

Election Advisory Committee (EAC)

Minutes

Thursday, September 5, 2019
9 a.m. to noon

The Fairmont Waterfront, Cheakamus Room
900 Canada Place Way, Vancouver

Attendees

Committee Members

- Jordan Reid, BC NDP
- Raj Sihota, BC NDP
- Emile Scheffel, British Columbia Liberal Party
- Sat Harwood, Green Party Political Association of British Columbia

Elections BC Staff

- Anton Boegman, Chief Electoral Officer
- Charles Porter, Deputy Chief Electoral Officer, Electoral Finance and Operations
- Yvonne Koehn, Deputy Chief Electoral Officer, Corporate Services
- Amie Foster, Director, Corporate Planning and Strategic Initiatives
- Daniel Posey, Analyst, Executive Services (minutes)

Regrets

- Paul Barbeau, British Columbia Liberal Party
- Kim Darwin, Green Party Political Association of British Columbia

Guest Speakers

- Michael McEvoy, Information and Privacy Commissioner for BC
- Jeannette Van Den Bulk, Deputy Commissioner, Policy, Adjudication & Audit, Office of the Information and Privacy Commissioner

Meeting commenced at 9:04 a.m.

1. Welcome and Introductory Comments

Anton Boegman, Chief Electoral Officer, welcomed attendees and described the role of the Election Advisory Committee (EAC) as established by sections 14-16 of the *Election Act*. He encouraged questions and discussion throughout the meeting.

Attendees were asked to introduce themselves to others in the room. Anton then provided a short summary of the activities of Elections BC since the last EAC meeting:

2018 Referendum on Electoral Reform

Voting for the 2018 Referendum on Electoral Reform took place from October 22 to December 7, 2018, with results reported to the Speaker of the Legislative Assembly and announced province-wide on December 20. Overall, 1,403,074 ballot packages were returned to Elections BC, representing a voter participation rate of 42.6%. Voters chose to keep the current First Past the Post voting system (61.3% in favour).

Rotating strikes at Canada Post occurred throughout the voting period for the referendum and made it challenging to distribute and return packages through the mail system. As a result, Elections BC extended the voting period by one week to ensure that the mail slow-down did not prevent voters from participating. The number of packages received after the deadline was roughly in-line with past vote-by-mail events (0.2% of all packages mailed), suggesting that the one-week extension was sufficient to address the strike's impact.

Of the approximately 1.4 million voting packages submitted to Elections BC, over 99.2% were accepted for counting. This is a significant improvement over past vote-by-mail events, and is attributable to improvements in voting package design, including layout and instructions.

2019 Nanaimo By-election

A provincial by-election in the electoral district of Nanaimo was triggered by the resignation of MLA Leonard Krog in November 2018. The Nanaimo by-election was held on January 30, 2019. Voter turnout was the highest in a B.C. by-election in the last 20 years (52.6%). Over 38% of voters voted at advance voting and 12% voted in the district electoral office or through an absentee method. Less than half of those who voted did so at their assigned location on General Voting Day.

The by-election made use of the same voting place technology introduced during the 2017 Provincial General Election to automate administrative aspects of advance and absentee voting and to enable next-day reporting of advance voting turnout to candidates. Election officials looked up voters electronically and printed labels for the voting books and other voting documents, replacing previous manual processes. Each morning during the advance voting period, candidates received an electronic record of voter participation from the previous day. The lookup system also greatly reduced the opportunity for most election official administrative errors.

In the fall of 2018 Elections BC also administered the campaign financing and advertising requirements for the 2018 General Local Elections. General Voting Day was October 20 and local by-elections and assent voting events are ongoing.

- **Question** – You mentioned the acceptance rate for referendum ballots, which was a very high number for a two-part question. What factors would you attribute to this?
 - **Answer** – Elections BC established a new corrections process based on best practices from other jurisdictions. For example, if a voter neglected to complete a required part of their ballot package, our office would contact them and invite them to correct the omission as long as the correction was received before the close of voting. Forms were also updated with the help of the Center for Civic Design to reduce the number of errors and omissions made by voters, and instructions were developed with a focus on plain language.

2. Online Threats to Election Integrity: Safeguarding Our Democracy

Anton advised the group that Section 12(2)(a) of the *Election Act* empowers the Chief Electoral Officer “to make recommendations to the Legislative Assembly respecting amendments to the *Election Act* or other enactments affecting election matters.” Furthermore, section 16(2)(c) of the *Election Act* requires the Chief Electoral Officer to consult with the Election Advisory Committee before making a recommendation under section 12(2)(a) respecting an amendment to the *Election Act* or another enactment.

