

Briefing

The role of the Electoral Commission, the Queen's Speech and other electoral priorities

The Electoral Commission is an independent body set up by the UK Parliament. Our aim is integrity and public confidence in the democratic process. Our objectives are:

- Transparency in party and election finance, with high levels of compliance.
- Well-run elections, referendums and electoral registration.

This briefing provides:

- An overview of the Electoral Commission's role and statutory responsibilities.
- Information on the Government's electoral priorities that have been outlined in the Queen's Speech, including:
 - The EU Referendum Bill
 - The Scotland Bill
 - The Wales Bill
 - The Votes for Life Bill
 - The Cities and Local Government Devolution Bill
- The Electoral Commission's priorities for this Parliament, including:
 - The implementation of Individual Electoral Registration
 - Electoral modernisation
 - Electoral fraud and voter ID
 - The Law Commission's review of electoral law
 - The review of Third Party Campaigning
 - Maintaining an effective and proportionate regulatory system

Our briefings to Parliament are also made available to read on our [website](#).

The Role of the Electoral Commission

The Electoral Commission's principles for free elections that support a healthy democracy are:

- **Trust:** people should be able to trust the way our elections work.
- **Participation:** it should be straightforward for people to participate in our elections, whether campaigning or voting; and people should be confident that their voice counts.
- **No undue influence:** there should be no undue influence in the way our elections work.

Our roles and responsibilities include:

- Working to support well-run elections and referendums in the UK, offering support and guidance to those involved. We also work to ensure voters know everything they need to know.
- Reporting on the administration of elections, and we expect to publish our report on the General and English local elections in July this year.
- Working to make sure people understand the rules around political party finance. Alongside this work, we also take action when the rules are broken and publish information on political finance.
- Maintaining and publishing the registers of political parties in Great Britain and Northern Ireland. A political party has to be registered with us in order to field candidates at an election.
- Conducting a wide range of research around elections and referendums, electoral registration and party and election finance. This ensures that our views and recommendations are evidence-based.
- Running campaigns before elections and referendums to make sure people are aware of when and how to register to vote and anything else they need to know.
- Carrying out policy work across a range of areas in order to inform and advise Parliament. We want to ensure that the rules around all aspects of elections are as clear and simple as possible and that the interests of voters are always put first.

Key Priorities in the Queen's Speech

There were a number of Bill's that were outlined in the Queen's Speech on 27 May 2015 that will or may contain some significant electoral matters. The Commission will consider and brief parliament as needed on each of these Bills and any other electoral matters that arise during this parliament. Our initial views on the legislation that has already been announced are below.

European Union Referendum Bill

The Electoral Commission has specific responsibilities and functions in relation to the delivery and regulation of referendums held under the Political Parties, Elections and Referendums Act (PPERA) which would apply to any referendum Bill brought before the UK Parliament unless specifically stated otherwise.

Our responsibilities under PERA include:

- Commenting on the intelligibility of the referendum question.
- Registering organisations or individuals who want to campaign in the referendum.
- Monitoring and taking all reasonable steps to secure, compliance with the financial and spending controls on referendum campaigning, in line with the referendum spending limits imposed by PERA.
- Considering applications for designation as lead campaign groups for each referendum outcome.
- Ensuring that designated organisations (if appointed) have access to certain assistance.
- Reporting on the administration of the referendum and referendum campaign spending.

The Chair of the Commission, or someone they appoint, must act as Chief Counting Officer for the referendum and is responsible for certifying the outcome of the referendum.

Principles

Our focus is on voters and on putting their interests first, which underpins everything we do. So, we have an established set of principles to inform the

conduct of referendums¹. **We would expect any referendum Bill passed by the UK Parliament and the subsequent campaigns to adhere to these principles** and any report we prepared in advance of, or indeed subsequent to, a poll would reflect them.

