



LAW SOCIETY
OF SOUTH AFRICA

Final Observer Report
Local Government Election
2016

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1. Introduction

The LSSA was founded in 1998 and was established to serve the interests of the attorneys' profession and the members of the public whom they serve. The Law Society of South Africa is a national body that brings together its six constituent members: the four statutory law societies (the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State and the Law Society of the Northern Provinces), the Black Lawyers' Association and the National Association of Democratic Lawyers of South Africa.

The LSSA is governed by a council of 20 members in terms of a Corporate Governance Charter and has various offices located throughout South Africa.

The LSSA is an important stake holder in the justice system of the Republic and as such has committed itself to promoting democracy and to upholding, safeguarding and advancing the rule of law, which naturally includes the promotion of free and fair elections. Therefore, the LSSA resolved to deploy attorneys to voting and counting stations across South Africa to observe the 2016 LGEs.

The LSSA observed over 400 voting stations on 3 August 2016. All LSSA observers were admitted attorneys and were duly trained by electoral law experts. This training took place in six metro areas being Pretoria, Johannesburg, Cape Town, East London, Polokwane, and Durban. LSSA observers were also vetted by the law societies to verify good standing. Therefore, attorneys were only allowed to observe under the LSSA banner if:

- (a) they attended the compulsory training;
- (b) were confirmed to be in good standing with the law societies; and
- (c) were registered to vote.

All LSSA observers observed on a voluntary basis and committed their own time and expenses to the mission. They were instructed to visit three voting stations and more if they wished to do so. They visited the station where they were registered first, followed by a second station of their choice and a last station of their choice where they observed the counting process. Observers went above and beyond the call of duty and stayed until early hours of the morning to observe the counting process.

Our goals for the 2016 observer mission were to:

- (i) Place highly trained observers in voting stations;
- (ii) Place trained lawyers in counting stations;
- (iii) Support and strengthen the integrity of the elections process;
- (iv) To assess the electoral process, with a particular emphasis on compliance with regulations, laws, procedures and codes of conduct;
- (v) Evaluate participation of our people and their understanding of the process; and
- (vi) To ensure that the elections will be free and fair.

We recognise that credible elections are an expression of active citizenship and the free expression of the free will of the people, which provides the basis for the authority and legitimacy of a sitting government. The rights of citizens to vote and to be elected at periodic, credible democratic elections are recognized human rights and a founding provision of our constitution.

In light hereof we thank the IEC for affording us the opportunity to observe the national elections and to share our report with the public and the IEC. Our observations follow.

2. Pre-Election

2.1. Application for accreditation

In 2014 we referred to quite a number of issues experienced with the accreditation process. During the 2016 LGEs processes flowed smoothly. The application for accreditation was sent well in advance and we had plenty of time to complete it. It also had an improved structure which made the submitting of observer names and details much less time intensive.

We also received our accreditation certificate within a reasonable time after submission of the application. Therefore, this process did not pose any major difficulties for us and is a remarkable improvement from 2014.

2.2. Observer briefing

We did however experience quite a bit of difficulty with the orientation briefing. We confirmed our attendance at the Johannesburg training session on 30 July 2016. However, we received a programme with no time specification for the session. After

numerous requests for a full programme to be sent we received a programme with a session time slot from 12:00-13:00.

Upon arrival at the venue we were not permitted access to the parking area since our organisation did not appear on the list of attendees. When we eventually entered the venue we were told that the briefing session had already concluded.

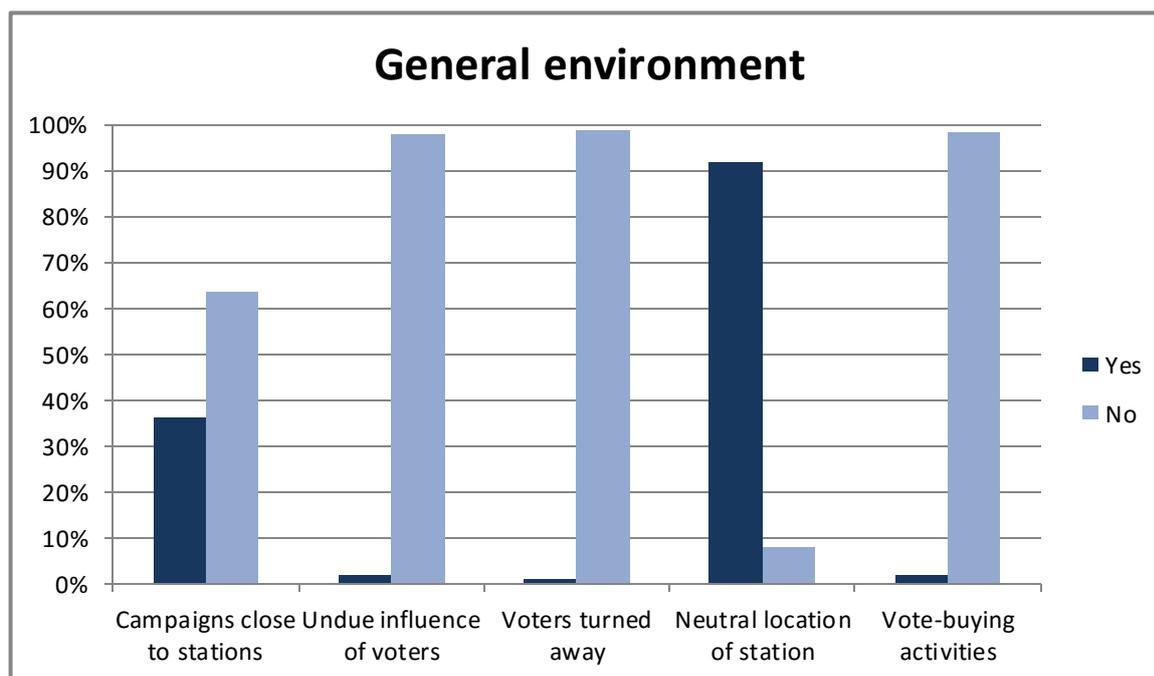
Mr Choabi apologised for the inconvenience and for the incorrect time being communicated to the LSSA. This was a major inconvenience and unfortunately a waste of time that could have been spent more productively.

3. Election-day observations

3.1. General environment around voting stations

This report is based on processes observed at more than 400 voting stations across the country. Our largest representation was in KwaZulu-Natal, Gauteng, and the Western and Eastern Cape, with a smaller representation in the other provinces. We acknowledge that all our observers are unpaid volunteers and that each contribution made was appreciated. However, since there are more than 23 000 voting stations, it must be noted that the conclusions made in this report and the charts referred to herein only reflect the situation as we observed it at the voting stations where our observers were stationed.