As Elections BC intends to submit a report on recommendations for legislative change to the Legislative Assembly in the near future, this meeting will satisfy the requirements of section 16(2)(c). The six recommendations presented to the committee are focused on addressing cyber threats to electoral integrity and are the product of significant research and consultation. At a high level, the recommendations are:

1. Prevent misleading advertising, disinformation and impersonation
2. Increase transparency around the use of artificial intelligence such as social media bots
3. Ensure digital platform compliance with the *Election Act*
4. Expand scope and responsibility of third party sponsors
5. Discourage foreign and out-of-province interference
6. Establish an advertising registry and increase transparency

Discussion Questions

- **Question** – Will there be sufficient time after the federal election to evaluate any additional concerns related to online election activities before the recommendations for legislative change report is tabled?
 - **Answer** – That is the intent of Elections BC – The report is expected to be tabled late in the fall legislative session.
- **Question** – I can appreciate the desire to clamp down on disinformation or if someone is lying about voter eligibility. I am wondering about the process to verify what a false statement is. What constitutes misinformation about a candidate’s record for example? Further, if someone states that climate change is not real, where would that fall? And, do you have any concerns regarding the use of such a complaint process as a political tool?

- **Answer** – In a recent federal by-election an advertisement stated that a candidate owned a multi-million dollar house in the lower mainland, when they did not. Our recommendation would likely be that B.C. legislators consider rules similar to those administered by Elections Canada, so that this type of issue can be addressed. Ultimately, decisions regarding what constitutes false statements are public policy decisions best left to legislators; however, if adopted, there will be constitutional considerations to ensure individual rights such as freedom of expression are respected. Finally, there is always a risk that complaints processes are used in a frivolous manner. This is addressed through the application of administrative fairness principles.
- **Question** – I am wondering about third party sponsors, and the implications around the perpetual campaign and groups advocating for and against legislation. What sorts of implications would the changes have on public discourse, and would it chill participation in public advocacy campaigns? For example, if an editorial is produced endorsing a political candidate, would they then be required to register?
 - **Answer** – Fundamentally, voters should know who’s talking to them and who is trying to influence their voting decisions. If a third party organization wants to participate in public discourse and influence voters choices, they should be doing so in a transparent manner. Editorials in *bona fide* periodical publications are excluded under the definitions of election advertising.

3. Voting Modernization Update

Charles provided an update on Elections BC’s voting modernization efforts:

In Elections BC’s May 2018 recommendations report for legislative change, Elections BC proposed a complete redesign of how voting is administered in British Columbia. This redesign would address concerns about compliance, efficiency, service quality, and timeliness. The report anticipated an 18-24 month timeline for Elections BC to implement the proposed new voting model for future provincial elections following the passage of enabling legislation.

On July 3, 2019, Elections BC received a letter from the Ministry of the Attorney General indicating government’s support for the voting modernization strategy outlined in the report. The letter also signalled government’s intent to deliver legislative change on a timetable that would support implementation for the next scheduled provincial election in October 2021.

Key features of the proposed changes include:

Electronic voting book: Building on previous modernization efforts, the use of electronic voting books combined with technology to scan ID documents and print ballots on demand promises to further simplify voting procedures and reduce election official error.

First-come-first-served: Moving to a “bank teller” service model would give Elections BC greater flexibility to redirect voters to different stations to alleviate bottlenecks and reduce wait times. It would also create opportunities to optimize staffing and service levels at voting places (e.g. adjust the number of voting stations in operation) based on local conditions.

Real-time strike-off: Participation strike-off information relayed to most voting locations across the province in near real-time would allow Elections BC to strengthen protections against multiple voting. It would also mean that candidates could receive more timely and accessible updates to voter participation data during each day of voting.

Tabulators: Instead of ballots counted by hand, using tabulators to record ballot choices electronically would give Elections BC the ability to report election night results much faster than current manual processes allow, potentially with some results known just minutes after the close of voting. The proposed model would see most votes, including absentee ballots, counted on election night, which would significantly reduce the likelihood of a result hinging on the final count of remaining votes following election night.

Elections BC strongly believes that future voting modernization changes must be delivered in a way that preserves the key features of B.C.'s current system including accessibility, integrity, transparency, and trust.

Elections BC continues to reach out to other election agencies in Canada for advice and expertise based on their experience with implementing voting modernization changes in their own jurisdictions. A team of EBC staff is also actively working on elaborating the vision and investigating technology options that will support a made-in-B.C. solution.

A separate project that is currently underway is the development of a candidate portal. Currently, nominees seeking to be a candidate in a provincial election must submit a paper nomination package and deliver the package to Elections BC either by mail or in person. Upon receipt, the packages are manually data-entered and processed by Elections BC staff at headquarters.

Through the creation of a new online service portal for candidates and parties, Elections BC envisions that:

- Candidates will have the option to securely submit nominations electronically instead of on paper
- Data from electronic submissions will be immediately captured in Elections BC information systems, thereby decreasing processing time and reducing manual errors
- All information and services related to nominations will be securely stored in a single place for candidates and parties to access at their convenience
- Candidates will be able to easily track the current status of their nomination filing and party endorsement as applicable
- There is potential that other electronic documents and eServices could be provided via the online portal in future (e.g. provision of voters lists, financing report filing)

The project is well into the implementation stage and Elections BC expects to be ready to rollout the new online portal to prospective candidates and parties by the spring of 2020.

