections period.

2 Voter Participation

Before the introduction of postal voting in Local Government elections in 1997, the rate of voter participation in contested elections rarely exceeded 20%. Since 2000 (when postal voting was used state-wide for the first time) participation rates have been consistently above 30%. However, after the peak year of 2000 (when 40% of voters participated) the percentage dropped to 33% in 2003, and 31% in 2006 and has remained steady since then. State-wide voter participation for the 2010 Local Government elections was 32.88%.

In a clearly recognisable trend over many years, voter participation has tended to be lower in the larger and metropolitan Councils and higher in smaller and rural Councils.

In the 2010 elections in South Australia, six (out of 24) Councils with less than 5,000 voters had voter turnout below 50%. At the other end of the population spectrum, only three (out of 10) Councils with more than 30,000 enrolled voters had voter turnout above 30%. These results are broadly consistent with previous years. This is illustrated by the graph below.



2.1 Property Franchise Enrolment

Until the 2010 Local Government elections, those entitled to the property franchise did not need to enrol to vote and their entitlement existed whether or not they chose to exercise it.

In South Australia, historically, relatively few property owners chose to exercise their property franchise right to vote in Local Government elections (as distinct from their rights as residents). Their lack of participation as property franchisees reduced average election participation figures.

Following a legislative amendment, the automatic property franchise was removed and property owners were required to register to vote for the first time, with the exception of the Adelaide City Council. Under s13A(2) of the *Local Government (Elections) Act 1999* (Elections Act), Councils had the responsibility to inform potential electors (except for residents on the House of Assembly roll) of the requirement to apply to be enrolled on the voters roll in order to be entitled to vote. However, the legislation gives no guidance on how this information should be conveyed.

For the 2010 Local Government elections, the Electoral Commissioner provided all Councils with various materials to send to property franchise electors notifying them of the new enrolment provisions. Councils were then responsible for sending the material to the property franchise electors previously on their supplementary roll.

While most Councils fulfilled this expectation, some Councils did not specifically advise their property franchisees. It also appears that the relevant peak bodies for business, such as Business SA and the Property Council, did not provide any information to their members.

The Electoral Commissioner conducted an advertising campaign in August to raise awareness of the need for eligible voters, including property franchise electors, to enrol prior to the close of rolls on 13 August 2010.

For the 2010 Local Government elections, in the Adelaide City Council (where property franchisees were still automatically enrolled) 25.59% of enrolled property franchisees exercised their right to vote. Across the state, 44.05% of all *enrolled* property franchisees exercised their right to vote.

Property franchisees comprised 2.9% of all voters (9,978 out of 343,926). However, the number of enrolled property franchisees made up 2.17% of total enrollees (22,650 out of 1,046,132).

By way of comparison to the 2006 elections, when all property franchisees were automatically enrolled, from 41 (of the 61) Councils that held elections in 2006-07, only 34,444 (18.8%) of property franchisees actually voted.

The number of property franchisees enrolled in the 2010 Local Government elections was lower than expected. This may have resulted from the fact that:

- Some Councils did not forward Electoral Commission's material to potential electors (property franchisees); and
- The timing of close of rolls (August) in relation to elections (November) is too far apart.

The 2008 Independent Review of Local Government Elections found that:

...Councils incur significant expense in compiling and maintaining a separate voters roll for Local Government elections... in most cases, the vast majority of this effort is wasted in respect of the 82.8% of property franchisees who choose not to vote.

The Review also found that:

If property franchisees were to be removed from the roll for Local Government elections, the voter participation rate would undoubtedly increase... the improvement in voter participation would be in the order of 2%.

It is DPLG's view that reinstating automatic voting entitlements for property franchisees is not a viable option in light of the Review's findings, and that a preferable option is to examine ways of improving property franchisee enrolment and subsequent participation.

However, the LGA General Meeting in April 2010, resolved to ask the State Government to review the changes and restore the automatic right for property franchisees to vote in Local Government elections. The LGA has written to the Minister for State/Local Government Relations informing him of the resolution and seeking the change.

Although most Councils complied with the requirement under section 13A(2) of the Elections Act to '*inform potential electors in its area...of the requirement to apply to be enrolled on the voters roll*', some were unclear on how best to convey the information and some Councils may not have complied at all.