Referendums should be administered in a way that engenders confidence, is credible, transparent, and open to scrutiny. Our objectives for referendums are that:

- they should be well-run and produce results that are accepted
- there should be integrity and transparency of campaign funding and expenditure

Timing of the Referendum

Following our report on the Scottish Independence Referendum², we set out that holding a poll on such an important constitutional issue on a separate day from other elections helped both administrators and campaigners plan their activity more effectively and gave voters space to engage with the issues. **We said that for other high-profile issues likely to attract cross-party campaigning, such as the UK's membership of the European Union, a referendum should be held on a separate day to other polls.**

A significant number of important polls are already scheduled to take place in May 2016, including: elections for the Scottish Parliament, the National Assembly for Wales, the Northern Ireland Assembly, Police and Crime Commissioners in England and Wales, the London Assembly and Mayor of London, and local authorities in many parts of England. It is important that voters and campaigners are able to engage fully with the issues which are relevant at these elections. It is also important that any debate about the UK's membership of the European Union takes place at a time that allows the full participation of voters and campaigners, uncomplicated by competing messages and activity from elections which might be held on the same day.

We therefore believe that a referendum on an issue as important as the UK's membership of the European Union should not be held on the same day as the other polls taking place on 5 May 2016.

¹ http://www.electoralcommission.org.uk/_data/assets/pdf_file/0007/183742/Referendums-Principles-Letter-Parties-Panels-26-03-2015.pdf

² http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/179812/Scottish-independence-referendum-report.pdf

We also recommend that referendum legislation should be clear at least six months before it is required to be implemented or complied with by campaigners, the Chief Counting Officer, Counting Officers or Electoral Registration Officers.

Question assessment

In line with our statutory duty, the Commission undertook an assessment of the question contained in the European Union (Referendum) Bill, which was introduced as a Private Members' Bill in the previous Parliament.³ However, given the time that has now passed since the Commission tested question wording options for a referendum on the UK's membership of the EU, **the Commission would expect to conduct further testing with the public once any Referendum Bill containing a proposed question has been published. We would also expect to seek views from campaigners on the proposed wording.**

Background

An amendment which was tabled and passed during consideration of the European Union (Referendum) Bill (which was introduced as a Private Members' Bill in June 2013) by the House of Lords changed the wording of the question to: "Should the United Kingdom remain a member of the European Union or leave the European Union?"

We undertook a further assessment of the revised question wording at this point. On the basis of this research we were satisfied that the question wording contained in the Bill following its amendment in the House of Lords (using the response options "Remain a member of the European Union" and "Leave the European Union") was clear and straightforward for voters, and was the most neutral wording from the range of options we considered and tested during our assessments. The only further suggestion from this additional research was that the addition of the acronym 'EU' after the first reference to the European Union in the question itself appears to have aided understanding for some members of the public.

However, the Commission also made clear that during its testing process, it had received limited representation from potential campaigners on the recommended question and in particular the change of approach from the "Yes" and "No"

³ http://www.electoralcommission.org.uk/_data/assets/pdf_file/0004/163282/EU-referendum-question-assessment-report.pdf

response options that has been used at other recent referendums in the UK. Given this limitation and, as mentioned above, the time that has now passed since the Commission tested question wording options for a referendum on the UK's membership of the EU, the Commission would expect to conduct further testing with the public once a proposed question has been published. We would also expect to seek views from campaigners on the proposed wording. This testing and further consultation would inform our statutory duty to publish an assessment of the intelligibility of the question included in a Bill, which we would expect to provide to Parliament before the Bill receives Royal Assent.

Regulatory framework

It is important that the lessons learned from previous referendums can be applied to the campaigning rules for a referendum on the United Kingdom's membership of the European Union. This will not only provide a robust and proportionate regulatory regime, but also improve trust and confidence in the poll.

It will therefore be important to ensure that the Commission's recommendations for legislative change, following recent referendums across the UK, in Wales and most recently in Scotland, can be considered and incorporated into the rules for the referendum. A number of our proposals will require primary legislation and will provide significant updates to the controls currently provided in PPERA.

The regulatory controls for referendums in PPERA have not been updated since the legislation was enacted in 2000. For the two referendums held in 2011, specific referendum legislation was passed which applied additional features and modifications to the PPERA rules for those polls. For the 2014 referendum on independence for Scotland, the PPERA framework was used as a basis for some of the controls and the Commission worked closely with the Scottish Government to develop the legislation.

