

Local Government and Public Services Committee

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Meeting date: Thursday 17 November 2005

Meeting time: 9.15am to 12.30pm

Meeting venue: Committee Rooms 3 & 4, National Assembly for Wales

Electoral Administration Bill

Background

This briefing provides a commentary from The Electoral Commission on the Electoral Administration Bill currently being debated in the UK Parliament. The Bill had its Second Reading in the House of Commons on 25 October and is in Committee from 8 November 2005.

The Electoral Commission was established as an independent statutory body five years ago, under the provisions of the Political Parties, Elections and Referendums Act 2000 (PPERA). We are accountable to Parliament through the Speaker's Committee and are responsible for overseeing a number of aspects of the electoral process: the registration of political parties and third parties; monitoring and publication of significant donations to registered political parties; and regulation of national party spending on election campaigns. The Commission has a statutory duty to promote public awareness of our democratic systems, to report on the administration of every major election, and to keep the legal framework for elections under review. In parallel with these responsibilities, the Commission provides guidance to Returning Officers, Electoral Registration Officers and political parties on electoral law and practice. The Commission aims to promote integrity, involvement and effectiveness in the democratic process.

Key issues

The Electoral Commission welcomes the introduction of the Electoral Administration Bill. We are pleased that it provides for many of the changes we have recommended to improve participation in, and the accessibility, administration and security of, the electoral system.

In particular we welcome the provisions for:

- enabling people to register after an election has been called – up to 11 days before polling day;
- new offences relating to the provision of false registration information and fraudulent applications for postal or proxy voting; and

- the introduction of performance standards for elections officials, in order to secure more consistency in the way elections are administered across the UK.

However, the Commission is concerned that the Bill does not make full provision for individual registration to replace the outdated household registration system, which is open to abuse and error, with a system that is both desirable in principle and vital as a means of underpinning the security of postal voting. Having worked closely with the UK Government on ways to reform the registration system, we are disappointed that this has not yet been adopted. We are concerned that the experiments with collecting personal identifiers (date of birth or signature) for which the Bill provides will not offer safeguards against postal voting fraud quickly enough, or on a sufficiently wide scale.

The Commission is committed to continuing to work with the UK Government and other political parties during the passage of the Bill with the aim of ensuring that its recommendations for improving the security and reliability of the system, so that voters can participate with confidence, continue to be considered; and hopes, of course, that the Government and Parliament will accept the recommendations.

Provisions welcomed by the Commission

The Commission is particularly pleased to see that provisions have been made in the following key areas:

Access and participation measures

- Enabling people to register after an election has been called – up to 11 days before polling day (clause 11).
- Improving the process for voters with specific access needs, by requiring regular reviews of the accessibility of polling stations (clause 19), allowing explanatory electoral materials to be translated into alternative languages (clause 34) and providing more assistance for postal voters (clause 35).
- Allowing Electoral Registration Officers and Returning Officers to actively encourage participation in elections and referendums (clause 63).
- Allowing independent observers at elections and referendums for the first time (clause 31).
- Reducing the minimum age of candidacy at all elections from 21 to 18 (clause 20).
- Changing the nomination process through measures which include the standardisation of deposits, the lowering of the forfeiture threshold from 5% to 2% and the reintroduction of descriptions for independent candidates (clauses 22 and 23).

Administrative and resource measures

- Reducing the administrative burdens placed on political parties, candidates and others through improvements to the Political Parties, Elections and Referendums Act 2000 (PPERA), while maintaining the necessary transparency and accountability (clauses 27–29, Part 7).
- Introducing performance standards for local authority electoral services (clause 61).

Security measures

- Providing stronger deterrents against electoral fraud through the introduction of two new elections offences relating to the provision of false registration

information (clause 18) and fraudulent applications for postal and proxy votes (clause 38).

- Clarifying the law on undue influence (clause 37).

While not included within the Electoral Administration Bill itself, the Commission also welcomes the Government's commitment to provide for a number of measures in secondary legislation to improve the postal voting system, including:

- the confirmation of all postal vote applications in writing;
- a requirement for all postal vote applications to be returned direct to the Electoral Registration Officer; and
- allowing for the Returning Officer, under appropriate security arrangements, to collect returned postal ballots from polling stations before the close of poll.

Key areas of concern

The Commission is disappointed that the Bill does not provide for a number of measures it believes would work to further improve the electoral system.

In particular the Commission is disappointed and concerned that the Bill does not make provision for individual registration in line with the recommendations it has made. The Commission also has significant concerns regarding the piloting provisions included within the Bill.

Individual registration

Although the Bill provides for the collection of personal identifiers (date of birth and signature) when electors register to vote, the Commission is disappointed that the Government has not yet agreed to a change from household to individual registration.

