CabinetOffice

The UK Government's Response to Reports on the Administration of the 2010 UK Parliamentary General Election

Including Reports from the Electoral Commission, Association of Electoral Administrators, SCOPE and the GLA's Elections Review Working Group

September 2011

Introduction

The Government welcomes the Electoral Commission's *Report on the administration of the 2010 UK General Election*[i] and we are pleased to offer our response to the report and its recommendations. We would also like to take the opportunity to welcome and respond to the other reports published following the Parliamentary elections held on 6 May 2010 by the Electoral Commission[ii], SCOPE[iii], OSCE/ODIHR[iv], the Association of Electoral Administrators (AEA)[v] and the Greater London Authority's (GLA's) Elections Review Working Group[vi] following the Parliamentary elections held on 6 May 2010. In particular we were pleased to note that the Electoral Commission considered that in the vast majority of constituencies, the elections were well run, with particular improvements since 2009 in terms of the performance of Returning Officers against the Commission's standards. We were also pleased to note the OSCE/ODIHR's observation that the General Election was administered in a transparent and professional manner. However, we believe it is equally important that lessons are learned by all concerned where improvements might be made, and in this regard we were grateful for the analysis and recommendations within the reports.

The Government has already brought forward legislation as part of its programme of constitutional reform which should assist the effective administration of future elections and make Parliamentary elections more transparent and fair in their operation. For example, the Fixed-term Parliaments Bill, which is nearing the end of its passage through Parliament, will, subject to Parliamentary approval, create stability as people will know how long a parliament can be expected to last which will end the constant speculation as to when an election might be called. The greater clarity about the timing of elections which the Bill makes provision for would bring certainty for voters and help electoral administrators make effective preparations for the running of elections. The Bill will provide that both the Government and the opposition will be bound by the same rules and will face the electorate on a set day whichever way the opinion polls are pointing at the time. Furthermore, the Parliamentary Voting System and Constituencies Act includes provisions which will address the current inequality in the size of constituency electorates, and mean that a vote no longer has a different weight depending on where a voter lives. The Act provides that the number of MPs will be reduced to 600 and that, in future boundary reviews, each constituency will be required to be within 5% either side of a single electoral quota, subject to a small number of tightly drawn exceptions.

We have taken the time to reflect on the issues and recommendations raised in the series of reports published over the last year. With the publication for pre-legislative scrutiny of draft legislation on several areas of electoral administration (including proposals to extend the timetable for UK Parliamentary elections and by-elections)[vii] and the draft legislation on individual electoral registration (IER), now is the time to offer the Government's response.

In addition, the 5 May referendum on the Parliamentary voting system provided an important test of the legislative framework governing referendums. The Government will be looking closely at what lessons can be learned not just for future referendums but for electoral administration more generally. More broadly, the Government continues to consider the effectiveness of the governance and administration of the UK electoral system, particularly focussing on the ease and comprehensibility of the system from the voters' perspective.

This document sets out thematically our response to those recommendations directed to the UK Government, listing similar recommendations from different reports together where appropriate. It also sets out the Government's views on some of the other key issues raised in the reports. Recommendations from the OSCE/ODIHR's Election Assessment Mission Report are addressed in detail in a separate document.[viii] We also welcome the recently published report from the AEA on the administration of the referendum and elections held on 5 May 2011.[ix] We have noted its conclusion that a consensus should be reached on the administration of any future referendums in the light of the experience of the recent polls, and will want to consider its recommendations in further detail, particularly in the context of the Electoral Commission's own forthcoming report on the polls, due to be published later this year.

Recommendations

Electoral Registration

We note the Electoral Commission's recommendations on registration and canvassing, namely that the Government should:

- *implement the change approved in the Political Parties and Elections Act 2009 to provide a system of individual electoral registration in Great Britain.*

- *Review the current allocation of resources for electoral registration, to ensure that where there is greater risk of incomplete or inaccurate electoral registers, Electoral Registration Officers are better equipped to tackle those risks.*

- *Capture population movements between each annual canvass more swiftly and accurately, and consider the potential for access to new data sources to improve the completeness and accuracy of electoral registers.*

- *Consider the timing of the annual canvass in order to best ensure complete and accurate registers for elections, and what role it will have once individual electoral registration has been fully implemented in Great Britain.*

The coalition agreement contains a promise to "*reduce electoral fraud by speeding up the implementation of individual electoral registration*" (IER), making it compulsory from 2014. We have recently published a White Paper and draft legislation which provides more detail about the proposals.[x] This is a fundamental change to our system of electoral registration; it will improve accuracy, requiring electors to register to vote individually rather than by household. In doing so, an individual must provide information which will be used to verify their entitlement to be included in the electoral register. Only once their application has been verified will a person be added to the register. Individual Electoral Registration will bring greater protection against the potential for electoral fraud and help to rebuild trust in our electoral system.

The Government is committed to fully funding the costs of the move to IER, including costs incurred by local authorities. This will mean EROs have the additional funding they need to conduct the extra enquiries that may be necessary to successfully implement IER to keep the register up to date and improve its accuracy.

Reforming the system provides an opportunity to tackle problems of under-registration. The UK's registration rate compares well internationally but evidence suggests that a significant number of people are missing from the electoral register. However, there is no recent national data on the accuracy of the electoral register and it is important we understand the scale of inaccurate entries on the register which should come off as IER is introduced. To address this problem we are working with the Electoral Commission to create a clear set of data on the completeness and

accuracy of the electoral register at the present time. We will be funding the Commission to carry out a national study of completeness and accuracy. The Commission will publish its findings before the end of 2011 and before Parliament legislates on our proposals for implementing IER. This data is critical in understanding the starting point on both accuracy and completeness. Furthermore, between June and December 2011 we are trialling data matching – comparing the electoral register against other public databases to find people missing from the register. If these pilots are successful we will roll this out nationally.

