

Check against delivery (embargoed to 6pm 30 June)

Building public confidence in our democracy: Putting voters first

(Jenny Watson, Chair Electoral Commission: speech to the UCL
Constitution Unit – 30 June 2009)

Introduction

Thank you for your introduction, Meg, and for inviting me to talk to the Constitution Unit today, in what are certainly challenging circumstances for democracy.

Although I don't think when I accepted the invitation I could have anticipated quite how challenging they would be.

It's been a desperate few months for those of us who want to defend politics.

We cannot underestimate the damage the issue over MPs' expenses has done to public trust: not just in politicians, but in politics itself. And just as important in the long term, damage to the voluntary activity which supports democratic politics. It is easy to forget that most people involved in politics are not career politicians. They are not paid a salary of any kind. They are our neighbours active in their community, giving their time freely to help elect and support councillors, MEPs, MPs. Their confidence too has been dealt a blow.

One of the immediate measures of the impact of these events is turnout at the recent elections. Turnout for the European elections across the UK was just 34 per cent, against a European average of 43 per cent.

County council elections tell a similar story. Few seats in the shires polled above 40 per cent, compared to 60 or even 70 per cent last time. Let's be frank: these figures aren't good. But they could have been much worse – and many people expected them to drop as far as the 24% Euro turnout of 1999. Perhaps I am an optimist by nature. But I suggest this turnout, against such a backdrop, does show a continued faith in democratic politics with people wanting to have their voice heard.

It's clear all parties and candidates have got a tough job ahead convincing voters not simply who they should vote for, but why they should go to the polls at all.

But they're not the only ones with their work cut out.

The Electoral Commission has a critical role in building public confidence, and in defending democracy. There is no alternative to democratic politics. It is a public good. It enables us to settle our differences peacefully. And political parties play

Check against delivery (embargoed to 6pm 30 June)

a crucial role to politics in a democracy by setting out alternative policy positions from which we can choose as voters.

But, voters need to be confident that parties are funded transparently, that the money they use to campaign is raised within the rules.

And they voters need to know that their votes are safe, and that they will be counted.

If we look back to the creation of the Commission: It was in response to the controversies over the role of money in politics in the 1990s.

To restore faith it was essential that there was transparency over party finance, and an independent regulator.

Six in 10 now agree that funding is now clearer.

We're now facing a similar crisis in confidence.

Our vision for the future of democracy

So what can we do to help build faith this time?

I think too many of us forget who, exactly, elections are there to benefit.

We forget that they're not aimed at helping governments, or parties, or individual candidates.

They're there for voters. To give them a voice. To help them effect the change they want to see.

So we need to start putting voters first.

So that we are constantly reminding ourselves, "There's a voter at the end of this".

And asking ourselves, "Is there a way we can make it work better for them?"

So how are we going to do it? How are we going to put voters back at the heart of the system?

Well, as I see it, we need to think about it in terms of two phases.

Firstly, we have the immediate challenge of a General Election. Clearly I have no insider information but even I can say with confidence that it will be called within the next twelve months.

So we need to find ways to boost confidence in the short time we have.

Check against delivery (embargoed to 6pm 30 June)

But we can't put in place everything we want or need to by June 2010, if we even have that long. So our second challenge is about embedding long-term change – to party finance, and to registration and running elections.

The immediate challenge – a General Election

Let's take the first challenge: the General Election.

It's tempting I am sure to think that it's simply a case of "doing what we did last time".

And, yes, there will be similarities. But there are also chasms of difference.

Each election is unique because the context changes. And because the context changes, voters behave differently. To get the best experience for voters, we need to learn from the past, and look to see what logistical problems we can pre-empt each time afresh. Not just do what we did last time.

The first step is to see what lessons there are from this year's European and County Council elections. We will have more to say on this in the autumn when we publish our formal report on the European and local government elections.

For example, there were problems with printed material including ballot papers, wrong party emblems and maps giving the wrong location of polling stations. Turnout will be higher at a UK Parliamentary General Election, placing resources and systems under greater strain.

Media scrutiny will also be more intense.

A general election can be called with seventeen working days notice. That doesn't allow a lot of time for the increasingly complex, supplier reliant, elections to be organised. Outsourcing of printing, of IT systems, needs thorough testing and closer monitoring than resources may now allow if it is not to prove a real risk to elections in the future.

And for a lot of candidates and agents the UK Parliamentary General Election may be their first election. Think about it. Anti-sleaze candidates standing as independents. New candidates perhaps in previously very safe seats. New agents to support those candidates, who may not know the rules.

