



Cabinet Office

The UK Government's response to the Electoral Commission's reports on the European Parliamentary (and local) elections in May 2019 and *the early Parliamentary General Election on 12 December 2019*

This response also incorporates responses to the Association of Electoral Administrators' position statements relating to those elections.

September 2020

Foreword

I am pleased to publish the Government's response to the Electoral Commission's (EC) reports on the European Parliamentary (and local) elections in May 2019 and the early Parliamentary General Election on 12 December 2019. The response also responds to the Association of the Electoral Administrators (AEA) statements on both elections. Their reports help us to ensure that our democracy remains world-leading by identifying current challenges and opportunities. On behalf of the Government I would like to express my gratitude to the EC and the AEA for their comprehensive reports and continuous support in upholding the integrity of our electoral system.

I welcome the EC's finding that overall the 2019 General Election and 2019 European Parliamentary (and local) elections were generally well run, particularly given the unique circumstances around both ballots. I am grateful to all of the organisations that contributed to the effective running and monitoring of the election, especially in light of the relatively short notice period prior to the early General Election. We recognise that an unscheduled poll of this nature requires significant effort to implement and run successfully.

We are putting citizens' participation at the heart of our democracy and their confidence is key. Electoral Commission research found that people were very satisfied with the process of registering to vote and voting at the 2019 UK general election: with 78% of people satisfied with the process of registering to vote; 93% of people who voted at the election were satisfied with the process of voting and 88% of people said it was easy to get both information on how to register to vote, and how to cast their vote. These were similar to positive levels of satisfaction that were found at other recent UK wide elections or referendums. However I fully recognise that a significant minority of people (18%) said that they were not confident the election was well-run and I am committed to working with the relevant bodies to address the underlying concerns highlighted.

The Government's response examines the relevant issues raised by both the EC and the AEA. It looks at the administration of elections, the regulation of electoral campaigning and finance, and electoral registration, and it sets out the Government's intention to ensure citizens are empowered to make informed decisions by increasing transparency in online political campaigning and ensuring rules on campaign donations and spending are effective.

We are absolutely committed to working with electoral administrators and the regulator, social media platforms, and security and transparency organisations, to deliver on our collective responsibility to empower voters, strengthen public trust in politics and, ultimately, be sure of the integrity of our elections.

We will update the UK's democratic laws, to bring them in line with how society operates today and reflect modern campaigning practices. But this government will not rush forward new laws if they are not ready, practical or proportionate - and Parliament would rightly not approve them. We need to get these principles right in practice. The future functioning of our democracy depends on it - and this work will not stop. We are concentrating on the promises we made in our manifesto including to ensure electoral integrity by introducing voter ID and bringing forward changes to strengthen postal vote processes and to equalise constituencies amongst other changes.

The UK has a proud record when it comes to defending democracy, we will continue to maintain public confidence, and improve the safeguards that underpin Britain's reputation for free and fair elections from those who might seek to undermine our democracy.

Chloe Smith

Minister of State for Constitution and Devolution

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Introduction

The Government welcomes the Electoral Commission (EC)'s reports on the European Parliamentary elections that took place on 22 May 2019 (which also considers the local elections that took place on 2 May 2019) and on the 2019 December UK General Parliamentary Election. The Government also welcomes the AEA's position statements relevant to both polls and provides comment and responses to relevant points alongside those for the Electoral Commission's recommendations.

The Government is committed to ensuring a flourishing and secure democracy and promoting the integrity of the UK electoral system. We will continue to safeguard against future risks, strengthen our resilience and ensure that the regulatory framework is as effective as possible.

We have taken the time to reflect on the issues and recommendations raised in the EC reports and the Association of the Electoral Administrators (AEA)'s statements. This response addresses the majority of those recommendations, and sets out the actions we are taking to improve our elections. Section 1 deals with the administration of elections, section 2 addresses the regulation of electoral campaigning and finance, and section 3 looks at the experience of the voters.

Section 1: Administration of the Elections

The Government acknowledges the challenges faced by electoral administrators as set out in both Electoral Commission reports and it is sincerely grateful for their continued hard work and dedication.