Since the first PPERA based referendum in 2004, the Commission has published a number of reports recommending legislative changes intended to improve the regulation of referendum campaigners; the latest was a post-poll report following the 2014 referendum on independence for Scotland⁴. We will be publishing a second report in the coming weeks, making further recommendations based on the information campaigners were required to submit in their post-referendum spending and donation returns.

⁴ http://www.electoralcommission.org.uk/data/assets/pdf_file/0010/179812/Scottish-independence-referendum-report.pdf

Scotland Bill and Wales Bill

The Commission is committed to supporting all the legislatures across the UK where the devolution of any electoral issues or any relevant wider reforms are being considered.

The Smith Commission's agreement for Scotland recommends greater flexibility for the Scottish Parliament to manage its own affairs, as well as statutory recognition of the Scottish Parliament in the UK's constitutional framework. Two key proposals relating to elections include:

- devolving powers over the franchise for and the administration and conduct of Scottish Parliament and the remaining non-devolved aspects of the local government elections to the Scottish Parliament
- the power to lower the voting age to 16 for Scottish Parliament and local government elections.

Since the Smith Commission, the Electoral Commission has been working with key stakeholders on both extending the voting franchise, and devolving powers for the Scottish Parliament elections to the Scottish Parliament.

The Scottish Elections (Reduction of Voting Age) Bill has been introduced in the Scottish Parliament to allow 16 year olds to vote at the Scottish Parliament election in 2016 and onwards. The Commission has been asked by the Scottish Government to create a public awareness campaign for 16 and 17 year olds that will coincide with the canvass in late summer 2015, and to further test the Invitation to Register and Household Enquiry forms in light of this.

The Command Paper for devolving Scottish elections (Scottish Parliament elections) to the Scottish Parliament is currently being considered by some committees of the Scottish Parliament. The Commission has been advising both the Cabinet Office and the Scotland Office on matters arising from the draft legislation, including on our accountability to the Scottish Parliament, the impact on the proposed changes to party and election finance and so forth.

Similarly, we stand ready to advise the Cabinet Office and Wales Office on relevant matters that will arise from the anticipated Wales Bill, which will devolve responsibility for National Assembly and local elections to the Welsh Government. We expect this to include the Electoral Commission's accountability to the National Assembly for Wales in respect of those elections and proposed changes to party and election finance, as proposed in the Command Paper of March 2015.

Votes for Life Bill

The franchise for elections or referendums is a matter for the relevant Government and Parliament to decide. The Commission will, however, provide advice on the practical implications of any changes to the franchise for voters, electoral administrators and anyone else that is affected.

Currently, British citizens living abroad can register to vote at a UK Parliamentary election but cannot vote in local government elections. They can register as an overseas elector if they are, or have been, included within the past 15 years in a register of Parliamentary electors in the UK. They are then entitled to vote in that constituency. The 15 year limit has applied from 1 April 2002.

The Electoral Commission has for some time recommended that the UK Government improve voting opportunities for overseas and other electors away on polling day. We welcomed the changes to the election timetable for parliamentary elections passed by Parliament in the Electoral Registration and Administration Act 2013. The Act extended the timetable at parliamentary elections from 17 to 25 working days.

In addition, following the passage of the Act, the UK Government introduced legislation to allow Returning Officers (ROs) to issue postal ballot packs as soon as practicable after the close of nominations. This meant that ROs could send out postal ballot papers to those electors registered for a postal vote as soon as the names of candidates were available to be printed on ballot papers, which was as early as 19 working days before the poll. This should have been of particular benefit to overseas electors and for that reason guidance to ROs was clear that postal votes sent to overseas electors should be prioritised to allow the maximum time for them to be completed and returned.

We are aware, however, that some overseas voters have raised concerns that they did not receive their postal ballot packs in time to return them before the close of poll at the General Election on 7 May. We will look carefully at the evidence about this, which has been shared with us by overseas voters and Returning Officers, when we consider what lessons should be learned for future elections. Our statutory election report will be published and laid in the UK Parliament before in July and we will advise Parliament on any changes that we think may be needed to reflect any recommendations we make in this report.