As I said, the issues won't all be the same. But I am under no illusions there will be issues. So I want to do everything we can now to minimise them.

I also want to see improvement from those in charge of registering voters and running the elections.

We've recently published performance standards and guidance for Electoral Registration Officers and Returning Officers – the statutorily independent officers appointed by local authorities.

Check against delivery (embargoed to 6pm 30 June)

One in five Electoral Registration Officers didn't meet the core standards in 2008 for carrying out their duties. We want to see improvements until they all meet these standards.

With around eight to nine per cent of eligible voters currently not on the register, we all have work to do.

And with the autumn canvass the last before the next general election, it's crucial we make that clear now.

So we're meeting with every ERO who didn't make the standard to ensure an action plan is in place for 2009; and meeting with others where we're concerned about aspects of their performance to agree how improvements will be made.

There's a lot to do in the short term.

But if we're really going to restore confidence in democracy, the change that we need, that voters need, is going to take a little more time.

I want to turn now to our long-term challenges:

- on registration and running elections
- and on party financing.

Long-term challenges – registration and running elections

Our participation in elections is what inspires people all over the world to seek democratic politics as a form of government. But once we've voted, the work is only just beginning. As Alfred Smith, who was governor of New York between the wars, once said, "It's not the voting that's democracy, it's the counting."

The truth is of, course, you can't have one without the other. And making sure local authorities provide resources so that the statutory officers can do that job is a vital part of our role. We have a way to go. Total Politics recently surveyed council leaders and asked them on what criteria they thought a great local authority would be judged in the future. The percentage of leaders of a London borough, an English Metropolitan authority or an English shire council who thought that high electoral turnout was one of these criteria was zero. And yet democracy is an abstract idea until local authorities deliver it on the ground as a practical reality.

I want to thank all of those who worked so hard to make the recent elections happen. But I also want to be clear that we intend to keep the pressure on to help things get better. If we're going to restore public confidence in politics, we need to be clear that the process begins and ends with voters.

And that's going to mean serious change, and hard work, for all of us working to protect and promote democracy.

Fraud

Check against delivery (embargoed to 6pm 30 June)

I mentioned earlier that one of the key things voters need to know is that their vote is safe.

Working with the Association of Chief Police Officers we have developed a system for gathering allegations about electoral malpractice during the election period.

I am happy to say cases of electoral fraud are relatively rare.

There were 23 convictions for registration or voting fraud in England and Wales between 2000 and 2006. In the same period over 120 million votes were counted.

The May 2008 elections were free from major incidents of electoral fraud.

And, while police recorded 103 cases of alleged malpractice:

- The majority of cases – 81 per cent – required no further action by the police.
- One case has led to prosecution and conviction.
- Nine cases resulted in formal cautions.

That's from a total 16 million votes cast.

And this year? The 2009 elections saw 45 cases of alleged malpractice. We will report in full later in the year.

So fraud is uncommon. But one case is one case too many because it helps to destroy confidence.

So what next?

Well, what is interesting is the changing nature of the cases.

Before 2004, cases involving prosecutions for false proxy voting predominated.

Proxy voting abuse was followed by postal voting offences which peaked around 2004-5. Both are now in decline thanks to new legislation to help administrators check applications to vote and other voting paperwork. Higher profile preventative policing and well publicised prison sentences for offenders have also helped.

Now the focus of cases and allegations is moving to earlier in the voting process, with an emphasis on fraudulent registration to vote.

Which brings me to individual electoral registration.

This is something I am passionate about.

The Commission has been calling for individual electoral registration since 2003.

Check against delivery (embargoed to 6pm 30 June)

We haven't been alone. The Parliamentary Assembly of the Council of Europe, the Committee on Standards in Public Life and the Joseph Rowntree Reform Trust all support individual registration. Many of you will have helped us make the case. For which thank you.

And so do voters. Research carried out last year by the Committee on Standards in Public Life found that nearly two-thirds of respondents thought the system of individual registration used in Northern Ireland was preferable to ours.

So I'm delighted there is now cross-party support and that the Government is moving to introduce individual electoral registration through the Political Parties and Elections Bill.

The timeline would see voluntary collection of personal identifiers – signature; date of birth; national insurance number – from the Autumn 2010 canvass, with an assessment in 2014, before compulsory collection in 2015.

It's our intention to give "state of the register" reports annually up to the assessment.

We'll also be advising the Government on the detail of the provisions to be included in the PPE Bill and on key implementation issues.