The Government is aware of, and sympathetic to, the pressures faced by Electoral Registration Officers (EROs) and Returning Officers (ROs). In light of feedback from a variety of stakeholders, following the recent major polls, Cabinet Office is leading a new Registration Volumes Project to actively consider how to minimise or mitigate the impact of high registration application volumes, particularly in the period before major polls. Part of this project includes considering what could be done to reduce the number of duplicate applications to register. The Government will continue to work with the EC and the AEA and other relevant stakeholders, including the Society for Local Authority Chief Executives (SOLACE), Local Authorities and the devolved administrations, to identify issues EROs and ROs face at major electoral events and develop solutions to help ensure the registration (and other elections) processes work for both voters and electoral administrators.

In relation to the EC's recommendation about funding, legislation provides for the cost of electoral registration, which is an ongoing responsibility for each local authority, to be borne by the authorities as part of their underlying duties and cannot be included in costs accruing from

conducting national polls. Whilst we are continuing to consider options for the funding of elections we are not seeking to make any changes to this element at present.

We have reviewed the operation of the annual canvass and introduced changes which are less prescriptive, and will allow greater scope for EROs to innovate and target resources where they are most needed.

We have allowed additional time for Returning Officers and their teams to complete and submit claims for funding for recent elections, including the May 2019 European Parliamentary elections and the December 2019 General Election, as we may also do for the Police and Crime Commissioner (PCC) elections in May 2021 if administrators consider that may be helpful to them. We have also allowed administrators to submit funding claims electronically in the current circumstances.

With regard to the question of operational delivery and supply systems for elections that the AEA has raised, we are currently working with commercial colleagues from the Government Commercial Function, to explore the challenges that face the Electoral Management software suppliers and the election print suppliers. We are currently undertaking this review to understand these challenges and possible support that the Cabinet Office can provide, in view of driving the delivery of high quality services and to future proof service requirements. Alongside this, we are looking at the way the electoral process works in order to consider any need for change and we are engaging with the key stakeholders and suppliers on this issue.

Capacity & collaboration issues

We have seen polls take place in unexpected circumstances and at unusual times in recent years and issues have arisen that cut across the responsibilities departmental responsibilities, and departments work closely together to address these issues. We will work together when such issues arise and will continue to do so in the future. We are happy to hear of anything in particular that is a concern and to engage to address them.

Contingency Planning in Northern Ireland

The Electoral Commission report for May 2019 raises points around contingency planning in Northern Ireland. The Chief Electoral Officer (CEO) for Northern Ireland is an independent statutory office holder who is independent of both government and local councils. She is appointed by and reports directly to the Secretary of State for Northern Ireland and is accountable through him to Parliament, producing an annual report on performance that must be laid in Parliament. The current arrangements provide a robust and transparent accountability mechanism and we have no plans to change them.

The CEO for Northern Ireland consults and engages with stakeholders at every level, including political parties, elected representatives, the Electoral Commission, the media and individual electors. The CEO for Northern Ireland holds regular meetings with representatives of all the major political parties at the Assembly Parties Panel meetings hosted by the Electoral Commission and has frequent contact on an ad hoc basis with party representatives.

The Government is aware that, in advance of the European Parliamentary election, the Chief Electoral Officer made it clear to the Electoral Commission that as an independent office holder she could not spend public money without the release of HM Treasury funds. Nevertheless, the CEO advised the Electoral Commission that she was engaged in detailed contingency planning.

Legislation

The Government has welcomed the Law Commissions' recently published Electoral Law report, which is raised by both the EC and AEA. The Government will consider the issues discussed in the report, in conjunction with its wider programme of electoral integrity reforms, and will respond fully in due course. However, any process of consolidation will inevitably be a long-term project, as with the implementation of most Law Commission consolidation programmes. The Government's immediate priority is the implementation of its manifesto commitments. Some of the Law Commission's proposals involve substantive changes to policy, rather than just legislative consolidation – any such substantive change would need to be carefully considered, and the views of other interested parties taken into account.

The Government notes the recommendation in the EC report for the European Parliamentary (and local) elections in May 2019 for: *“electoral law reform to simplify the legal process for challenging elections, particularly so that mistakes made by ROs can be rectified more quickly without recourse to the election petition process”*. The Government will consider these matters further, in consultation with stakeholders, as part of its work on electoral integrity. Much thought has been given to the election petition system as outlined in the Government response to the Pickles report on electoral fraud, and the Government has said it is minded to bring forward legislation for change. However, due to pressures on Parliamentary time and the need to implement manifesto pledges on electoral law, we will work towards making changes to the election petition process at a later date.