In light of the above, our national observations show that the environment around most voting stations on election-day was positive and peaceful with minimal occurrences and irregularities. This chart illustrates the outcome of our national observations regarding the general environment around the voting stations:



3.1.1. Party agents and campaigns close to voting stations

Although we observed many irregularities with party agents around the voting stations, we commend the efficiency of the IEC staff in promptly dealing with these matters and preventing any major violations.

Irregularities witnessed by our observers follow below:

- (a) At quite a number of stations we witnessed political parties “checking off” voters on a voters’ roll outside the stations,¹ in some instances even moving through the queue to “check” voters.² In most cases however the PO intervened and the political parties were asked to refrain from this behaviour.³ We must also note that none of these occurrences resulted in political parties misinforming voters about their registration status or eligibility to vote. It seems for the most part like they were checking off voter attendance amongst voters they expected to vote for them. Nevertheless, this can be seen as influencing the voter.⁴ Also the voter is

¹ Magalies School, Gauteng, Voting Station 32950324, Presiding Officer Victor Singisano.

² Magalies School, Gauteng, Voting Station 32950324, Presiding Officer Victor Singisano; Summer greens Community Hall, Western Cape, Voting Station 97120098, Presiding Officer Loyiso Mfundai; Bramley Primary, Gauteng, Voting Station 32850075, Presiding Officer Lucas Monareng.

³ Claredon PS, Kwazulu Natal, Voting Station 43950315, Presiding Officer Carol Shez; Haosow Park, Eastern Cape, Voting Station 10570678, Presiding Officer Patricea Ndulewsa; Catchet Park, North West, Voting Station 86910251, Presiding Officer Julia Dantse; Soetendal Primer, Western Cape, Ward 18, Presiding Officer Marlene September; Mitchels Plain Primary School, Western Cape, Voting Station 97091297, Presiding Officer LA Nelson.

⁴ Section 67 of the Local Government Municipal Electoral Act 27 of 2000 (LGE Act).

not required to provide his/her ID number to any individual except the IEC staff for verification of registration. One political party indicated that they were checking ID numbers so they could remove those individuals from their contact list, which is a somewhat curious explanation.⁵

- (b) In Gauteng party agents were talking to voters inside the voting station boundary, and obtaining their cell phone numbers. The PO had the agents removed.⁶ Once again though, this is not allowed and could possibly be interpreted as undue influence in terms of section 67 of the LGE Act.
- (c) At various stations we witnessed political party agents handing out t-shirts, sweets, balloons and other small gifts to voters.⁷ Even though we did not witness any promises being made to voters when the gifts were handed out we would argue that this could unduly influence voters and should be prohibited conduct in terms of section 67(1) (d) of the LGE Act.
- (d) At Marivien School we observed a party agent entering the voting station with a copy of the voters' roll. He also proceeded to assist voters. This was brought to the attention of the PO who immediately put a stop to it.⁸
- (e) In the Western Cape we observed political parties attempting to influence the voters, which is strictly prohibited by section 67 of the LGE Act. The PO immediately intervened and the situation was resolved.⁹ In other instances however there was no immediate intervention.¹⁰ Even though we could not confirm that the latter gave rise to any major violations, it is nevertheless a serious situation which should have been handled by the PO immediately.

⁵ Centurion, Hyde Park, Gauteng, Voting Station 32850547, Presiding Officer Grace Lebepe.

⁶ Voortrekker Eeufees, Gauteng, Voting Station 3295165, Presiding Officer Philda Katshwane; Weenen Town Hall, Kwazulu Natal, Voting Station 43750010, Presiding Officer Zibuyile Mbiko; Woodlands Community Hall, Kwazulu Natal, Voting Station 43950179, Presiding Officer Nomfualo Maphumalo.

⁷ Magalies School, Gauteng, Voting Station 32950324, Presiding Officer Victor Singisano; Parkdene Primary, Western Cape, Voting Station 97100221, Presiding Officer Mache November; Cavalleria, Western Cape, Voting Station 97100232, Presiding Officer Bradley Muller; Waterkloof Ridge, Voting Station 32952292, Presiding Officer Rebotile Phasha; Monument Park Primary, Gauteng, Voting Station 32950841, Presiding Officer Livingstone Mmakola, also at Doringkloof Primary, Gauteng, Voting Station 32980079, Presiding Officer Khibi Phele; Orchard Primary School, Gauteng, Voting Station 32960538, Presiding Officer Refilwe Mohasoa.

⁸ Marivien School, Western Cape, Voting Station 97131067, Presiding Officer Ntombekhaya Vara.

⁹ Pentacostal Church, Western Cape, Ward 65, Presiding Officer Tenjiswa Rhatia.

¹⁰ N.G Miederpark, North West, Voting Station 086820464, Presiding Officer David Moshosho.

- (f) At Ashley Primary School party agents brought photocopies of their accreditation as opposed to the original documentation. The PO refused entry to the agents and indicated that they must produce valid accreditation.¹¹
- (g) We also observed general disrespect from the party agents in many voting stations i.e. cell phone use in the stations, disrespecting IEC staff, disrespect for procedure, assisting voters etc.¹² This is a contravention of section 73 of the LGE Act.
- (h) There were also a few accounts of party agents openly wearing party regalia inside the voting stations¹³ which, in our opinion, amounts to campaigning inside the voting station boundaries and is prohibited by section 72(2) of the LGE Act.
- (i) At Fairways Primary we observed a political party placing campaign tables inside the voting station boundary in contravention of section 72(2).¹⁴ They were also advising voters to vote for them. The situation was quickly resolved by the PO and SAPS was requested to move them outside of the voting station boundary. A party agent's spouse was also openly canvassing amongst voters.¹⁵
- (j) In a Centurion station we observed a party agent speaking to the voters while at the inking table. The Deputy Presiding Officer (DPO) for the sub-station immediately realised this and requested the party agent to desist. A while later he once again began speaking to the voters and also asked our observer to share some of the observations made. The DPO once again requested that he refrain from this behaviour and explained to him that he is there to observe and not to interfere. He also explained that party agents are not allowed to speak to voters or demand observations from the observers. The agent became aggravated and insisted that, as a senior citizen, he will not be treated in such a manner by the youth. The PO was called and the situation was peacefully

¹¹ Ashley Primary School, Kwazulu Natal, Voting Station 43390795, Presiding Officer Kamala Naicker.