If the automatic rights of property franchisees are not restored before the next election, consideration should be given to amending the Elections Act to provide guidance on how to inform 'potential voters' of the need to enrol. For example, the *Local Government Act*, among others, includes provisions requiring certain information to advertise in a newspaper circulating generally in the Council area or in the State, depending on the nature of information to be promulgated. The LGA is of the view that a similar formula could be included in the Elections Act. DPLG is of the view that additional promotional steps should be taken, such as requiring Councils to communicate directly with potential electors (property franchisees).

Recommendations: The recommendations arising from this section of the report are:

- (i) if the Elections Act is not amended to restore the automatic rights of property franchisees to vote in Local Government elections before the next election, the Elections Act should be clarified in relation to how the enrolment information should be conveyed to potential voters, and a consistent approach agreed to and adopted by all Councils.

3 'Caretaker' Provisions in Section 91A of the *Local Government (Elections) Act 1999*

During the November 2010 Local Government elections, an amendment to the Elections Act required each Council to have a caretaker policy to govern the conduct of the Council and its staff during an election period. As a minimum, the caretaker policy was required to prohibit the making of a 'designated decision' during the election period. A designated decision is defined in section 91A of the Elections Act and further refined in the *Local Government (Elections) Regulations 2010* (the Regulations).

The objectives of the new provisions were to ensure that an outgoing Council could not bind a new Council to large contracts (other than for prescribed contracts as defined in reg 12 of the Regulations) and that no candidate, either sitting or prospective, was unfairly disadvantaged.

A designated decision, under section 91A, means a decision:

- relating to the employment or remuneration of a chief executive officer (other than a decision to appoint an acting chief executive officer); or
- to terminate the appointment of a chief executive officer; or
- to enter into a contract, arrangement or understanding (other than a prescribed contract) the total value of which exceeds whichever is the greater of \$100,000 or 1% of the Council's revenue from rates in the preceding financial year; or
- allowing the use of Council resources for the advantage of a particular candidate or group of candidates (subsection (8d)).

A 'prescribed contract' is a contract entered into by a Council for the purpose of undertaking road construction or maintenance, or drainage works. Prescribed contracts allow a Council to continue with its core road and drainage infrastructure work unaffected by the caretaker period. For all other contracts above the monetary threshold, the intent of section 91A is that major decisions should be postponed until after the election period (other than those exempted under reg 12 of the Regulations or, if there are 'extraordinary circumstances', exempted by the Minister).

If a Council makes a designated decision in contravention of the Elections Act or in contravention of the Council's caretaker policy, then the decision is invalid. An invalid decision cannot be enforced in any court. Under section 91A, any person who suffers any loss or damage as a result of acting in good faith on a designated decision that is later held to be invalid is entitled to compensation from the Council for that loss or damage.

Section 91A also makes a Council's caretaker policy part of each code of conduct for Council Members and Council staff.

3.1 Issues Arising from the Legislative Provisions and the Model Caretaker Policy

To assist Councils to comply with the new legislation, the LGA developed a Model Caretaker Policy for Councils to adopt or adapt to their own needs. The Model Caretaker Policy covered the minimum requirements of section 91A and also included a set of discretionary clauses that, if adopted by a Council, prohibited the Council from making any 'major policy decisions' as well as designated decisions.

3.1.1 Designated Decisions: Contracts

Most Councils did not encounter difficulties in avoiding designated decisions, particularly after the Government exempted certain key decisions from the definition by regulation.

One Council sought a Ministerial exemption in relation to signing a Commitment Deed for multi-million dollar road and stormwater works, notwithstanding that it had legal advice to the effect that a decision could be made under the law as it stood. The Minister declined to provide the exemption. Subsequently the Council refused to sign the Deed on the grounds that it was a 'major policy decision' and was therefore prohibited by the Council's Caretaker Policy.

Two additional issues were also identified which arose in relation to making designated decisions. The first issue was whether Council subsidiaries were subject to the requirements to avoid making designated decisions and the second issue concerned long term contract negotiations coming to fruition and requiring a signature during the caretaker period. Neither of these issues was addressed in the material prepared to assist Councils prior to the elections.