We have noted the points raised in relation to reviews of polling districts and polling places reviews being carried out at the time of the General Election. Currently, local authorities are required to carry out a review of polling districts and polling places every five years, within a specified period of 16 months. Importantly, these reviews assess the accessibility of existing polling places at elections and may designate new locations as polling places which are deemed to be accessible to electors who are disabled. These reviews will also enable polling districts to be updated following a boundary review. Given the importance of reviews of polling districts and polling places in ensuring that the electoral process is accessible to voters, it is important that the existing frequency of these reviews should be maintained. The Government has committed to repealing the Fixed-term Parliaments Act 2011 and under the Parliamentary Constituencies Bill, currently before Parliament, boundary reviews will take place every eight years. It is recognised that it may be appropriate for there to be more flexibility in the timescale for carrying out the reviews within the 5 year period within which they are required to be carried out. We will therefore keep this matter under review.

The AEA recommended that the *“UK Government should amend legislation to allow for the publication of the revised register of electors to be delayed if the Notice of Election for all polls is published during the annual canvass”*. We recognise the specific situation that arose as a result of an extraordinary General Election taking place in December 2019, shortly after the final publication date for the revised registers. However, the government has no plans at this point to change the legislation.

Electoral process

The EC and AEA made several recommendations to examine different electoral processes. On the home address of election agents the EC's report for May 2019 makes recommendations around the nomination process (the AEA position statement makes similar points). We are aware that there is a requirement in law at elections for the election agent for a candidate – and a candidate may act as their own election agent - to provide their name and address which are made public. It would require primary legislation to amend these provisions. We will wish to consider carefully the implications of making any changes to the current requirements and will keep the matter under review.

The AEA also noted what it saw as an *'administrative oversight introduced by the home address form'* which affects the 'proper officer's' access to that information. We have made changes in secondary legislation in relation to the public availability of the home address of candidates at elections, however this recommendation concerns the supply of the home address of those candidates who are successfully elected to the 'proper officer' after the poll. This would seem to be an administrative matter outside the scope of the previous changes, rather than an oversight. We will look to work with SOLACE and the AEA to address this issue

The AEA recommended that once canvass reform is implemented, that the Government *"undertake a review of the registration system, to clarify and improve the voter experience for those needing to complete two registration processes during the annual canvass period"*. The Government has no current plans to review the two stage process, but we would of course consider any suggestions for improvements which are put to us. As mentioned previously, we are actively looking at improving aspects of the registration process to enable effective delivery of elections and the manifesto commitment to deliver votes for life for British citizens overseas.

Funding

The Government notes the AEA's recommendation to review the funding of national elections and, more detailed recommendations on fees and charges, including on guidance and staffing.

There are challenges in providing funding significantly ahead of a poll that accurately reflect the particular circumstances of each voting area at the time of an election due to changes in electorate etc. running up to a poll.

Whilst guidance provided to Returning Officers in relation to election expenses has remained largely the same over the years, it is not possible to address new circumstances for an unscheduled election until they are known and have been considered. That said, experience of, and policy making around, such circumstances should support more expeditious decision making in future where issues arise again. In general, provisions have been put in place to address issues such as cancelled holidays and additional funding for elections in winter and there is a concern to ensure effective support is in place.

There is a continuing commitment to review the claims system going forward to take account of experiences - both for electoral administrators and at the Elections Claims Unit - and in light of upcoming changes to regularity of boundary reviews.

Local authorities have a statutory duty to appoint an ERO¹ and to provide them with sufficient resources to fulfil their registration duties.² In addition, the Government has provided £100 million of extra support to cover the additional costs of Individual Electoral Registration as the new system beds in.

The Government, of course, recognises that local government finances have tightened considerably in recent years. This means that the delivery of electoral registration services, alongside other local authority services, needs to be reviewed so that they are delivered as effectively and efficiently as possible. The Government is playing its part in this by removing unnecessary bureaucracy and ensuring that EROs have the necessary tools to do their jobs. This includes the reformed annual canvass which is being rolled out for the first time this year.