Registering to vote is each elector's democratic right. Having the 'head of household' responsible for registering other people to vote is an outdated system that is open to abuse and error. Individual registration would:

- help to encourage ownership of, and involvement, in the democratic process;
- improve the security and accuracy of the register, giving a firm security underpinning for postal voting, allowing people to participate with confidence;
- allow checks to be carried out to prevent postal voting fraud;
- provide for the safe use of new voting technologies and progress towards the goal of multi-channel voting; and
- allow people, including those with disabilities, to specify for themselves the forms of communication they will find most accessible

The Commission recognises concerns that the initial impact of a switch to individual registration may be a fall in the number of entries on the electoral register. The Commission's proposals have always highlighted the need to minimise this risk by introducing individual registration as part of a package that ensures adequate funding, a realistic timetable for implementation, and high profile public information campaigns supported by other initiatives such as data-matching.

In recognition of the need to minimise any potential adverse impact on registration rates, the Commission recommends the Northern Ireland requirement for National Insurance numbers should not be introduced in Great Britain.

The Commission supports the use of data-matching against other public registers to more effectively identify and target potentially eligible electors who are not yet registered. However, the implications of sharing information between local authorities, government departments and other agencies extend beyond simply electoral registration, and will require detailed consideration by expert agencies such as the Office of the Information Commissioner.

We also believe that other changes in the Bill – in particular the new ability to register close to the election date and the duty on Electoral Registration Officers to maximise registration – would help to limit any reduction. We would also point to the evidence from Northern Ireland, where research has indicated that an initial drop in registration rates reflected not an increase in the accuracy and integrity of the electoral register, including the removal of duplicate entries. The Northern Ireland register is now more accurate than was the case under household registration.

There are also a number of other provisions in the Bill whose effect would be limited without the implementation of individual registration. These include the ability to check potential duplicate entries on the register via a Coordinated Online Record of Electors (CORE), provisions to register anonymously and the provision for voters to sign for ballot papers in polling stations as a security measure in the absence of individual identifiers against which to check the signatures (The Commission believes that this last provision is a disproportionate measure, and takes the view that the more urgent need is that adequate checks be put in place for postal voting).

Piloting of personal identifiers

The Bill does provide for piloting, not of individual registration using individual forms, but the collection of personal identifiers using the existing household form. The Commission does not believe that piloting changes to the registration process would be appropriate, not only because it strongly believes in the principle of individual registration, but also because of the urgent need to take steps to improve the security of postal voting throughout the country. Without individual registration and the collection of personal identification details, it is hard to see how the very real concerns which people have about the security of the postal voting system can be properly addressed. The piloting approach would leave some areas of the country with less security for postal voting than the Commission has said is necessary, and gives no certainty that that individual identifiers will soon become an integral part of the postal voting system throughout the country.

Beyond the Commission's concerns about the principles, we hold a number of concerns about the effectiveness and value of pilots as provided for within the Bill:

- Piloting reliant on voluntary applications from local authorities risks failing to provide either a sufficient evidence base or a necessary scale to allow the Commission, and local authorities, to run effective public awareness campaigns – which our experience in Northern Ireland suggests are crucial to the successful introduction of such a change. If pilots were to go ahead we would prefer to see them cover whole regions or nations with clearly defined and widely consumed media channels.

- Given that the Government's main reason for piloting is concern about the impact on registration rates, it follows that an extended period would be needed in order to assess the extent to which registration rates can be maintained (or increased) alongside the change. However, the need for introducing personal identifiers into the system, especially the postal voting system, is urgent.
- The sort of public information campaigns, staff training, data-matching and data-sharing arrangements that are necessary to ensure effective support to a significant change such as moving to individual registration will be difficult to implement if the pilots are scattered and small scale. It is not yet clear how the Government would envisage the pilot programme being conducted, so it is difficult to gauge how it would work in practice.
- It is not clear what additional value pilots could add to the experiences gained, and lessons learned, from the introduction of individual registration in Northern Ireland.

Other areas of concern

The Commission has a number of other concerns about provisions within the Bill, including:

- The exclusion of Northern Ireland from provisions to introduce performance standards (excluded by clause 70). The Commission believes that the introduction of performance standards for electoral services should be UK-wide to ensure equality of service delivery, while recognising the particular circumstances of Northern Ireland.
- Allowing candidates to use common surnames (clause 25) as well as common forenames (which the Commission **did** recommend); we believe that the provision on surnames could lead to the abuse of the process.
- A requirement for compulsory use of both serial numbers **and** barcodes on ballot papers (schedule 1), which the Commission is concerned will prove impractical and costly.

The Commission also believes that the Bill provides an opportunity for the introduction of further measures to improve the working of the Political Parties, Elections and Referendums Act 2000:

- Introduction of requirements for on-line materials (i.e. web pages and email communications) to carry details of the originator of the material, which will ensure that requirements for on-line materials are brought into line with imprint requirements for print materials.
- The de-registration of political parties who fail to submit their statements of accounts within a specified deadline, as an alternative to prosecution through the Courts.
- The exemption of holders of relevant elective office from the requirement to report donations to the Commission under Schedule 7 of PPERA, as well as to their relevant standards bodies.

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