The LGA, including the LGA Mutual Liability Scheme, provided both documentary and training support for Councils during the lead up to the elections and during the election period. The documents included the Model Caretaker Policy and also a Caretaker Toolkit which was used as the basis for training sessions. Both documents strongly advised Councils of the need for forward planning in relation to contract negotiations. The Toolkit contained a section on 'Frequently Asked Questions' which identified a number of scenarios that Councils might encounter and advised on how to handle them. However, as a result of Council feedback during the election period and following it, there appears to be a number of scenarios that could be added to the document and some existing ones substantially modified. The material did not cover, for example, the question of whether Council subsidiaries are subject to the caretaker provisions, although it mentioned Council committees. In addition, Councils struggled with how to respond to some 'political issues', such as the establishment of the Inverbrackie detention centre, during the caretaker period.

With the benefit of experience, it is arguable that parts of the LGA's material may have erred on the side of caution in relation to advice on some activities of Councils, Council Members and Council staff. In addition, issues arose that had not been foreseen and these could be used as additional examples in revised materials.

Recommendation: The Model Caretaker Policy and the Caretaker Toolkit should be reviewed and revised before the next periodic Local Government elections in 2014.

3.1.2 Designated Decisions: Use of Council Resources

One of the key areas of concern and uncertainty within Councils was the provision in section 91A(8)(d) of the Elections Act which defined a designated decision to include:

(d) allowing the use of Council resources for the advantage of a particular candidate or group of candidates (other than a decision that allows the equal use of Council resources by all candidates for election).

3.1.2.1 First, there is a real question as to whether it is appropriate to include this provision in a definition of a designated decision, as it is clearly distinguishable from the other matters that form part of the definition. These other matters concern decisions that have the effect of binding an incoming Council to a significant policy position, expenditure, or employment contract for a CEO, whereas 91A(8)(d) is concerned with candidates for election, both sitting and external. However, external candidates are not bound by the section as it only binds a Council.

3.1.2.2 Secondly, because a designated decision is linked to a Council Member's or staff member's code of conduct, some Council staff felt individually responsible for how Council Members used Council resources. Conversely, some Mayors/Chairpersons and other Council Members felt that staff advice was inappropriately constraining and overcautious.

Some examples of issues in which further clarification is needed for Council Members and staff alike include:

- the circumstances in which a Mayor/Chairperson or Council Member can speak to the media;
- whether, and in what circumstances, it may be appropriate to use Council meeting rooms for a meeting of local candidates;
- whether there should be greater dispensation for outgoing Mayors who were not re-standing; and

- the actions of Mayors or other sitting members in sending letters to voters urging a vote for a particular candidate.

Another significant concern that emerged from Councils' experience with the new caretaker provisions was the sense, among the sitting Members, that the new laws have tipped the balance of advantage to external candidates standing for election. Sitting Members felt more constrained than their external counterparts in what they could say and what resources they could legitimately use. Some examples were:

- whether Council Members could use business cards paid for by Council;
- whether Council Members could 'stand on their records' by talking up their achievements on Council in the local press and radio interviews; and
- whether Council Members could actively endorse other candidates.

3.1.2.3 In a related matter, not directly concerned with the caretaker provisions, but feeding into the sense of disadvantage, sitting Council Members are also concerned about the open disclosure of their personal interests and affiliations through the mandatory register of interests, which does not apply to external candidates. Following a resolution of the LGA's Annual General Meeting in October 2010 and following feedback on a discussion paper prepared earlier by the LGA, the LGA wrote to the Minister for State/Local Government Relations on 26 May 2011, requesting an amendment to the Elections Act to bring candidates' disclosure requirements into line with requirements for sitting Members.

3.1.2.4 Finally, the LGA's General Meeting of April 2011 called for consideration to be given to establishing codes of conduct for all candidates for election. As indicated above, in paragraph 3.1.2.3, sitting Council Members are required by law to abide by a code of conduct, including during the election period. Other candidates are not so constrained and therefore are perceived to enjoy an advantage over sitting Members. The resolution of the General Meeting also called for the examination of a proposal to require large donations to candidates to be disclosed before the end of the election period, in order to ensure that such disclosures are timely and appropriate.