Cities and Local Government Devolution Bill

We will consider the contents of the Bill when it is published and will, if required, issue briefings as it progresses through Parliament to ensure voters' interests are put first.

Other Key Priorities for the Electoral Commission

Individual Electoral Registration

Individual electoral registration (IER) was introduced in England and Wales in June 2014 and in Scotland on 19 September 2014 after the independence referendum. Since then, we have published a number of reports⁵ on the progress of the transition to IER. The most recent of these looked at the revised electoral registers published in December 2014 (England and Wales) and March 2015 (Scotland). Despite some issues with collecting accurate and reliable data to inform these reports, our analysis found that the electorate had fallen by around 800,000 from the time of the previous revised register publication (February/March 2014). A wide range of activity designed to drive electoral registration then took place in the run up to the May elections. This saw the electorate increase again to slightly more than the level it was at before the transition to IER began (there were around 46.4m entries on the UK Parliamentary registers in May 2015 compared to 45.6 million entries in February/March 2014).

We plan to report again in June 2015 on our assessment of progress with the transition. This will be based on data collected on the registers in force for the May 2015 elections and will be designed to inform the Ministerial decision on whether the transition end date should be brought forward from December 2016 to December 2015. Our report will consider not only changes to the overall number of entries on the register in force for elections in May 2016, but also any available evidence about significant local geographic or demographic variations.

In our February and April 2015 reports, as well as to the Political and Constitutional Reform Committee in March 2015, we stated that without reliable data about electoral registration, in June 2015, from Electoral Registration Officers (EROs) it is highly unlikely that the Commission would be able to

⁵ <http://www.electoralcommission.org.uk/find-information-by-subject/electoral-registration/monitoring-the-change-to-individual-electoral-registration>

recommend in any circumstances that the end of the transition to IER should be brought forward to December 2015. However, we have been working with the Cabinet Office, electoral management software suppliers and in-house system developers in order to ensure that the data we plan to collect during May 2015 will be more accurate and reliable.

A significant number and range of polls are scheduled to take place across Great Britain in May 2016 including: elections to the Scottish Parliament; the National Assembly for Wales; the Mayor of London and London Assembly; Police and Crime Commissioners across England (except in London) and Wales; and local government elections in many areas of England. The revised registers to be published in December 2015 will form the basis of the registers to be used for these polls in May 2016. Our aim will be to make a clear assessment of the effect on the registers of ending the transition in December 2015, and therefore removing entries for those electors not registered individually or confirmed at that point, ahead of these elections.

Electoral modernisation

The Commission has indicated that it is going to look during this parliament at ways that our electoral system can be further modernised following the introduction of IER and online registration. One area that we plan to include in this work is to consider how EROs can capitalise on the many interactions citizens already have with a wide range of public services, to help increase both the accuracy and completeness of electoral registers. We believe that this in particular should be a priority for the continuing transformation of electoral registration in the UK to take advantage of an increasing appetite for and take-up of public services online, which now includes online electoral registration in Great Britain.

We will continue to encourage and work with the Government and EROs to develop workable proposals for prompting people to register to vote or update their registration details when they carry out key transactions such as changing their GP, applying for a driving licence or renewing their passport. This will, however, depend heavily on securing a strong cross-government agreement to make the necessary changes to departmental and agency processes, forms and websites.

We see this as a priority as the Government considers what arrangements should be in place when the registration system moves into 'steady state' at the end of the transition to IER.

