

# RETURNING OFFICERS' EXPENSES (ENGLAND AND WALES) ACCOUNTS FOR THE YEAR ENDED 31 MARCH 2008

## Report of the Comptroller and Auditor General to the House of Commons

### Introduction

1. The Ministry of Justice (the Department) is responsible for paying the expenses incurred by Returning Officers for running Parliamentary and European Parliamentary elections, from monies drawn down from the Consolidated Fund, and for preparing annual financial statements in respect of the Returning Officers' expenses. The accounts have been prepared on an accruals<sup>1</sup> basis for the first time in 2007-08 (previously they were prepared on a receipts and payments basis).

### Purpose of report

2. The purpose of this report is:
  - to explain the background to the qualification of my audit opinion in respect of the regularity of transactions reported in the Returning Officers' Expenses (England and Wales) accounts for the year ended 31 March 2008;
  - to report on significant control weaknesses within the Department over the management of the administration of election expenses; and,
  - to note the steps the Department have taken and intend taking to improve the control environment and encourage Returning Officers to submit statements of accounts on a timely basis.

### My obligations as auditor

3. Under S7 (3)(b) of the Government Resources and Accounts Act 2000, I am required to examine and certify the Returning Officers' Expenses (England and Wales) Accounts and report on them. I am required, under International Standards on Auditing (UK and Ireland), to obtain evidence to give reasonable assurance that the Returning Officers' Expenses (England and Wales) Accounts are free from material misstatement. In forming my opinion I examine, on a test basis, evidence relevant to the

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<sup>1</sup> Under the accruals basis of accounting, expenditure is recorded once the underlying activity (the Election) takes place and requires also the recording of liabilities and assets relating to those elections, for example amounts owed to and due from the Returning Officers. Under cash accounting, expenditure was recorded only once advances and invoices were paid, or receipts only once monies were received.

amounts, disclosures and regularity of financial transactions in the financial statements and assess the judgements made in the preparation of the financial statements.

## **Audit opinion**

### **Qualified audit opinion on the regularity of transactions**

4. As part of my audit of the accounts, I am required to satisfy myself that the expenditure and income shown in the accounts have been applied to the purposes intended by Parliament and conform to the authorities that govern them; that is, they are “regular”. In determining whether expenditure and income conform to the authorities which govern them, I have regard to the legislation authorising the financial transactions and relevant regulations issued under the governing legislation.
5. I have qualified my opinion on the Returning Officers’ Expenses (England and Wales) Accounts for the year ended 31 March 2008 as the scope of my examination was limited because some Returning Officers have not yet submitted statements of account showing how they spent monies advanced to them from the Consolidated Fund and not all statements of accounts that were submitted have been settled. I am unable therefore to verify that the monies advanced to those Returning Officers have been spent in accordance with the intentions of Parliament. I first qualified my opinion on the 2002-03 accounts and have qualified my opinion on all subsequent accounts for the same reason.
6. As at 5 November 2008, the total value of advances for statements of accounts outstanding or yet to be settled in respect of Parliamentary and European Parliamentary elections and by-elections from 1997 to 2007 was £9,511,331. The difference between this figure and the debtor balance of £17,901,121 at 31 March 2008<sup>2</sup> is in respect of statements of account received and settled between 31 March 2008 and 5 November 2008.

### **Returning Officers and their expenses**

7. Section 29 of the Representation of the People Act 1983 provides for election expenses of Returning Officers for Parliamentary and European Parliamentary elections to be met directly from the Consolidated Fund. When an election is called, the Department estimates the likely costs that each Returning Officer will incur. The estimate is based largely on previous election costs adjusted for inflation, changes in voting methods and any other relevant changes. The Department agrees the estimate

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<sup>2</sup> Note 4, page 26