The 2008 Independent Review of Local Government Elections noted that incumbents have an unfair advantage over challengers, and thus sought to balance the advantages of incumbency through these new provisions.

In summary, section 91A(8)(d) was the single most problematic element of the legislative amendments for Councils to understand and apply. The particular provision does not appear to sit well as part of a definition of a designated decision and requires greater clarification. Sitting Members of Council who are standing for election feel disadvantaged in relation to their external counterparts and the provision should be reviewed.

Recommendations: The recommendations arising from this section of the report are to seek the following legislative changes:

- (i) review removing section 91A(8)(d) from the definition of a designated decision;
- (ii) review section 91A(8)(d) to determine whether it is necessary to include it in legislation and, if so, clarify the wording to provide greater certainty;
- (iii) examine repealing section 91A(7) so as to sever the current link between compliance with the section and Codes of Conduct;
- (iv) review the Elections Act and/or *Local Government Act* with a view to requiring the same level of disclosure for all candidates for election in a similar vein to the disclosure required for a Register of Interests for sitting Members;

- (v) review the Elections Act with a view to introducing codes of conduct for all candidates during an election; and
- (vi) review the Elections Act with a view to requiring the disclosure of large donations to candidates before the end of the election period.

4 Election Signs and Electoral Material

Section 226 of the *Local Government Act 1999* provides that moveable signs may only be placed on a road without an authorisation or permit if certain pre-conditions are satisfied. However, paragraphs 226(3)(c) and (ca) of the *Local Government Act* make it clear that moveable signs relating to an election may be placed and maintained on a road during a State, Commonwealth or Local Government election period without the authorisation of Council or the requirement to meet the pre-conditions.

4.1 Election Signs

The LGA has legal advice that corflute election signs attached to stobie poles and street lights were not placed 'on a road' for the purposes of section 226, as they were fixed to infrastructure. The LGA therefore negotiated agreements with the owners of the infrastructure, (ETSA Utilities and the Department of Transport, Energy and Infrastructure (DTEI)) to provide standard instruments of approval, subject to a set of conditions which, among other things, replicated the conditions found in section 226(3). In the case of Local Government elections, those conditions are:

(ca) the sign is related to an election held under the Act or the Local Government (Elections) Act 1999 and is displayed during the period commencing 4 weeks immediately before the date that has been set (either by or under either Act) for polling day and ending at the close of voting on polling day

The LGA's *Model Guidelines for the Control of Election Signs For Federal, State and Local Government Elections Referenda and Polls* (Guidelines) are based on the legal advice received. The Guidelines were updated and re-issued in July 2010.

Most Councils followed the LGA's Guidelines, and operated under the standard instruments of approval, with Councils administering approvals to attach and display corflute election signs on infrastructure.

However, prior to the 2010 State and Federal Government elections, independent legal advice was provided to a number of its client Councils, disputing the advice relied on by the LGA. This resulted in considerable confusion and the LGA subsequently wrote to the then Minister for State/Local Government Relations seeking clarification on the matter.

The crux of the issue is the interpretation of the legislation as to whether signs attached to stobie poles or street lights are 'on the road' for the purposes of the section. DPLG sought legal advice, which confirmed that the approach in the LGA Guidelines was within the boundaries of the law. The Minister at the time wrote to the LGA on 25 November 2010, indicating that her advice was that election signs placed on infrastructure on a road, met the requirements under the legislation for signs to be placed 'on a road'. However, the advice also indicated that, as the infrastructure was not owned by Councils, the LGA's approach in obtaining instruments of approval from the owners was correct.

There are three main issues that arise from this matter. First, the legal situation is still somewhat unclear, given differing advice received. Secondly, as the situation currently stands, Councils have no power to enforce the agreed conditions with the infrastructure

owners. Thirdly, some Councils have raised concerns over the period of time allowed by section 226(3)(ca) to display election signs, which is the 4 weeks prior to polling day.