¹² All Saints United Church, Kwazulu Natal, Voting Station 43950292, Presiding Officer Ayanda Gwala; Scout Hall, Western Cape, Voting Station 97050432, Presiding Officer Williams; Northlands Primary School, Kwazulu Natal, Voting Station 43950157, Presiding Officer Elizabeth; Bergvliet, Western Cape, Ward 549, Presiding Officer Michelle Fisher; EPS School, Kwazulu Natal, Ward 32, Presiding Officer Blessing; Plumstead tennis club, Western Cape, Ward 448, Presiding Officer Shireema Dyason; AGS Church Edenvale, Gauteng, Voting Station 32900239, Presiding Officer Hulda Helberg; Rosebank, Gauteng, Voting Station 32851308, Presiding Officer Solomon Msiza.

¹³ Merriam Mogakane, Mpumalanga, Voting Station 76160853, Presiding Officer Beth Letsoalo; AGS Church Edenvale, Gauteng, Voting Station 32900239, Presiding Officer Hulda Helberg; Saheti School, Gauteng, Voting Station 33060833, Presiding Officer Lesley Mabasa; AGS Church Edenvale, Gauteng, Voting Station 32900239, Presiding Officer Hulda Helberg.

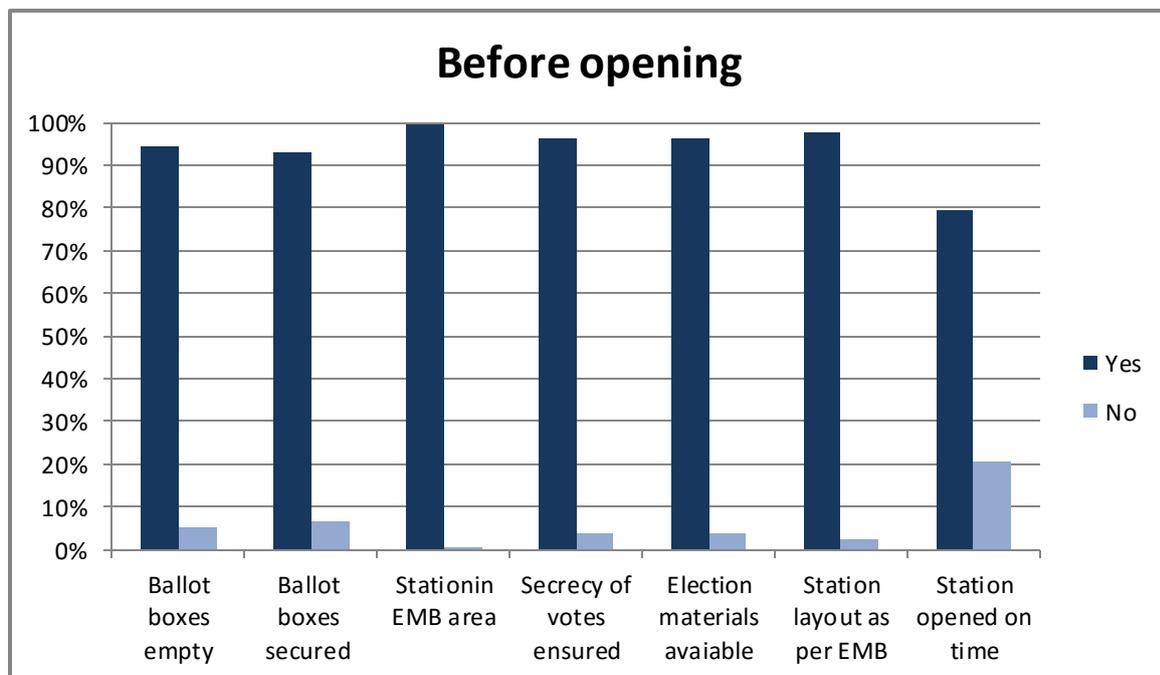
¹⁴ LGE Act; Fairways Primary, Fairways, Gauteng, Voting Station 32851313, Presiding Officer Bongani Cindi.

¹⁵ Fairways Primary, Fairways, Gauteng, Voting Station 32851313, Presiding Officer Bongani Cindi.

resolved. We commend the IEC for taking action and promptly resolving the issue.¹⁶

- (k) Lastly, the counting was delayed by an hour due to the refusal of a party agent to leave the station. This specific political party had three agents in the station and the PO requested one agent to leave. The agent was eventually removed by SAPS and counting proceeded.¹⁷
- (l) At Weenen town hall a voter was influenced to lie about her address in order to cast a ballot at Weenen. This is a serious violation of section 67(4) and we recommend that this matter be investigated and the political party responsible for this undue influence be dealt with accordingly.¹⁸

3.2. Opening Process



Some stations opened late due to malfunctioning zip-zip machines and disorganised IEC staff. This caused frustration amongst the voters, especially when the elderly were permitted to move to the front of the queue when the stations eventually opened.¹⁹

¹⁶ Municipal Banquet Hall, Centurion, Gauteng, Presiding Officer Dumisani.

¹⁷ Saheti School, Gauteng, Voting Station 33060833, Presiding Officer Lesley Mabasa.

¹⁸ Weenen Town Hall, Kwazulu Natal, Voting Station 43750010, Presiding Officer Zibuyile Mbiko.

¹⁹ Rosebank Primary, Gauteng, Voting Station 32851368, Presiding Officer Solomon; Singobila Resource Centre, Kwazulu Natal, Voting Station 43390683, Presiding Officer PN Ndlovu; Bizweni, Western Cape, Voting Station 97110255, Presiding Officer Portia Reddy; Voortrekker E eufees,

3.2.1. Voting station amenities

Most stations were well equipped for voting procedures, but we did observe a few minor issues with the amenities in certain stations. Some voting stations were operating with no electricity or generators,²⁰ which caused great difficulty with the counting processes.

In some instances the voting station exits were not fit for the disabled and those using walkers or wheelchairs had difficulty leaving the station.²¹ Other stations were too small for voting purposes.²²

3.2.2. Opening of ballot boxes

At Setlhare the ballot box was only sealed at the bottom and not at the top which can cause some difficulty once the ballot boxes start getting full.²³ This is a contravention of section 46 of the Act and the PO should have ensured that the boxes were sealed properly. An unsealed box also creates the possibility of ballot stuffing.