- with HM Treasury so that funds can be made available from the Consolidated Fund.
8. The Department makes an initial advance to each Returning Officer of 75% of the estimated cost of running the election, including the costs of setting up and staffing polling stations. Returning Officers can request further funding up to 90% of the original estimate. In a number of cases, Returning Officers have submitted a revised estimate of their costs and have received 90% of this estimate.
  9. Following the election, Returning Officers are required to submit statements of account showing the actual costs they incurred in running the election. The Department reviews and confirms the validity of the expenditure reported in these statements of account to supporting documentation. Where the advance exceeds the total costs incurred, the Returning Officer returns the excess advance to the Department. Where the total costs incurred exceed the advance, the Department pays the Returning Officer the balance. The Department has contracted out the calculation of estimated costs, payment of advances and settlement of statements of account to the Finance Shared Services Division of the Department for Communities and Local Government under a Service Level Agreement
  10. Returning Officers' Accounts Regulations issued at Parliamentary and European elections require Returning Officers to submit statements of account within a period of twelve months from the day on which the result of the Parliamentary election is announced. Although this is a statutory deadline, the legislation does not provide for any sanctions to be applied for those failing to meet it. The regulations do allow for a Returning Officer to submit an incomplete account if necessary and to agree a date for delivery of the final account with the Department.
  11. My audit identified a significant level of advances to Returning Officers for which no statements of account had been submitted, well after the twelve month deadline. For example, as at 5 November 2008, statements of account from 22 constituencies for advances totalling £1,385,275 (4% of total advances) in respect of the 2005 General Election remained outstanding.
  12. The table below shows the advances made to Returning Officers for the 1997, 2001 and 2005 General Elections and 1999 and 2004 European Elections and the number and value of advances for which no statements of account had been submitted by Returning Officers:

Election	Value of advances issued* (£)	Advances for which no statements of account had been received **			
		As at 5 Nov 2008		As at 31 Oct 2007 <sup>3</sup>	
		Value (£)	Number	Value (£)	Number
1997 General Election	19,938,555	297,474	6	331,037	7
1999 European Parliamentary Election	20,959,719	398,836	10	975,044	25
2001 General Election	26,951,439	467,864	10	1,174,399	25
2004 European Parliamentary Election	35,632,173	851,971	11	3,057,099	26
2005 General Election	33,834,558	1,385,275	22	4,231,417	93
<b>Total</b>		<b>3,401,420</b>	<b>59</b>	<b>9,768,996</b>	<b>176</b>

*\*For the 2001, 2004 and 2005 elections, this figure is the total advances, i.e. initial advances and further advances. For the 1997 and 1999 elections, the Department could not provide data for the total advances issued, so the figure is the initial (75%) advances only.*

*\*\*These figures exclude advances for which statements have been received but not settled and outstanding advances for by-elections; the total of uncleared advances including all these elements was £9,511,331 as at 5 November 2008.*

### **Actions taken by the Department since my last report**

13. In November 2007, the previous Permanent Secretary of the Department wrote to all Returning Officers who had outstanding statements of account from previous elections, asking them to submit all outstanding statements by 15 January 2008. The letter advised Returning Officers that if they did not comply, for future elections only the initial advances at the rate of 75% of the estimated cost of the election would be paid with no further advances paid until a satisfactory statement of account is submitted. Additionally, in these cases, the initial advance would explicitly exclude any element of the Returning Officer's own fee.

<sup>3</sup> The date of information used in my Report on the Returning Officers' Expenses, England and Wales Statement of Accounts, 2006-07, (HC 126 of 2007-08)

14. In January 2008 the Department's Internal Audit carried out a review of outstanding claims and contacted all local authorities in England with constituencies that had outstanding statements of account. Returning Officers agreed dates for submission of outstanding statements, including constituencies such as Luton North and South, Vauxhall and Streatham which I noted in my Report on the 2006-07 Accounts (HC 126, 2007-08) had returns outstanding for more than one election. Only eight of the 18 Returning Officers who had agreed to submit claims by the end of August did so.
15. The table above shows significant improvement in the receipt and settlement of claims, but the Department did not follow up Internal Audit's work sufficiently to pursue Returning Officers for outstanding statements of account before it wrote again to the Returning Officers in December 2008.

### **Control weaknesses**

16. Notwithstanding its Service Level Agreement with the Department for Communities and Local Government, it is the responsibility of the Accounting Officer of the Ministry of Justice to ensure that adequate controls are in place to ensure the timely receipt of Returning Officers' statements of account.
17. Internal Audit's review identified deficiencies in the Service Level Agreement, including the absence of relevant performance measures. In addition, they identified the following control weaknesses:
  - payment of large further advances;
  - poor communication with Returning Officers;
  - late settlement of statements of account.

### **Payment of large further advances**

18. As noted earlier, some Returning Officers have received further advances of up to 90% of their estimate of expenditure, some of which were significantly larger than the initial advance (based on the Department's estimate of expenditure). For example, for the 2005 General Election, South Ribble, whose statement of account is outstanding, received £32,133 as an initial advance and £77,500 as a further advance. There are 107 such instances for the elections since 2001, of which 24 statements of account remain to be submitted.
19. In addition, my staff identified examples of further advances issued to Returning Officers after elections. For example, the Department paid 19

advances relating to the 2005 General Election totalling £785,398 during 2006-07, by which time the Returning Officers should have submitted statements of account. In providing further advances, which may in total cover the full cost of the election, the Department removed the incentive for Returning Officers to submit statements of account.