The advice received from the Minister in relation to the placement of election signs would, if accepted, overcome a key problem experienced at the November 2010 elections, where some candidates were able to erect signs on infrastructure before the statutory four week period commenced. This was because the signs were held not to be 'on a road' under the LGA Guidelines and were therefore only subject to the conditions imposed by the infrastructure owners.

Although those conditions included a prohibition against erecting signs before the 4 week period, Councils could not enforce the conditions. While the owner of the infrastructure may have had a private course of action in trespass for the placement of the sign, neither ETSA nor DTEI were interested in enforcing the conditions and failed to respond to requests from the LGA. The lack of Council powers to enforce compliance gives a perceived advantage to candidates who fail to comply with the conditions and also leads to the perception that Councils are unresponsive to ratepayers' concerns.

However, as indicated above, the matter of the conflicting legal advice is not simply resolved by a letter from the Minister and may not prevent law firms from advising their client Councils differently. The only way in which a definitive interpretation can be provided is by a judgement from a court. In the absence of any judicial finding, the best option is to amend the wording of the section to make it clearer and to ensure that Councils are given powers to enforce conditions where the signs are placed on road infrastructure.

In addition to the above issues, a number of Councils requested a change to the commencement date of period in which signs can be erected, as they argue that the date appears arbitrary and counter-intuitive. These Councils want the period to commence four weeks before voting commences, rather than 4 weeks before the last day of voting (which is 'polling day' for the purposes of the Elections Act).

Recommendations: The recommendations arising from this section of the report are to seek legislative changes and further information by:

- (i) review section 226(3) to clarify the meaning with regard to the placement of election signs 'on a road';
- (ii) examine inserting powers for Councils to enforcement compliance with the section when election signs are placed on infrastructure not owned by Councils; and
- (iii) consider the proposal to bring forward the period for which election signs can be erected, to be four weeks before the start of voting, or 5/6 weeks prior to close of polls.

4.2 Electoral Material

Electoral material is defined in the Elections Act to mean '*an advertisement, notice, statement or representation calculated to affect the result of an election or poll*'. Section 28 of the Elections Act makes it an offence to publish material that purports to be a statement of fact and is inaccurate or misleading to a material extent.

If the Electoral Commissioner is satisfied that there has been a breach of the provision, the Electoral Commissioner may do one or both of the following:

- Ask the publisher to withdraw the material from further publication; and
- Ask the publisher to publish a retraction in specified terms and a specified manner and form.

During the November 2010 elections, the LGA understands that the Electoral Commissioner found a number of candidates to have breached section 28 of the Elections Act. These candidates were ordered to withdraw the offending material and publish a retraction in *The Advertiser*. However, the ordered retractions were invariably published as 'postage stamp' size entries in the Public Notices section of the back pages of *The Advertiser*, which was generally considered unsatisfactory.

At the LGA's General Meeting of 29 April 2011, the meeting resolved to ask the State Government to amend the Elections Act to require the Electoral Commissioner, when exercising the power to require the publisher to publish a retraction, to ensure that such publication is equal to the impact, format and distribution of the original material. The resolution also asked the State Government to ensure that any amendment requires the publication of a retraction to be prominently placed in the early pages of *The Advertiser* and other local press, and contain the complete findings of the Electoral Commissioner regarding the misleading, inaccurate or false material. In addition, the resolution asked for the Electoral Commissioner to consult with Councils over the timeline that would be appropriate for the publication of a retraction.

At present, section 28(2a) provides:

If the Electoral Commissioner is satisfied that published electoral material contains a statement purporting to be a statement of fact that is inaccurate and misleading to a material extent, the Electoral Commissioner may request the publisher to do 1 or more of the following:

- (a) withdraw the material from further publication; and*
- (b) publish a retraction in specified terms and a specified manner and form, (and in proceedings for an offence against subsection (1) arising from the material, the publisher's response to a request under this subsection may be taken into account in assessing any penalty to which the publisher may be liable).*

As is apparent from the wording of the section, the Electoral Commissioner is only able to **request** a publisher to carry out a retraction or to withdraw the material.