At Marivien School the special votes' ballot boxes (which had been used the previous day) were simply re-used on 3 August. Since these boxes were not sealed it was impossible to conclude whether any type of fraud had occurred. No witnesses could confirm that new ballot boxes were opened and proven to be empty prior to

Gauteng, Voting Station 3295165, Presiding Officer Philda Katshwane; Info-Kiosk tent, Gauteng, Voting Station 33000253, Presiding Officer Mbthoba Busi; Ashley Primary School, Kwazulu Natal, Voting Station 43390795, Presiding Officer Kamala Naicker; Mandini Academy, Kwazulu Natal, Voting Station 43460029, Presiding Officer Fezile Mchunu; Maluleke Tinyiko, Limpopo, Voting Station 7621175, Presiding Officer Vuwani; Wiggins Community Hall, Voting Station 43371828, Presiding Officer S Memela; Setlhare, Mpumalanga, Voting Station 76160066, Presiding Officer Alfred Malamundi; Hugenote Hoerskool, Western Cape, Ward 29, Presiding Officer Marshall Pieters; Eikestad Primary School, Western Cape, Voting Station 98400191, Presiding Officer Thandi Tyatyeka; EPS School, Kwazulu Natal, Ward 32, Presiding Officer Blessing; Western Cape, Voting Station 97140099, Presiding Officer Maria Hansen; NG Kerk FontaineBleau, Gauteng, Voting Station 32840412, Presiding Officer, R Baloyi, Doringkloof Primary, Gauteng, Voting Station 32980079, Presiding Officer Khibi Phele; Highveld Primary, Gauteng, Voting Ward 223, Presiding Officer Aliwah Nyambi; St Peters College, Gauteng, Voting Station 32850738, Presiding Officer Peppy Mmatu; NG Kerk FontaineBleau, Gauteng, Voting Station 32840412, Presiding Officer, R Baloyi. AGS Church Edenvale, Gauteng, Voting Station 32900239, Presiding Officer Hulda Helberg, Fairways Primary, Fairways, Gauteng, Voting Station 32851313, Presiding Officer Bongani Cindi, Brakfontein, Gauteng, Voting Station 3298047, Presiding Officer Daisy Kekana.

²⁰ All Saints United Church, Kwazulu Natal, Voting Station 43950292, Presiding Officer Ayanda Gwala.

²¹ All Saints United Church, Kwazulu Natal, Voting Station 43950292, Presiding Officer Ayanda Gwala; Alpha Primary, Eastern Cape, Ward 10, Presiding Officer Nomasudu Koto.

²² Wellington Primer, Western Cape, Ward 29, Presiding Officer Wilma October.

²³ Setlhare, Mpumalanga, Voting Station 76160066, Presiding Officer Alfred Malamundi.

voting starting on election-day.²⁴ In terms of section 46 the PO must show all witnesses that a ballot box is empty and seal it anew in front of all.

At Plumstead Tennis Club the ballot boxes were not opened and sealed in the presence of witnesses. Our observer happened to walk by as this was being done and noticed that the box was empty.²⁵

At Alberton Rugby Club we also observed unmarked ballot boxes being used to cast the votes.²⁶

3.2.3. Availability of election materials

At Love World International Church the ballot papers ran out and the staff had to wait for more ballots to be delivered.²⁷ This caused severe agitation amongst voters at some stations.²⁸

3.2.4. Secrecy of the vote

In the North West voters complained about the placement of the voting booths, arguing that the secrecy of their votes could not be guaranteed. The PO explained that the open-end of the voting booths need to face the station so the staff can ensure that the voters are not taking pictures while voting. Although one can understand this argument, the secrecy of the vote must still remain paramount and due process as provided for in section 47(6) of the Act must be followed.²⁹

At Voortrekker Eeufees we witnessed couples being permitted to vote together.³⁰ This was concerning to us as this is highly irregular. We once again stress that the secrecy of the vote must remain paramount.

At Queensburgh the booths were set up in such a way that voters could clearly see into the first voting booth. This directly infringed upon the secrecy of the vote.³¹

²⁴ Marivien School, Western Cape, Voting Station 97131067, Presiding Officer Ntombekhaya Vara.

²⁵ Plumstead tennis club, Western Cape, Ward 448, Presiding Officer Shireema Dyason.

²⁶ Alberton Rugby Club, Gauteng, Voting Station 275, Presiding Officer Stephney Mokgathe.

²⁷ Love World International Church, Gauteng, Voting Station 32960173, Presiding Officer Letlape Nokgotsopo Naume, President Steyn Primary School, Gauteng, Voting Station 309, Presiding Officer Refilwe Kekana.

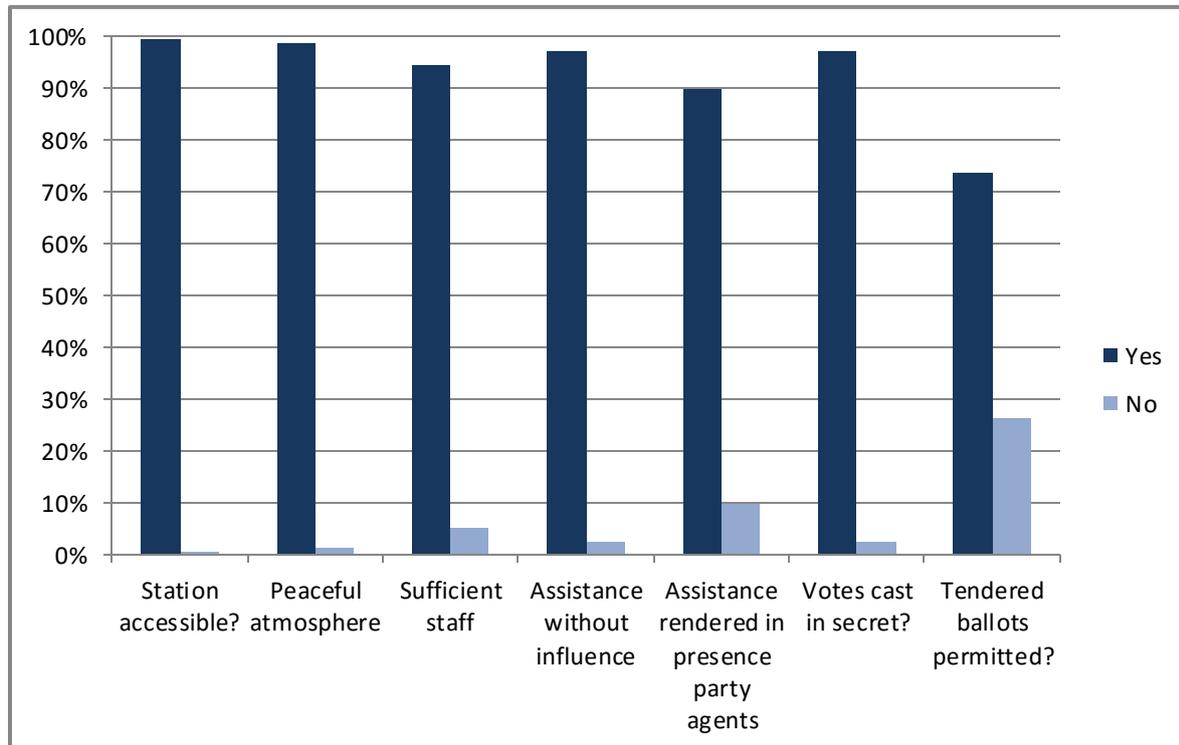
²⁸ President Steyn Primary School, Gauteng, Voting Station 309, Presiding Officer Refilwe Kekana.