Electoral fraud and voter identification requirements at polling stations

The Electoral Commission is committed to ensuring that electoral fraud is prevented, allegations are swiftly investigated, and actual instances of fraud are detected and punished in the relatively rare cases that they are committed. We would welcome the opportunity to discuss with you in more detail our work with EROs, ROs, police forces and campaigners to prevent electoral fraud ahead of the May 2015 elections.⁶

In our January 2014 report on electoral fraud in the UK we identified that polling station voting in Great Britain remains vulnerable to personation fraud because there are currently few checks available to prevent someone claiming to be an elector and then casting a vote in their name.⁷ This part of the system could become more vulnerable to fraud as other processes (including electoral registration and postal or proxy voting) become more secure. We therefore concluded that there should be a requirement for electors across Great Britain to present an acceptable form of identification prior to voting at the polling station. We recommended that such a scheme should be introduced in time to be applied for elections in 2019.

We said that we would consult widely and work with others to identify and develop a robust, proportionate, accessible and cost-effective scheme for verifying the identity of electors at polling stations. This work has reinforced our view that any scheme must – as in Northern Ireland – provide for electors to easily obtain an alternative form of identification free of charge specifically for the purpose of voting (i.e. an electoral identity card) if they do not have access to any other specified form of identification. We have also commissioned a costing model to determine the financial implications of implementing an electoral identity card scheme across GB under a number of different scenarios.

⁶ Electoral Commission, [Plans for tackling electoral fraud ahead of the May 2015 elections – briefing](#) (January 2105)

⁷ Electoral Commission, [Electoral fraud in the UK: final report and recommendations](#) (January 2014)

Law Commission's review of electoral law

The Law Commissions of England and Wales, Scotland and Northern Ireland are currently reviewing electoral law and will be making recommendations for change. The aims of the project are to:

- consolidate the many existing sources of electoral law, and
- modernise and simplify the law, making it fit for elections in the 21st century

The Electoral Commission strongly supports the Law Commissions' electoral law reform project. There are currently over 55 Acts and over 172 pieces of secondary legislation that have a bearing on the delivery of elections. A simpler and more modern legal framework will enable well-run elections and make it easier for candidates and voters to take part. We have been supporting and contributing to the Law Commissions' work to help inform their review and **we hope that the Government will also continue to support this work and commit to considering and implementing its final recommendations when they are published.**

Review of Third Party Campaigning

The Transparency of Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014 made a number of changes to the existing rules for 'non-party campaigners' that are set out in the Political Parties, Elections and Referendums Act, 2000. These are individuals and organisations that campaign in the run up to elections but do not stand as political parties or candidates.

These changes included:

- widening the range of activities covered by the rules
- reducing the amount campaigners can spend on these activities by 60%
- increasing the amount campaigners can spend before they have to register with us
- introducing new spending limits for activities that have effect in a particular constituency
- introducing new pre-poll donation reporting requirements

The previous Government appointed Lord Hodgson of Astley Abbots to conduct a review into the effectiveness and intelligibility of the rules. We will be sharing our experiences with Lord Hodgson's review, and will also flag any of our recommendations for change as part of our post-poll reports on the election.

Maintaining an effective and proportionate regulatory system

The Electoral Commission's statutory role as the regulator of party and election finance in the UK includes a duty to keep the legal framework under review, and make recommendations for change where we believe these would improve the system.

In July 2013, following a comprehensive review of the UK's current system of party and election finance regulation, we published a report of our findings, making recommendations to Government to update the law covering political parties and other campaigners.⁸

We made several key recommendations to make the system simpler and more user-friendly, whilst maintaining the robust framework that ensures that the financial activities of campaigners and donors are reported and published for transparency. These include:

- removing some regulatory requirements from smaller parties and campaigners which raise and spend relatively little money
- subjecting impermissible donations to a civil forfeiture process
- simplifying the weekly donation and loan reporting requirements for political parties at UK Parliamentary general elections
- regulating election-related staff costs for political parties
- providing the Electoral Commission with investigative powers and sanctions for offences relating to candidate spending and donations at specified elections

We have also made a number of recommendations for change in our first report on the Scottish Independence Referendum⁹, and will be making further proposals for change when our spending report on the poll is published in the coming weeks.

⁸ The Electoral Commission, [A regulatory review of the UK's party and election finance laws: Recommendations for change](#), (June, 2013)

⁹ Electoral Commission, [Scottish Independence Referendum: Report on the referendum held on 18 September 2014](#), (December, 2014)