Recommendations: The recommendations arising from this section of the report are to:

Review the Elections Act with a view to conferring a mandatory power on the Electoral Commissioner to:

- (i) Require the publisher to publish a retraction, to ensure that such publication is equal to the impact, format and distribution of the original material;
- (ii) Require the publication of a retraction to be prominently placed in the early pages of *The Advertiser* and other local press; and
- (iii) Consult with the relevant Council over the appropriate timeline for a retraction.

5 Candidates Website

A new section 19A of the Elections Act makes the LGA responsible for publishing on the internet a profile of each candidate for election, together with a candidate's statement (if the candidate provides one). The candidate has five business days to provide a statement, after the close of nominations and the statement must be 'in accordance with any requirements of the LGA'.

The aim of the section is to provide all candidates with the opportunity to have a presence on the internet at no cost to the candidate and to have information about all candidates readily accessible in one place for electors to be able to access. Information about the website was made available to all candidates.

During the periodic elections held in November 2010, 1274 candidates contested the election and 166 candidates chose to provide a statement for publication on the internet. This equates to 14% of all candidates.

The wording of section 19A means that the LGA is also required to operate the website during supplementary elections. Following the 2010 elections, there were seven supplementary elections, with eight positions to be filled. Five of these were elected unopposed, with the remaining three positions contested by 20 candidates. Six of these exercised their right to provide a statement.

As this is the first time that the candidates website has been available to candidates, the low level of usage may be a result of lack of knowledge. However, the LGA's report analysing the web usage indicates that traffic to the website was also low. While there was a peak in usage at the time of the periodic election of 2010, there has not been significant interest in the site during the periods of supplementary elections in 2011. Even the peak usage was very low in comparison to other websites and usage died away to practically nothing during the supplementary elections.

The LGA does not have any analysis of possible web presences maintained by individual candidates, either through developing their own sites or through maintaining a presence on Facebook or other social media sites. However, there is anecdotal evidence to suggest that there was significant activity, especially in the social media.

This may prove to be an important element in future elections, as the LGA's report also noted that the response from the public and the preferred methods of campaigning by candidates indicates that the lack of a social media capacity may have an impact in its effectiveness into the future.

Notwithstanding the low number of candidates who chose to publish a statement, the management of the website during the periodic election and the supplementary elections generated a significant workload for LGA and DPLG staff. This was partly because there were teething problems with the new website and partly because a number of candidates had technical difficulties in uploading their statements and therefore required telephone assistance.

In addition, the LGA's guidelines for providing a statement did not stipulate that statements must be typewritten and provided electronically, thereby creating a substantial amount of additional work for LGA staff. The workload in relation to the website during the periodic election involved one senior policy officer full-time, with significant additional assistance from a manager and an officer from the LGA's IT team. The experience suggests that the LGA's guidelines should be reviewed and tightened and consideration should be given to introducing a 'help desk' facility for the next periodic election.

In terms of operating the website for supplementary elections, the cost of supporting it overwhelmingly outweighs any benefit given the extremely low use. In previous supplementary elections the Electoral Commission sent candidates' photographs and profiles to Councils to upload onto Council websites. This would appear to be a more appropriately targeted response to a localised election given the level of use and applicability of the information.

Recommendations: The recommendations arising from this section of the report are to:

- (i) Seek legislative change to the Elections Act to remove the requirement for the LGA to operate the candidates website for supplementary elections;

- (ii) Review and revise the LGA's guidelines to candidates to help streamline the administration of the website; and
- (iii) Consider the need for introducing a 'help desk' facility during the next period elections.

6 Online Voting

For the purposes of this report, the term 'online voting' refers to remote access internet voting. Other forms of electronic voting include voting machines (located in polling booths) and telephone voting.

The number of countries which have introduced some form of electronic voting system has been increasing over recent years and includes the United States, Canada, the United Kingdom, Ireland, and India.

Few of the attempts have been free from controversy, which have mainly revolved around three key issues:

- Technical: can the system be made secure from tampering?
- Institutional: can the system be securely and effectively administered by electoral officials? Can votes be verified and scrutinised?
- Perceptual: even if the system is secure, will electors accept this to be the case?

Overall, the security issue sits at the core of the debate.