²⁹ President Pretorius, North West, Voting Station 86910565, Presiding Officer Lephedi; St Johns Anglican Church, Western Cape, Voting Station 98400067, Presiding Officer Vivian Ngubane; Craighall Primary School, Gauteng, Voting Station 32850637, Presiding Officer Pontsho Nkomo.

³⁰ Voortrekker Eeufees, Gauteng, Voting Station 3295165, Presiding Officer Philda Katshwane.

At Itekeng Primary School the voter booths were also set up in such a way that the secrecy of the vote was infringed upon.³² Voters in the queue could easily see who the voter in the booth was voting for; this situation was not rectified by the PO. Similarly in Waterkloof the voting booths were set up in such a way to infringe upon secrecy since the PO seemed to be taking the issue regarding photos of ballot papers to heart, but this influenced the voter’s right to vote in secret.³³

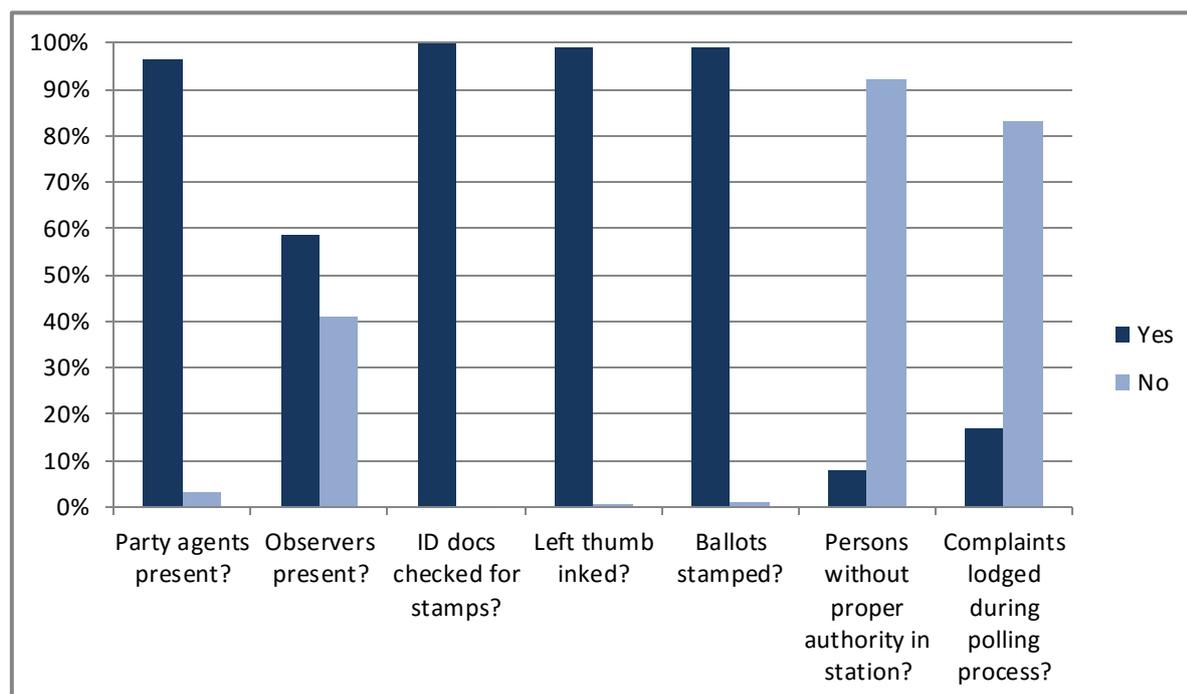
3.3. Polling Process



³¹ Queensburgh, Kwazulu Natal, Voting Station 43390155, Presiding Officer Mthokozisi Mabaso.

³² Itekeng Primary School, Gauteng, Voting Station 32861572.

³³ Waterkloof Ridge, Gauteng, Voting Station 32952292, Presiding Officer Rebotile Phasha.



3.3.1. Special votes

At Bizweni many voters with various disabilities were unaware that they were eligible to register for a special vote.³⁴ Perhaps more attention could be given to educating voters on the right to apply for special votes.

In Gauteng aggravation amongst voters quickly turned violent when the special votes' ballot box was brought into the station and placed to one side. Voters insisted that these were fraudulent votes and even though the PO tried to explain the procedure their agitation only increased. SAPS had to intervene and forced them to leave the premises even though they periodically returned.³⁵

3.3.2. Unauthorised individuals inside voting stations

At Helenvale Primary there were five unauthorised persons inside the voting station. Upon inquiry they informed the PO that they were observers even though they were not wearing any identifying gear or any form of authorisation. The PO also did not request same.³⁶ Although we could not conclude that any gross violations occurred due to the presence of these unauthorised individuals, it is worrying that the PO did not request to see formal identification before allowing them to remain in the station.

³⁴ Bizweni, Western Cape, Voting Station 97110255, Presiding Officer Portia Reddy.

³⁵ Women for Peace, Gauteng, Voting Station 32851009, Presiding Officer Percy Nkosi.

³⁶ Helenvale Primary, Eastern Cape, Ward 13, Presiding Officer Samcel Wontsel.