Discussion Questions

- **Question** – When will the nomination forms that we consulted on be available?
 - **Answer** – They are available now on Elections BC's website.

- **Question** – Will candidates and representatives be able to view ballots going through counting machines?
 - **Answer** – You would not be able to view a ballot as it is fed into the machine to protect the secrecy of the ballot. Tabulators currently in use in other jurisdictions capture an electronic image of each of the ballots and make those available to observers for review. How B.C.'s candidate representatives and scrutineers will observe the process will be dependent on the legislation. Audit functions will also need to be determined. Ensuring the integrity of the count is very important, and there are a number of effective approaches available.
- **Question** – How long is it expected to take for participation information to reflect participation by an absentee voter?
 - **Answer** – It will be dependent on how future legislation is worded, however, in Ontario, technology-enabled polls reported participation every 15 minutes, but that was only for voters resident at that poll. Polls that were not technology enabled reported less frequently.
- **Question** – Currently, advance voter data is provided to candidates but not to political parties. Has there been consideration to allow political parties to have the same direct access to the information as candidates?
 - **Answer** – We included commentary around this in the 2018 Report of the Chief Electoral Officer on Legislative Change. We can assume that legislators are aware, and will consider the matter.
- **Question** – We are very happy to hear about the candidate portal. It will allow us to better support our candidates. I understand that Elections Canada has introduced a similar portal, and there have been some user issues identified by political parties and candidates. We would be happy to provide some user advice and feedback as Elections BC's tool is developed.
 - **Answer** – Thank you, we will be reaching out at the appropriate stages to get your feedback.
- **Comment** – I would also flag that candidates are busy and often rely on volunteers to input information or complete the package on their behalf. I hope that there would be capacity for a designated individual to do the data entry.
 - **Answer** – Thank you, acknowledged.

4. General Discussion

Anton opened the floor to discussion related to the topics presented and/or other areas of concern.

- **Question** – I am wondering if Elections BC has a plan for additional training for financial agents, if there is a timeline, and if we can share that with candidates.

- **Answer** – We are in the process of developing our training plans, and we will be replacing the financial agent webpage in the New Year. Training sessions are likely to be scheduled in February and March in advance of the annual filing deadline. In addition, there will be many opportunities for in person and telephone support in 2021 in advance of the election. Also, if you can gather a group, Elections BC staff will provide in-person training.
- **Question** – Is the financial agent training session general or broad?
 - **Answer** – It tends to be general. It provides an overview of the financial agent role, but we are happy to address other related topics upon request.
- **Question** – Are the financial agent training sessions in person or online?
 - **Answer** – We like to do them in person, but we can also do them by teleconference or Skype. We will also have an online training site.
- **Question** – Going back to the first presentation. You suggested takedown rules for platforms that publish information that contravenes legislation. Have you also considered requiring them to publish retractions?
 - **Answer** – Thank you, acknowledged.

5. Closing Remarks

Anton asked Committee members to provide feedback on the draft recommendations for legislative change and to provide any suggestions to him by close of business on Friday September 20. He reminded attendees that the recommendations were not yet public and that he would appreciate it if attendees would refrain from public comment until the recommendations report is tabled in the House.

He also invited committee members to forward any questions or comments regarding this meeting to Amie Foster, Director, Corporate Planning and Strategic Initiatives, by phone at 250-952-6226 or by email at Amie.Foster@elections.bc.ca.

Anton thanked members for their participation and adjourned the meeting.

Meeting was adjourned at 11:25 a.m.

6. Supplemental Discussion

Anton introduced Michael McEvoy, Information and Privacy Commissioner for BC and Deputy Commissioner, Jeannette Van Den Bulk and invited them to provide an informal update to the group on matters of shared interest between Elections BC and the Office of the Information and Privacy Commissioner. These subjects included an update on the progress of the recommendations emerging from the Commissioner's February 6, 2019 report entitled [Investigation Report P19-01: Full Disclosure: Political parties, campaign data, and voter consent](#) and the presentation of a draft outline for a voluntary Code of Practice also mentioned in the report. The Code of Practice is intended to be a voluntary code that will guide the collection and use of voter data by political parties and candidates.

- **Question** – Is it possible to receive standardized privacy training materials, i.e. something similar to Elections BC guides?
 - **Answer** – We will consider this approach.
- **Question** – Regarding psychographic profiling, where is the line between what is acceptable and what is sinister? More clarity would be appreciated for what shade of the spectrum is abusive.
 - **Answer** – We are also interested in greater clarity on these matters, and our offices are working together on this subject. An approach we are considering is to modify the Electoral Purposes for Access to and Use of Personal Information Regulation to provide needed clarity. A revised version of the regulation will be prepared with the forthcoming report.
 - **Comment** - Understanding that political parties may identify audiences receptive to a message has been an important element of campaigning.
 - **Comment** – This is such a grey area for parties, so a clear set of guidance for implied consent would be valuable. For issues where consent is required, simplicity is useful. If the consent process is complicated, it may be limiting and a disincentive to engage.
 - **Answer** – We can assist and provide further guidance in this regard.