Arguments for online voting are:

- it encourages electoral participation, especially among the young, who are by far the group least likely to vote;
- voting online can include better links between the vote and the information on which a vote should be based, thus leading to more informed decisions; and
- by logging all votes electronically, the counting process is carried out more-or-less instantly.

Contrary to the above points, the potential for fraud is very high. A resourceful hacker, and not the voters, could decide who wins an election. The simple act of conducting an election on the internet may be seen as a challenge to some hackers. Personal computers are extremely vulnerable to cyber attacks. Furthermore, it is much harder to be sure that the person casting the vote is the same person that the vote is registered to, and there is no way to know for sure that the vote was cast in secret and without undue pressure.

The UK Experience

The UK Government has been exploring options for remote electronic voting (e-voting) since 2002 and previous e-voting pilots have been held in 2002, 2003 and 2004. In 2007 five e-voting pilots were undertaken during Local Government elections.

Voter turnout in the pilot testing was influenced by several factors, including pre-registration requirements and when polls closed for e-voting. In its report, the UK Electoral Commission stated that:

It is difficult to make any firm statements concerning the impact of e-voting on turnout. In practice, the majority of those who voted electronically are likely to have voted anyway via another channel. Where it was possible to interview users of e-voting for the opinion research, in South Bucks [one of the pilots], 71% polled claimed that they

would have voted in any case. Local surveys conducted by local authorities have resulted in similar figures, suggesting that up to 25–30% of those who voted electronically would not have voted if the e-voting channels had not been available.

From an operational perspective, the individual 2007 e-voting pilots were delivered on time and enabled electors to cast their votes and no significant security incidents or fraud have been reported.

However, there was an unnecessary high level of risk associated with all pilots and the testing, security and quality assurance adopted was insufficient. There was a general lack of transparency around the technology and its use.

The UK Electoral Commission recommended that no further e-voting pilots are undertaken until the following elements are in place:

- there must be a comprehensive electoral modernisation framework covering the role of e-voting, including a clear vision, strategy and effective planning; and
- a central process must be implemented to ensure that tested and approved e-voting solutions can be selected by local authorities.

2007 Federal Election Trial

In 2007 the Australian Electoral Commission conducted two electronic voting trials: the first a trial of electronically assisted voting for blind and vision impaired electors; and the other, a trial of remote electronic voting for selected Australian Defence Force personnel serving overseas.

In March 2009 the Joint Standing Committee on Electoral Matters delivered its interim report on the electronic voting trials. The Committee found that the combined costs of the trials was over \$4 million, with an average cost per vote cast of \$2,597 for the trial of electronically assisted voting for blind and low vision electors and \$1,159 for the remote electronic voting trial for selected defence force personnel serving overseas. This compares to an average cost per elector at the 2007 election of \$8.36.

For predominantly this reason, the Committee recommended that the trial be discontinued. However, unlike the UK Electoral Commission, the Joint Committee on Electoral Matters did not directly address the cost of trial in respect to participation rates.

Clearly, the cost per vote of introducing such a voting system on a nationwide basis would be considerably less than either of the trial figures cited above.

At the 2011 LGA AGM, several Councils expressed their desire for online voting in Local Government elections. However, discussions with ECSA further reinforced the cost issue and concern about introducing a voting system for Local Government elections that financially far outweighed any benefit. It is the view of ECSA that online voting incurs high fixed costs to develop the software required to deliver online voting, and the introduction of any alternative voting method would need to be applied to all levels of government to make it viable.

Following the resolution made at the LGA General Meeting in April 2011, the LGA wrote to the Minister for State/Local Government Relations asking him to include online voting as an option in future Local Government Elections.

However, DPLG has noted that in light of the findings of the Standing Committee on Electoral Matters the costs of delivering an online voting system would be substantially

higher than the current system, and is therefore unlikely to receive budgetary support at this time.

As the costs are so prohibitive and online voting for Local Government elections is unlikely to be introduced until Commonwealth and State Governments also make the transition to online voting, this report makes recommendations that could be introduced in the interim period.

It is recommended that:

- i) Online voting developments interstate and overseas are monitored, particularly in relation to the management of security risks; and
- ii) The feasibility of online voting is reviewed after 2014 Local Government elections, particularly given the rapid advances and improvements in technology.