In Hyde Park we witnessed an individual being allowed access to the voting station as an observer even though no vest or gear was worn. This individual spent a lot of time conversing with a specific party agent.³⁷

3.3.3. IEC staff

As noted above we commend the IEC staff for the tireless efforts on election-day. In general voting stations were well staffed and well organised. We did however witness a few minor issues pertaining to the staff and proceed to deal with it hereunder:

- (a) In some stations lack of staff led to logistical issues and frustration amongst voters.³⁸
- (b) At Lyndhurst, ballot paper issuers seemed to lack the necessary training and the PO had to constantly intervene.³⁹
- (c) In Pietermaritzburg there seemed to be general confusion inside the stations. Not all IEC staff members were wearing IEC shirts and they were difficult to identify. The inking table was also set up at the exit and voter thumb nails were only inked after votes were cast. Some voters had to be called back to be inked. A private individual was then instructed to take over the inking of thumb nails and she was issued with an IEC sticker.⁴⁰
- (d) We witnessed a curious situation at Ruby Alison Hall. After stamping a voter's ballot paper the PO accompanied the voter to a different room where they spoke privately. After the conversation ended the voter exited the room with the ballots and proceeded to vote. After casting the vote the PO once again met up with the voter outside. This was a strange situation and it is impossible to know if there was any undue influence here. We only observed this happening once but it is nevertheless a serious situation. Once ballot papers are issued the voter should be permitted to move toward the voting booths to vote in secret. This situation

³⁷ Hyde Park, Gauteng, Voting Station 32850547, Presiding Officer Grace Lebepe.

³⁸ Voortrekker Eeufees, Gauteng, Voting Station 3295165, Presiding Officer Philda Katshwane; Bryanston Parrallel Medium, Gauteng, Ward 106, Presiding Officer Glenda Mokou; All Saints United Church, Kwazulu Natal, Voting Station 43950292, Presiding Officer Ayanda Gwala.

³⁹ Lyndhurst Baptist Church, Gauteng, Voting Station 32851155, Presiding Officer Magedeline Motela.

⁴⁰ Department of Education offices, Pietermaritzburg, Kwazulu Natal, Voting Station 43950360, Presiding Officer Nkubonga Mahaye.

implies that this may not have been the case in this instance.⁴¹ This is a serious violation of section 47(6) and we express our concern for this matter.

- (e) In Gauteng we observed a station opening late, to the frustration of the voters, due to the inability of the staff to alphabetise and allocate voter queues accordingly.⁴²
- (f) In order instances staff were unsure what to do with spoilt ballots and how to properly deal with it. At Isaacson Primary, for instance, the PO did not place a spoilt ballot in a box allocated to it but left it unattended on the ballot paper issuer table when realising they did not know what to do with it.⁴³ Even though it was later counted as spoilt, this could cause grave violations and should be considered.
- (g) At Itekeng Primary the inkers and ballot paper issuers went on lunch at the same time leaving the booth and ballot box monitor to not only continue with the latter tasks but to also issue ballots and ink thumbnails.⁴⁴

3.3.4. Opportunities to cast a vote

We witnessed many disgruntled voters being turned away at stations because they were not registered to vote at the particular stations.⁴⁵ Many were angry because they were previously registered to vote at these stations. There seemed to be a lot of confusion as to who should be permitted to vote and who should not. There was a general lack of education regarding section 7 of the Act and the correct procedure in terms of the latter.

At some stations, for instance, voters were excluded from the voters' roll even though the zip-zip machine and sms line indicated that they were able to vote at the station. Voters were turned away at first, which was a mistake on the part of the PO. In our opinion proof of registration on the zip-zip and sms line is enough proof of registration and the voters should have been permitted to complete an affidavit and

⁴¹ Ruby Alison Hall, Kwazulu Natal, Ward 33, Presiding Officer Chantel Klein Boom.

⁴² The Orchards Primary Akasia, Gauteng, Voting Station 32960538, Presiding Officer Refilwe Mohasoa; Mondeor Recreation Centre, Gauteng, Voting Station 32860335, Presiding Officer Sibongile Ndlovu; President Steyn Primary School, Gauteng, Voting Station 309, Presiding Officer Refilwe Kekana.

⁴³ Isaacson Primary School, Gauteng, Voting Station 32861437, Presiding Officer M Makolane.

⁴⁴ Itekeng Primary School, Gauteng, Voting Station 32861572.

⁴⁵ Bryanston Parrallel Medium, Gauteng, Ward 106, Presiding Officer Glenda Mokou; All Saints United Church, Kwazulu Natal, Voting Station 43950292, Presiding Officer Ayanda Gwala; Lyndhurst Baptist Church, Gauteng, Voting Station 32851155, Presiding Officer Magdeline Motlala.

at least cast a tendered ballot. The PO did correct this later on, but by then many voters had been turned away.⁴⁶

At other stations however voters who were primarily resident in other wards appeared on the voters' roll for the wrong ward and were permitted to vote.⁴⁷ Similarly some voters were denied the right to vote since they did not appear on the roll, even though they had been resident in the ward for many years. After much confusion and voters being turned away the PO received affidavits and permitted the voters to cast a vote. These were not saved separately as tendered ballots.⁴⁸ Some stations did not permit the completion of the form and voters were summarily turned away.⁴⁹

The above confusion is very worrying. The correct procedure would have been to ask the voter to produce proof of registration and then have the voter complete the necessary affidavit. It is impossible to know how many votes were denied for the wrong reasons in this instance. We strongly recommend that staff be better educated in terms of the correct procedure to follow in this regard. Especially since the issue regarding correct voter registration is currently of paramount importance.

3.3.5. Undue influence of voters

At one station in Vuwani there were no voters at all. The entire station was placed at the gate of a high school with no tent or electricity. We assumed that this was a mistake on the part of the IEC, and if not one must ask whether there was undue influence that caused voters to refrain from voting at the station?⁵⁰

⁴⁶ La Rochelle, Western Cape, Voting Station 97140911, Presiding Officer Philmary.

⁴⁷ Weenen Town Hall, Kwazulu Natal, Voting Station 43750010, Presiding Officer Zibuyile Mbiko.

⁴⁸ Library Services, Kwazulu Natal, Voting Station 43950708, Presiding Officer Nomaswazi Dlamini; Alphen Centre, Western Cape, Voting Station 97130347, Presiding Officer Thembela Ndlaleni.

⁴⁹ Pele PS, Gauteng, Voting Station 329607, Presiding Officer Iris Mtalana, Holly-Cross Crech, Gauteng, 32961067, Presiding Officer Glenda, Lesedi PS, Gauteng, Voting Station 32960516, Presiding Officer David Mmola; Highveld Primary, Gauteng, Voting Ward 223, Presiding Officer Aliwah Nyambi; Municipal Banquet Hall, Centurion, Gauteng, Voting Station 32980125, Presiding Officer Dumisani; Buccleugh Primary, Gauteng, Voting Station 32850727, Presiding Officer Eric Ngobeni; Montana High, Gauteng, Voting Station 32951628, Presiding Officer Johannes Petje; Carter Primary School Alexandria, Gauteng, Voting Station 32850794, Presiding Officer Sibusiso Ngubo; Isaacson Primary School, Gauteng, Voting Station 32861437, Presiding Officer M Makolane, Pimville Primary School, Gauteng, Presiding Officer GK Madiba.