### **Poor communication with Returning Officers**

20. The Service Level Agreement requires the Department for Communities and Local Government to settle statements of accounts from Returning Officers, but there is no responsibility to pursue outstanding claims. Internal Audit and my staff found little evidence of concerted follow-up of these outstanding statements of account since 2002 until November 2007, when the previous Permanent Secretary wrote to all Returning Officers concerned.
21. As a result the Department's Internal Audit found that Returning Officers considered the submission of election expense claims as low priority. In addition, there were examples where Returning Officers were unaware of outstanding statements of account due from their predecessors. While it is the responsibility of the outgoing Returning Officer to advise their successor of outstanding statements of account, the Department's failure to communicate this requirement may have contributed to the backlog.
22. The Department have concluded that Returning Officers will not be able to provide evidenced statements of account for the 1997 and 2001 General Elections, and the 1999 European Election. They have, therefore, written off outstanding advances of £1,082,063 as losses<sup>4</sup>. However, only four constituencies, accounting for six advances (£296,000) have indicated that they are unable to complete their statements of account due to lack of records and staff turnover. Returning Officers may be able to provide statements of account for the remaining 23 claims. There is a risk, therefore, that the Department may be writing off outstanding advances prematurely.

### **Late settlement of statements of account**

23. As at 31 March 2008, the Department for Communities and Local Government had not settled 119 statements of account amounting to £7.6 million of advances where there were outstanding queries with the Returning Officers. The majority of these statements of account were received in 2006 and 2007, but nine were received in 2002. Under the Service Level Agreement, the Department for Communities and Local

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<sup>4</sup> Note 8B, page 28

Government were not required to provide information on the settlement of claims. As a consequence, the Department were not aware of these delays. Following a concerted effort since August 2008, 86 claims to the value of £5.6 million have been settled. It is only once the claims are settled that it is possible to confirm the regularity of the related expenditure.

### **Elections administered by other organisations**

24. I noted in my Report on the 2006-07 Accounts (HC 126, 2007-08) the success of the Electoral Commission in administering the November 2004 North-East Assembly Referendum. The Commission obtained the statements of accounts from all twenty three Counting Officers (who fulfilled a role similar to Returning Officers for the Parliamentary Elections) within six months of the election taking place. The following actions taken by the Electoral Commission and the Scotland Office<sup>5</sup> have helped to improve Returning Officers' compliance with requirements for submitting prompt statements of account:

- issuing guidance setting out the clear expectation that claims should be submitted as soon as possible and preferably within six months after the election;
- providing electronic versions of statements of account;
- refusing to issue additional advances after the election date;
- regularly reminding Returning Officers, by e-mail and telephone, to submit outstanding statements of account; and,
- contacting key stakeholders, such as local authority Chief Executives and external auditors, to update them on the position on outstanding statements.

25. The Department deals with over 400 constituencies for the General and European Parliamentary Elections. Nevertheless, the Department can learn lessons from the actions taken by other organisations in administering elections.

### **Actions taken or proposed to be taken by the Department to address the late submission of statements of account by Returning Officers**

26. The Department is considering a range of steps, including the payment of smaller initial advances and tighter controls on payments of further advances, to encourage greater compliance from Returning Officers for the 2009 European elections.

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<sup>5</sup> The Scotland Office is responsible for separate Returning Officers' expenses accounts for elections to the Scottish Parliament and for European Parliamentary and Westminster elections taking place in Scotland.

27. The Department has ratified a new Service Level Agreement recently with the Department for Communities and Local Government. The revised Agreement clarifies the respective responsibilities of the two departments, including the requirement for the Department for Communities and Local Government to issue automatic reminders, settle outstanding statements of account promptly and provide relevant management information to the Ministry of Justice.

### **Recommendations**

28. In administering future elections, the Department should ensure that it reviews and replicates, where possible, the actions that have contributed to the success of other organisations. In respect of outstanding statements of account for previous elections, the Department should follow-up Internal Audit's work in this area by pressing Returning Officers for outstanding statements of account. Only once initial advances are deemed irrecoverable should the Department apply to HM Treasury for authority to write-off these balances.

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**28 January 2009**

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