On top of the advisory and scrutineering roles I've already mentioned, there will have to be work to ensure voters are aware of the change and what it means for them.

This is a major public information challenge. And we need to look at and learn from comparable events like the digital switchover, or the introduction of Chip and PIN.

There will also be work to support Electoral Registration Officers. It's clear from the changeover in Northern Ireland that we'll have to do more to prevent drop-off, and pick up other data to help officers target hard-to-reach groups.

This will be a profound shift. We're asking for every voter in Great Britain to re-register themselves with personal identifiers. It will mean for the first time everyone being personally responsible for a basic entitlement of citizenship. And it will make the bedrock of our democratic process more secure.

It can't happen overnight.

But by 2015 I believe we will have a register that is more comprehensive, accurate and more secure.

And, importantly, one that's fairer – reflecting reality for those who live in flat or house shares, in bedsits, in student accommodation.

Check against delivery (embargoed to 6pm 30 June)

Registration by household was brought in a different era. And it belongs to a different era.

It's absurd that, in the 21st century our democratic process remains founded on a system whereby someone called "the head of the household" can effectively influence – some might say choose - who else gets to vote.

Everyone who is eligible to do so should have the right to register to vote. Our vote is ours alone. It's personal, and it is powerful. It's right that something so powerful should be a matter of personal responsibility too.

Voting mechanics

So, registration is the foundation. But if we're serious about putting voters first, there's also work to be done to make the mechanics of voting easier.

Not all mistakes are down to fraud.

Too often election materials and processes have been designed without real people in mind – this can result in votes that don't get counted because postal ballot packs don't make it to the right address, or ballot papers are accidentally spoiled because instructions weren't clear.

The Commission has been working with voters as part of our Making Your Mark project.

We actually watched how voters fill in ballot papers and postal voting statements, and saw what kind of mistakes they made. Even the more confident among our research group, including one man who said he voted regularly at all types of elections, made mistakes that would mean their vote might not be counted.

So we're developing design guidance on voting materials – a commitment we made following the Gould report into the Scottish elections. We'll be issuing our guidance this autumn, and we expect administrators to use it to make sure ballot papers for next year are printed to the best possible standard.

This will improve the usability and accessibility of voter materials, so people can vote easily and confidently.

Decentralised elections

I've been talking a lot about the importance of putting voters first.

But that doesn't mean we can't ignore the strain councils are under.

We know they're facing challenges. We're asking them to run 21st century elections with 19th century structures. How can a system designed at a time when the vast majority of the population did not have the right to vote be right for

Check against delivery (embargoed to 6pm 30 June)

today when we hope for mass participation? It's no surprise therefore that the system is under severe strain.

And that's before we add in technical and electoral innovation. Elections are complex and have become more so in the last ten years:

- Postal voting on demand has been introduced
- There are more frequent elections, with different voting systems in Scotland, Wales, Northern Ireland and London.

It can't continue like this. That's why we published our report on Electoral Administration in the UK.

The report calls for a series of changes that will improve things not just for voters, but for councils too.

Recommendations like establishing Electoral Management Boards to provide co-ordination, leadership and support for elections – building on the Regional Returning Officer role established for European elections. The interim Election Management Board in Scotland is good progress on this.

Like giving the Chair of the Electoral Management Board a statutory power to make sure Returning Officers follow best practice, and that professional standards remain high.

Like strengthening the role of Returning Officers. And making sure everyone is clear about who is responsible for what. At the moment this means that:

- Policy and legislation is for Government.
- Running elections is for Returning Officers.
- And our role at the Commissions is to set standards and report on performance.

And like simplifying electoral law.

Since 1998 there have been 35 pieces of primary legislation about elections. And there will undoubtedly be more to come.

There has been much speculation recently about voting reform. And we will, of course, be ready to advise on the technical aspects of any proposed new voting system.

But, crucially for councils, our report makes clear that we want any changes to the law finalised at least six months before an election.

We recognise that recommendations might not be welcomed universally. Challenge to long established practices is sometimes difficult. I want to give a commitment that we will always attempt to work in partnership with others to achieve change, being clear about the outcomes we want to see and open to different ways of achieving these.

Check against delivery (embargoed to 6pm 30 June)

But change can't be avoided or postponed. We simply cannot carry on with the current structure in the long term. It does not benefit today's voter for us to do so. And it certainly will not benefit tomorrow's. Think of a child born in 2009. When they turn 18, in 2027, what kind of democratic process will they inherit? That's a question that the Commission needs to be able to answer and we hope you will help us to do so.