⁵⁰ Vyeboom, Vuwani, Limpopo, Voting Station 76210736, Presiding Officer Matholil Ndiadui.

3.3.6. Incorrect ballot papers issued

In the Western Cape voters were issued with ballot papers for the wrong municipality. Once alerted of this the PO did not stop the process.⁵¹ A number of voters cast their votes on incorrect ballots. Mr Marius Swartland from the IEC arrived and a new ballot box was set up. The ballot box with the incorrect ballots was removed and all voters were contacted to re-cast their votes.⁵² We cannot confirm if all these voters did in fact return to re-cast their votes.

3.3.7. Assistance to voters

At Church of Christ elderly voters needing assistance were denied the right to be assisted by a family member of their choice, even though the individuals were over 18. The PO assisted (in the presence of party agents), but the voters seemed uncomfortable by this arrangement.⁵³ In terms of section 48 of the Act the voters should have been allowed to be assisted by an individual of their choice.

In Gauteng we witnessed a voter taking very long to cast a vote. The IEC staff asked if he required assistance and he clearly declined assistance. After a considerable time at the booth the IEC staff began getting impatient with the voter and party agents started openly laughing and joking about the situation. The DPO did nothing to stop this behaviour. Eventually the voter asked for assistance and was assisted by the PO and party agents.⁵⁴

At Women for Peace we witnessed a gross violation toward approximately 95 elderly voters. They were brought in by a volunteer after the IEC did not administer special votes at their old age home, even though they claimed to have registered for it. When they were permitted to go to the front of the queue the voters started getting agitated, which agitation soon escalated. The elderly voters became afraid of potential violence and chose to rather leave the station than vote. The PO allowed this and SAPS put a stop to further escalation in violence.⁵⁵

⁵¹ Rhenish Girls High School, Western Cape, 984001179, Paul Jones

⁵² Eikestad Primary School, Western Cape, Voting Station 98400191, Presiding Officer Thandi Tyatyeka.

⁵³ Church of Christ, Western Cape, Voting Station 9713090, Presiding Officer Winston Le Grange.

⁵⁴ Itekeng Primary School, Gauteng, Voting Station 32861572.

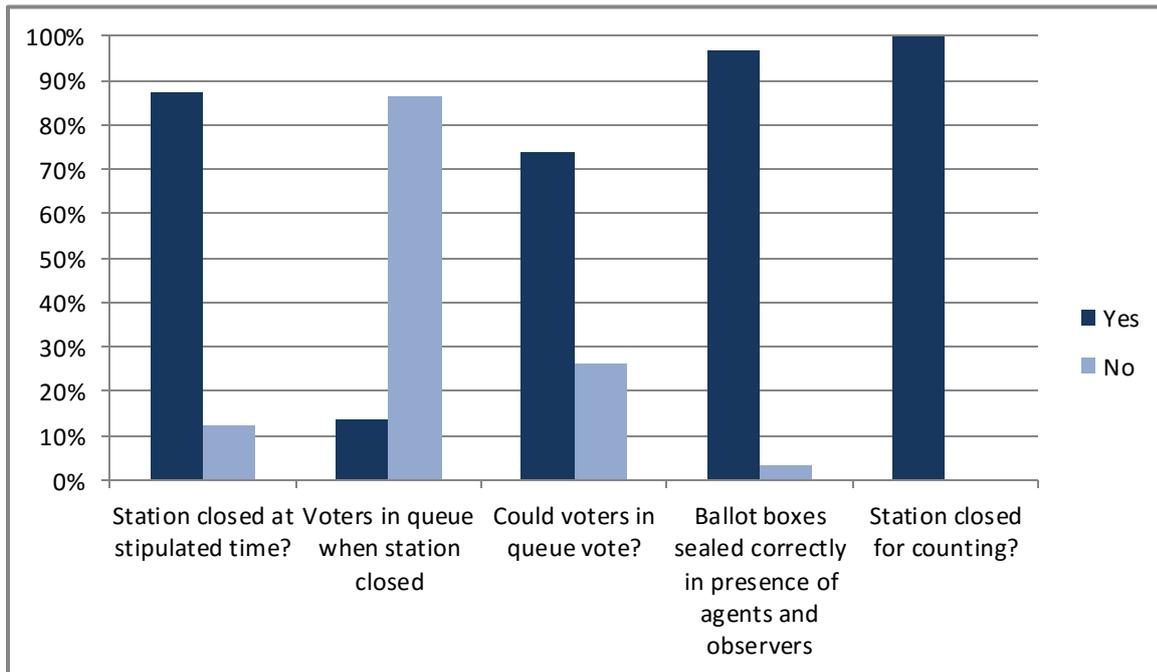
⁵⁵ Women for Peace, Gauteng, Voting Station 32851009, Presiding Officer Percy Nkosi.

3.3.8. Cell phone use within the voting stations

Our observer witnessed a voter taking a photo while casting a vote. The PO was alerted and requested that the photo be deleted.⁵⁶