¹ Section 8, Representation of the People Act 1983

² Section 54, Representation of the People Act 1983

Section 2: Campaigning at the Elections

The Government is grateful to the EC for surveying public confidence in the 2019 UK Parliamentary General Election. While the survey highlighted that 69% of people were confident that the election was well-run, it also served to pinpoint areas of public concern. One of these areas is campaigning, with a small but important minority of people believing that “*campaigning was based on incorrect information/made untrue claims.*” The Government is absolutely committed to preserving people’s confidence in campaigning, the wider electoral process and their democratic choices.

This is why the Government will implement an imprints regime for digital election material. The EC’s reports on the May 2019 elections and 2019 UK Parliamentary General Election both call for “*swift progress on legislation that would require campaigners to include imprints on their digital campaign material.*” The Government endorses this recommendation and is confident that these new imprints will ensure greater transparency and make it clearer to the electorate who has promoted digital election material. The Government has already carried out an initial consultation and has just launched a further consultation on a technical proposal for digital imprints. This consultation will consider a range of technical issues such as the scope of the regime; the appearance of the imprint; and where the imprint should be located. These issues reflect the fact that digital material is very different from printed literature intended for physical mass distribution. The EC’s report stressed the need to “*protect trust and confidence in campaigns*” and the Government strongly believes that the introduction of digital imprints will empower voters to make decisions about the trustworthiness of digital election material.

The Government recognises that there are some gaps in electoral law, as the EC report rightly identifies. Digital imprints is one way in which the Government is updating the campaigning regulatory framework and adapting to the growing use of digital technologies in elections. We are also engaging closely with the major social media platforms to discuss the most effective and proportionate responses to the increase in online political advertising. Several social media companies have implemented measures to improve the transparency of political advertisements on their platforms, including introducing advertising archives. We welcome these efforts which represent an improvement in companies’ efforts and platforms should continue to make as much data as possible available to researchers and academics to facilitate discussion about what interventions may be appropriate in this space.

To further support trust and confidence in election campaigns, the EC calls on campaigners, candidates and political parties “*to take greater responsibility for the presentation and content of campaigns they run.*” The Government is clear that all campaign material, policy or political arguments which can be rebutted by rival campaigners and a free and independent press as part of the normal course of political debate are not regulated. It is a matter for voters to decide whether they consider this material to be accurate or not.

The EC recommends that the “*steps taken to secure democratic processes must continue.*” The Government is clear that it is, and will always be, an absolute priority to protect the UK’s democratic and electoral processes. The EC report notes that the Government has developed a coordinated structure, collaborating with relevant organisations, to identify and respond to emerging issues, and protect the integrity, safety and security of democratic processes. The

Government has worked with a large number of partners to do this, and would like to thank them for their continued support and work in this area.

The EC emphasises that “*controls on donations and loans for political parties and campaigners should be improved*” and the Government is clear that transparency of electoral spending is a cornerstone of the UK’s electoral system. Nonetheless, the Government will not become complacent and will continue to review the rules that govern the spending of and donations to political parties, campaigners and candidates. It is important that these rules continue to provide a level playing field for campaigning, both offline and online. Our legal framework means that political parties and non-party campaigners can only accept donations and loans over £500 (or £50, for candidates) from certain UK-based sources and overseas electors. This helps ensure that only those with a genuine interest in UK electoral events can make donations.

The UK Government recognises that intimidation in public life can stop talented individuals, particularly women and those from minority backgrounds, from standing for public office. We recognise that several MPs have already stood down as a result of the ongoing abuse they have faced. Democracy is a core British value and key to a healthy democracy is having respectful, vibrant, and open debate. However, this freedom cannot be an excuse to cause harm or spread hatred, and a line is crossed when disagreement mutates into intimidation, violence or abuse. This is why we are continuing to “*take steps to tackle intimidation*”, as the EC report recommends. The Government has committed to legislate to introduce a new electoral offence of intimidating a candidate or campaigner during the run up to an election, either in person or online. The new electoral offence is being developed to crack down on the intimidation and abuse being suffered by those at the forefront of public service. Intimidatory or abusive behaviour is a crime, which in extreme cases is already punishable with a custodial sentence. The Government has also committed to legislate to clarify the electoral offence of undue influence of a voter. This offence, which includes acts or threats of violence to manipulate someone’s vote, will additionally cover intimidation inside and outside the polling station. Clarifying the offence in electoral law will enable enforcement agencies to enact sanctions more effectively and protect voters from undue influence.

