

## Law Commissions' recommendations to reform UK electoral law

4 February 2016

### Background

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The laws governing our elections are in need of reform. Elections are currently run using legislation that, in some parts, has not been properly reviewed since the nineteenth century. It is widely acknowledged by those involved in administering the electoral process that this body of laws has grown so large, fragmented, complex and outdated that it is no longer fit for purpose. It imposes unnecessary burdens and costs, and in many places is no longer suited to the present day.

For these reasons the UK and Scottish Governments, the Electoral Commission and the Association of Electoral Administrators asked the UK Law Commissions to review electoral law. This review started in 2012 and is being carried out jointly by the Law Commissions of England and Wales, Scotland and Northern Ireland.

Today the three Law Commissions published their [recommendations](#) for reform. They have also published a shorter [summary](#) of their report. We very much welcome these proposals and believe that they will address many of the difficulties with the current law. It is important that the UK and Scottish Governments now agree that the Law Commissions can begin preparing draft legislation to implement these changes.

### Outdated legislative framework

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There are currently well over 100 pieces of electoral legislation in the UK. This is partly because each type of election or referendum is underpinned by specific legislation. Applying the existing electoral law, which is based on a first-past-the-post system, to new elections and voting systems often makes it difficult for those administering and participating in these elections. The legislation allowing for individual electoral registration has complicated matters further. To explain these complex legal provisions to candidates, political parties, electoral administrators and voters requires the production of hundreds of pages of guidance.

An additional problem is that a large part of electoral law predates modern technology, including the internet and social media. This means that it does not allow many things to be done electronically or online, contrary to the expectations of those involved in elections. For example, it requires candidates' nominations to be delivered in person rather than by post or email. In some cases it still refers to nominations being delivered by telegram.

Similarly, the law governing how election results can be challenged has hardly changed since 1868. Despite the public interest in ensuring the validity of elections, the law only allows candidates and voters to bring a challenge. In order to do so they must incur costs running to many thousands of pounds and comply with onerous procedural rules. Richard Mawrey QC, an election court judge, has stated that this is an unsatisfactory system to protect our democracy.

## The benefits of reform

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The proposals by the Law Commissions would address these issues, and many others, by producing an updated, simplified and consolidated electoral law. This will have considerable benefits for all those involved in elections and referendums. It would mean that:

- elections can be administered better and more efficiently than at present
- future governments would find it easier to keep the law up to date and to achieve their policy objectives
- most importantly, for voters and candidates it would mean a better experience of the electoral process, including more accessible and modern procedures and improved ways to deal with complaints when things go wrong. Ultimately this will help to maintain confidence in the electoral process.

## Next steps

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Following the publication of the Law Commissions' recommendations to reform electoral law, the UK and Scottish Governments<sup>1</sup> will be asked to give their consent for the Law Commissions to prepare draft legislation to implement their recommendations.

Simplifying the legislation so that it is fit for the 21<sup>st</sup> Century will reduce the burdens placed on electoral administrators and, ultimately, the costs of delivering electoral events. The review has the unanimous support of the electoral community and we would like to see the UK and Scottish Governments give their swift approval for the review to move onto the next stage: drafting legislation to be in place for the 2020 UK parliamentary general election and the 2021 elections to devolved parliaments. We have written to the Governments asking for their swift approval.

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<sup>1</sup> Electoral law is not currently devolved to the Northern Ireland Assembly or the National Assembly for Wales.