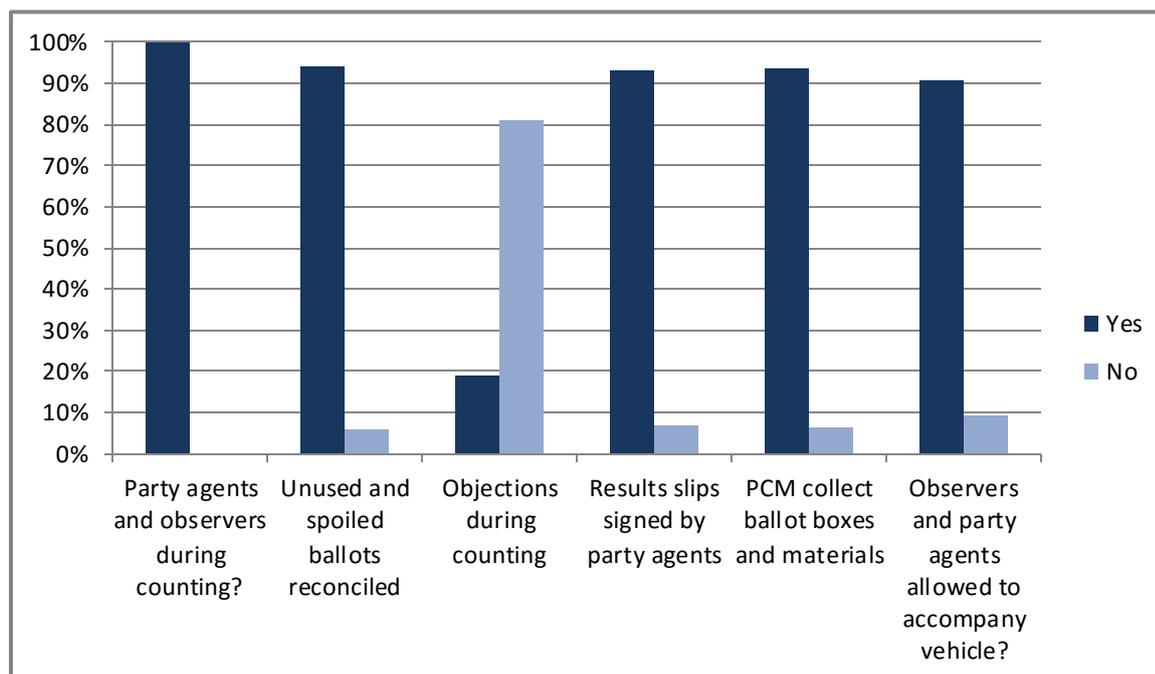
A voter attempted to take a picture inside the voting station next to the ballot box but was stopped by the PO and reprimanded.⁵⁷

3.4. Closing Process



⁵⁶ Table View High School, Western Cape, Ward 133, Presiding Officer Diedre Daniels.

⁵⁷ Highveld Primary, Gauteng, Voting Ward 223, Presiding Officer Aliwah Nyambi.



The counting process went well and we commend the IEC staff for completing this process so effectively after long hours of managing the voting station. The minor issues we noted are indicated below:

- (a) Counting was delayed at Saheti School as an inebriated party agent refused to leave the station. The PO requested assistance from SAPS and the agent was removed.⁵⁸
- (b) At Alberton High a party agent was permitted to leave the station during counting.⁵⁹
- (c) Staff fatigue and various issues with materials caused unnecessary delays in the counting process at Claredon Primary.⁶⁰
- (d) At Morivlan Church the counting process was severely affected by the lack of electricity.⁶¹
- (e) The station was over populated, and the election officers were not coping. Over population of the station affected the effectiveness of the counting process, which resulted with erroneous counting. Counting was repeated more than twice,

⁵⁸ Saheti School, Gauteng, Voting Station 33060833, Presiding Officer Lesley Mabasa.

⁵⁹ Alberton High, Gauteng, Voting Station 33000286, Presiding Officer Lindelwa Nqezo.

⁶⁰ Claredon Primary, Kwazulu Natal, Voting Station 43950315, Presiding Officer Carol Shezi.

⁶¹ Morivlan Church Hall, Eastern Cape, Voting Station 11560137, Presiding Officer Nnanha Mbebe.

resulting in the process being finalised after 5am and the officers were extremely exhausted.⁶²

4. Gross irregularity

We observed what we believe to be a possible gross irregularity at Alcock and Glen on election-day. Our observers were approached by a party agent who informed them of a complaint lodged with the PO earlier that morning.⁶³ It was reported that the ballot boxes used for special votes on 1 and 2 August were simply reused on the 3rd of August. This was confirmed upon inspection of the boxes and it was further confirmed that the used boxes were not sealed when placed in the station for use on 3 August.

It was also confirmed that the PO did not use empty ballot boxes when opening the station and that the above special vote ballot boxes were used as the main boxes for purposes of election-day. Grave concern was expressed since it was impossible to clarify whether there may have been any ballot stuffing, fraud or illegal conduct pertaining to the ballot boxes. This is especially concerning since the used boxes were not sealed, they already contained ballots, and they had been at the voting station for some time. It is entirely possible the boxes could have been tampered with. This is a gross irregularity on the part of the PO and a direct contravention of section 46 of the Act.

After these complaints were heard and the boxes inspected the party agents insisted that the votes in these boxes not be counted and clear instructions to be received from the IEC. The boxes were then sealed and kept separately, however new boxes opened in accordance with procedure were only placed in the station at 14:50. Therefore, many votes had already been cast in these boxes.

The PO reasoned that the opened special vote boxes were used because they did not appear to be full and she did not want to waste boxes. This is a poor excuse at best. The IEC's core values include integrity and transparency. The process of

⁶² Montana High, Gauteng, Voting Station 32951628, Presiding Officer Johannes Petje.

⁶³ Alcock and Glen, Gauteng, Voting Station 32952214, Ward 92.

opening ballot boxes and proving to all that the boxes are empty before voting starts directly factor into these important values. It is at this stage impossible for us to conclude that the elections at this voting station were in fact free and fair. Similarly, we also cannot conclude that it was not free and fair since it is impossible to know if there was any tampering with the boxes prior to voting starting on 3 August. We call upon the IEC to further investigate this matter and to conclude whether this made a significant impact on the voting process at this station. We also provide the necessary information regarding the boxes in questions:

Date	Box seal/number
1 August 2016	Top seal: 0081895 Bottom seal: 00811895
2 August 2016	Seals: 008198, 0081896, 0081897
3 August 2016	Seal 0081892 broken and replaced with 0081895 and 0086700

5. Conclusion and recommendations

As indicated above, we did witness two situations which in our opinion could be gross irregularities and we call upon the IEC to further investigate and advise on the following:

- (a) Unsealed special votes boxes re-used on election- day at Alcock and Glen, as detailed in paragraph 4 above.
- (b) The elderly at the Women for Peace station who did not vote due to fear of violence, as detailed in 3.3.7 above.

We also make the following general recommendations:

- (i) Proper staff education on who is permitted to vote and the procedures to be followed in terms of section 7 of the LGE Act.
- (ii) More advanced voter education on the right to cast a special vote, who would qualify for it, and how to apply for it.

In conclusion we confirm that we received multiple observer reports which indicated great appreciation for the IEC staff and their efforts on election-day. In most instances staff was friendly, helpful and organised. Most voting processes seemed to flow smoothly and many voters also indicated their appreciation for the well organised procedures.

In general we conclude the elections were, overall, free and fair. We congratulate the IEC on a job well done and we show appreciation for the staff who worked tirelessly on election-day.