Long-term challenges – party finance and funding

I want to look now at our second long-term challenge.

The public needs confidence in the democratic process. But it also needs confidence in parties, and politicians.

It needs to know that parties understand and abide by rules. And that, where they don't, sanctions will be enforced.

Voters have more information than ever about where political parties get their money and how they spend it.

Since 2001, when the Political Parties, Elections and Referendums Act came into effect, the Commission has published details of:

- over 22,000 donations to political parties, with an overall value of more than £324 million.
- Over 2,000 donations to individual politicians and groups involved with parties, worth over £18 million.

We've also:

- Issued fines to parties who fail to provide financial information on time.
- Forced parties to give back impermissible donations. In total we've sought forfeiture of around half a million pounds.
- And made referrals to the police, on the rare occasions where we felt there may have been a criminal offence, and it was in the public interest to do so.

But there has been an undercurrent of feeling, not just at the Commission, but within parties and the wider public, that our role as regulator is not as effective as it should be:

- that criminal prosecution – currently the sole route for major breaches – isn't always appropriate;
- and that the Commission needs teeth, to be able to impose its own sanctions when rules are broken.

The Political Parties and Elections Bill goes a long way to rectifying that, giving us the power to impose a flexible, more proportionate range of civil penalties:

- There will be fines for late reporting of individual donations, rather than just late submission of forms, so that parties tell us about donations promptly, rather than months late.
- And fines will reflect the severity of the offence, rather than just the degree of lateness. This will end the anomalous situation whereby a party has to

Check against delivery (embargoed to 6pm 30 June)

pay the same penalty whether the donations in question amount to £5,000 or £5 million.

We'll also be able to issue compliance notices, for example to force parties to change internal procedures where these are clearly shown to fail.

And we'll get more appropriate investigatory powers, so that we can require evidence from anyone with relevant information.

There will be safeguards, of course. But these moves bring us in line with other regulators. And are vital to ensuring that, as a watchdog, we have bite as well as bark.

Overall, the changes in the Bill will mean we are firmer, but also fairer, when it comes to dealing with breaches of party financing rules.

But a much bigger question remains about how much money parties should be able to receive, and where it should come from. In the past the Commission has had something to say about this – with some fascinating work with members of the public about political party funding and some principles which we felt should inform any debate. We know something about what the debates might be: the nature of tax deductibility for example, and the potential establishment of a donations cap. And of course the big question about whether there should be more state funding to compensate for any ensuing gaps in funding.

When the parties got close to agreement last time it had taken someone independent from them – Sir Hayden Phillips – to move the debate forward.

I'm not saying the outsider needs to be us this time. The "policy" role is one from which we have withdrawn. But we have regulatory experience which should inform the development of a future funding framework. It's vitally important to get it right, and we will stand ready to contribute if we are called upon.

[I'd be interested to hear your thoughts on this.]

And on another funding issue.

More referendums mean more one-off campaigning groups. And incidentally we may see more of these and more independent candidates at elections too.

I think that increased participation is a good thing.

But when you're only in something for the short-term – which may well be the case for referendum campaign groups looking for a one time only victory or defeat for a particular proposition, there's less incentive to abide by the rules. We need to give more thought to how we ensure that everyone, not only the main parties, or designated campaign groups, is transparent about where the money is coming from.

Confidence in the Commission

Check against delivery (embargoed to 6pm 30 June)

This brings me to a final point.

People need to have confidence not just in the process, and in politicians, but in those who regulate them.

In other words, in us, the Electoral Commission.

The impartiality of the Commission is vital for public confidence. But so is our effectiveness.

To be truly effective, we need to know as much as possible about the way political parties work. So I welcome the proposals to relax the rules on who we can employ to include those with more recent involvement in party politics. Provided that restrictions remain on some posts.

I believe gaining this kind of expertise can only strengthen our role, meaning parties, and public, have more faith in our judgement.

Closing words

These are difficult times. Not since the 1990s has public trust in democracy sunk so low. Questions are now being asked not just over individual politicians, or one party, but over the whole system.

This is a serious challenge, and, as I have said, one we cannot underestimate. Particularly in the run-up to the fast-approaching General Election.

But it is also an opportunity for all of us who believe in the democratic process.

We need to seize this chance.

We need to put voters first; to shape the electoral system around their wants and needs. We must also take the chance to defend democratic politics as a public good.

And play no small part in restoring confidence in democracy.

(ends)