

## European Union Referendum Bill Lords Consideration of Commons' Amendments

11 December 2015

### Introduction

---

This briefing sets out the Electoral Commission's views ahead of House of Lords consideration of, and motions relating to, House of Commons' amendments to the European Union Referendum Bill, scheduled to take place on 14 December.

Decisions on the franchise for the referendum are important issues for Parliament to decide on, although the Commission has commented on the practical implications and workability of any amendments to the Bill in these areas where needed. All our previous briefings on the Bill, including on previous amendments related to the franchise are available on our website [here](#).

### Clause 2: Entitlement to vote in the referendum

---

**Lords Amendment 1 tabled in the name of Baroness Morgan of Ely** would extend the franchise for the referendum to people aged 16 or over on the date of the referendum. It would also require steps taken to register any such newly eligible electors to focus on 15-year old 'attainers' (those who would turn 16 by the date of the referendum) and to use low cost means of communication including school email services.

#### **The Electoral Commission does not support this amendment.**

We have made clear our view throughout consideration of the Bill that a change to the franchise for the referendum is a matter for Parliament and that we will advise on the practical implications of any such change. If Parliament did decide to extend the franchise for the referendum we do not agree that the additional requirements specified in this amendment would be appropriate or an effective means of ensuring that all those who are eligible to take part in the referendum are able to do so.

While registering 15-year old 'attainers' is a specific challenge that would require focussed effort, the Commission does not agree that this should be at the expense of also focussing on all those 16- and 17-year olds who would be newly enfranchised by the date of the poll. Only a small proportion of 16-year olds are currently eligible to be included in electoral registers as 'attainers'. As the referendum could be held as early as mid-2016, depending on the outcome of the Governments negotiations with the EU, such a specific focus could lead to a significant proportion of the newly enfranchised

group not being targeted by Electoral Registration Officers (EROs) or the Electoral Commission.

In addition, given that the referendum date may only be known around 16 weeks before polling day, the focus required by this amendment could also see activity targeted at only a small proportion of the newly enfranchised group during a crucial stage of the registration process in the lead up to the poll. We believe that all those eligible to register to vote in the referendum should be encouraged to do so ahead of the deadline for registration.

If the franchise for the referendum is amended we believe that EROs should be able to use all available methods to identify and encourage registration – including learning from the experience of EROs in Scotland who have registered 16- and 17-year olds for the 2014 Scottish independence referendum and the 2016 Scottish Parliament elections.

It is not clear whether this amendment would prevent EROs using proven methods of encouraging registration, including contacting properties directly by post, as well as using email. While many EROs have begun making greater use of email to contact potentially eligible electors, it is not yet a well-established method of encouraging electoral registration, nor would we recommend it to the exclusion of other proven methods of contacting and encouraging registration.

We expect that changes would still need to be made to the online electoral registration service to allow 16- and 17-year olds to use the service to register to vote. More information on this and other areas where consideration will be needed are set out below in the annex taken from our Report Stage briefing.

---

For further information, please contact **Mazida Khatun**, Senior Communications Officer on 020 7271 0583 or [mkhatun@electoralcommission.org.uk](mailto:mkhatun@electoralcommission.org.uk).

## Annex

Recent media reports have indicated that the Commission believes there must be 12 months between legislation passing through Parliament to change the franchise and the first electoral event to which this applies. This is not the case. **The Commission has been consistently clear that a change to the franchise is a matter for Parliament and that we will advise on the practical implications of any such change.**

It is important that Parliament is aware that if the annual canvass does not fall before the electoral event that a franchise change applies to, a key opportunity is missed to get the new group of voters registered. This does not mean, however, that other options are not available to help get as many voters as possible on the register in the available timeframe. Although the scale of the challenge presented by some of these options should not be underestimated – and it must be borne in mind that every voter is now required to register themselves individually – this does not mean that steps cannot be taken to reduce the risks presented by them with proper planning and funding.

We will further advise Parliament of any risks relating to voter registration if the franchise is changed and what is being done to address these as part of our briefing when the proposed date of the referendum is announced. The section below sets out the key points that would need to be considered in relation to changes to the franchise.

If the Bill is amended to change the franchise for the referendum, significant further work would be required in the period between Royal Assent to the Bill and the deadline for applications to register to vote:

- Parliament would need to debate and approve detailed regulations to enable Electoral Registration Officers (EROs) to determine applications and add newly enfranchised electors to the register.
- The UK Government would need to change the online electoral registration website ([www.gov.uk/register-to-vote](http://www.gov.uk/register-to-vote)) and approve new registration forms to allow newly eligible people to apply to register to vote.
- EROs, the Electoral Commission and campaigners would need to make sure newly eligible people know how and when to apply to register to vote.

It is particularly important that any newly eligible electors know what action they have to take before the deadline for applications to register to vote ahead of the referendum. Without effective plans for informing and encouraging registration, newly eligible people may not be able to take advantage of any rights which Parliament has extended to them for the referendum.

Changing the franchise for the referendum would also have an impact on the definition of those entitled to donate money to referendum campaigners, which would need to be reflected in the detailed regulatory framework for donations and spending by referendum campaigners.

The experience of changing the voting age for some polls in Scotland has demonstrated the benefits of early certainty about the legislation. The legislation to lower the voting age to 16 for the September 2014 Scottish Independence Referendum was clear more than a year before the referendum. This meant that EROs in Scotland were able to target 15- to 17-year-olds at the same time as carrying out the annual canvass of households between October 2013 and March 2014. This was supported by Electoral Commission advertising activity across Scotland targeted at 15- to 17-year-olds, and activity carried out by schools, youth workers and youth organisations across Scotland. It is also worth remembering that the change in the franchise for the Scottish referendum took place under the previous system of 'household registration', so it was possible for other people in the house, such as parents or guardians, to register the newly enfranchised 15- to 17-year olds.

Legislation to lower the voting age for Scottish Parliament and local government elections in Scotland was in place ahead of the 2015 annual canvass of households, almost a year before the May 2016 Scottish Parliament elections. This means that EROs in Scotland have been able to target 15- to 17-year-olds as part of their scheduled annual household canvass activities during this summer and autumn and plan work with educational establishments at the start of the new academic year to bolster this. We do not yet know what the full effect of this activity has been.

While the date of the referendum remains unknown, it will be difficult for EROs, the Electoral Commission, educational establishments, campaigners and others to plan the activities that will be required to effectively target and encourage any newly enfranchised electors to register to vote. If the referendum is held before the next annual canvass of households which is due to begin in July 2016, EROs will not have been able to take advantage of the opportunity to communicate directly with newly enfranchised 15- to 17-year-olds who would be eligible to participate in the referendum.

If there is no canvass to build from when targeting this group, a separate registration initiative, led by EROs and supported by the Electoral Commission, would need to be planned for and delivered in England, Wales and Northern Ireland in the period of time before the referendum to inform and encourage newly eligible electors to register to vote. The activity required in Scotland would be less significant, because EROs would be able to build on the work currently being carried out to register 16- and 17-year olds in advance of the May 2016 Scottish Parliament elections.

This would need to be reinforced by significant public awareness activity at both the national and local level. Political literacy initiatives may also be needed, as would targeted work in schools and other educational institutions to help get the message out to these groups quickly. Additional funding would also be needed to make sure that these activities could be delivered by EROs, the Commission and other relevant bodies.