Finally, the EC’s report on the May 2019 elections highlights that the late confirmation that the European Parliamentary elections would take place “*meant that there was not much time for new political parties to register or for existing parties to update*” their details. The Government acknowledges that this was an unprecedented situation, since these elections had not been expected to go ahead even though they remained scheduled in law. For this reason, the Government worked closely with the EC and other agencies to support the smooth running of the polls on 23 May 2019.

It should also be noted that parties are able to apply to the EC to join the register or alter their details at any time. The EC has a responsibility under the Political Parties, Elections and Referendums Act 2000 (PPERA) to maintain the register of political parties and consider new applications or applications to alter details on the register against a number of tests that are set out in law.

The Government is in the process of taking forward a programme of work which will further strengthen our campaigning framework and ensure that electoral campaigns are conducted in a

manner which is secure and fit for the digital age. We are absolutely committed to working with the electoral community, political parties, campaigners and voters, social media platforms, and security and transparency organisations, to deliver on our collective responsibility to inform and empower the electorate, strengthen public trust in politics and, ultimately, the integrity of our elections.

Section 3: Experience of voters

In the European Parliamentary (and local) elections in May 2019 EC report reviewed the experience of voters under three main categories:

- Confidence that the elections were run well;
- Registering and voting by citizens of other EU countries; and
- Voting by British citizens living abroad.

The EC report on the Parliamentary General Election in December 2019 looks at the experience of overseas voters and summarises the research that EC carried out in 2019.

The Government is committed to ensuring a high level of public confidence in elections and we are pleased to note that most people surveyed said they were confident the May 2019 elections were well-run. The Government was pleased to note people were very satisfied with the process of registering to vote and voting in the December 2019 election and people generally thought they had enough information.

We note that the levels of confidence in the administration of polls were lower than in previous years and we will continue to build trust in our electoral system. We will look at the concerns raised and continue to work with our partners (EC/AEA/SOLACE) on identifying ways to further improve voter confidence.

Overseas Voting

The Government recognises the importance of a smooth and timely process for overseas electors. We have already amended the timetable for UK elections to extend the time available for postal vote packs to be printed, posted and returned. This action was taken to allow sufficient time in the election timetable for postal ballot papers to be sent out and returned by overseas voters in time to be counted on polling day.

In addition, the register to vote website was updated in 2016 to encourage overseas voters living in more remote parts of the world, or anywhere where the local postal service may be less reliable, to consider appointing a proxy in the UK to cast their vote on their behalf.

The Government has also funded the use of the International Business Response Licence for postal vote reply envelopes since 2016 which, as noted in the Commission's report on the May 2019 elections, is routinely used by Returning Officers. This licence expedites the return of ballot packs from overseas, as well as covering any postage costs that might otherwise be incurred. The Government also worked with Royal Mail ahead of the 2019 General Election to set up a dedicated scheme for Returning Officers to use to expedite the delivery of postal votes to overseas electors, as noted in the Commission's report on the 2019 General Election.

Despite the above actions, the Government recognises the feedback from the electoral community (including the recommendations in the Electoral Commission reports) and voters, and committed to making it easier for expats to vote in its 2019 manifesto.

The Government is committed to scrapping the arbitrary rule that prevents British citizens who have lived abroad for more than 15 years from participating in UK parliamentary elections, and to making it easier for expats to vote. We are considering the appropriate legislative vehicle to deliver these changes, which are manifesto commitments, and we will make an announcement on our intentions in due course.

Conclusion

The unscheduled early UK General Election in December 2019 posed a significant challenge for all involved in delivering elections in the UK much more so than the unscheduled General Election in 2017.

The Government recognises and appreciates the efforts of stakeholders to ensure our elections were successfully delivered. We welcome the reports of the EC and the AEA as a means of identifying issues to be considered for the future. Their analysis helps the Government to monitor the effectiveness of elections and to ensure electoral policy continues to develop to address current challenges.

The Government has an ambitious programme of electoral reform planned and we look forward to working with the Electoral Commission and other stakeholders to ensure that it is effectively implemented.