The annual canvass will continue to request data on all persons resident in every household in the local authority area by making an enquiry of each residence, although in 2014 the canvass will consist mainly of personally addressed invitations being sent to electors on the register as of 1 July, inviting them to register under IER, combined with enquiries as to the residents at those addresses where an ERO is not certain. In order to support eligible electors through the transition, electors who fail to respond to the first IER canvass in 2014 will be carried forward in the revised electoral register unless the ERO determines that the registration is ineligible. This will ensure that these electors are registered to vote for the General Election in 2015. The first step in the canvass in 2015 (and in future years) will be for the ERO to send a household enquiry form (HEF) to every residential property within his or her area. This is similar to the current annual canvass process in that someone will be required to provide information on other residents but will differ in that it cannot be treated as an application for registration. Any potential electors identified through the HEF will be followed up individually by the ERO and invited to register.

In addition, the draft legislation makes provision for the amendment or abolition of the annual canvass in Great Britain, replacing current arrangements with limited canvassing or alternative methods for obtaining information in order to update the electoral register if Parliament is satisfied that the completeness and accuracy of the register can be maintained by other means.

Timetable for Elections

We note the recommendation from the Electoral Commission, reiterated in several places in their report that the Government should:

- *standardise election timetables and rationalise the key deadlines within the election timetable as part of its proposals.*

They explicitly recommend *lengthening the timetable for UK Parliamentary elections*, raising particular concerns over the impacts of the existing timetable on overseas and service voters who wish to vote by post.

SCOPE made a similar recommendation, saying that the Government should:

- *ensure the standardisation of the electoral timetable for all elections to 25 working days, enabling access issues to be better incorporated into the planning for elections*

The AEA report also recommended similar changes, stating:

- *The Electoral Commission should review the statutory election timetable for UK Parliamentary elections (General Elections and by-elections) in the context of a wider review of election timetables, with the aim of achieving consistency across all elections and lengthening the current UK Parliamentary General Election timetable. The UK Government should then bring forward appropriate enabling legislation as soon as possible.*

The AEA also noted that:

- *The UK Government should review and re-write the rules for the combination of polls.*

We agree that there are several compelling arguments to extend the timetable for UK Parliamentary elections, which at 17 working days is the shortest electoral timetable in operation in the UK. Since last year's election we have considered the issue carefully and we have published draft legislative provisions to extend the timetable for Parliamentary elections from 17-25 working days, and will make a corresponding change for the by-elections timetable, to take effect in time for the next scheduled General Election in 2015.

This change would bring the timetable for UK Parliamentary elections into line with the timetable for local elections in England and Wales, allowing polls to be combined more effectively and making the electoral timetable clearer and more comprehensible for voters and administrators alike. Our aim is to make provisions for updated versions of the electoral register to be created at an earlier point in the timetable to allow postal votes to be issued earlier than is currently possible. This will have particular benefits for overseas electors and Service personnel stationed outside the UK as it will allow more time for the dispatch and return of postal votes to overseas locations.

It will also have benefits for administrators and help to reduce risks to the effective conduct of polls, as both elections officials and their suppliers will be able to spread out their workload by starting to print ballot papers sooner (because the deadline for parties to nominate candidates will be brought forward from 11 to 19 working days before the poll) and there will be a less concentrated period for actions to be undertaken towards the end of the timetable. While the existing timetable puts a degree of pressure on administrators by compressing a large number of tasks into a short period, the extended timetable will allow sufficient time to ensure elections are well run and conducted with integrity.

We recognise the issues which the diversity of electoral systems bring to the combination of polls. As part of our wider consideration of the governance and administration of the UK electoral process, we will look at the present rules governing the combination of polls and whether these should be changed.

Funding of Elections

We note the recommendation from the Electoral Commission that the Government should:

- *ensure that the costs of running elections are properly met, through comprehensive and transparent funding mechanisms.*

We note also the related recommendation from the AEA that:

- *The UK Government should lead a thorough and UK-wide review of the funding and resources required to deliver core professional electoral services with the aim of delivering a coherent and efficient structure across the UK, cost effectiveness over time, and ensuring that funding for new responsibilities reaches electoral services*

The Government will undertake a full review of the current funding system before the European Parliamentary Elections in June 2014. The review will consider how the funding mechanisms worked at the 2009 European Parliamentary election, the 2010 UK Parliamentary elections and the recent referendum on the voting system to determine the changes which need to be put in place for future elections to improve the efficiency, effectiveness and transparency of the process. The review will also consider whether changes need to be made to how funds are currently distributed and accounted for at elections, the deadline for Returning Officers to submit their claims and examples of best practice for achieving value for money. As has been noted above, the Government is committed to fully funding the move to individual electoral registration, including the costs incurred by local authorities.

Absent Voting

We note the Electoral Commission's recommendations that the Government should bring forward proposals for a comprehensive electoral modernisation strategy to set out how it intends to address policy issues including:

- *improving voting opportunities for service personnel and other overseas electors*

- *considering what role advance voting might play in helping to provide more flexible options for people wanting to vote*

The Electoral Commission elaborated on these later in its report, recommending that:

- *the Government should look at possible changes to the terms by which emergency proxy applications might be issued.*

The Electoral Commission also recommended that the Government should:

- *carry out a full evaluation of the initiative [to support Service personnel in Afghanistan to register and to vote]*

The AEA made a similar recommendation, namely that:

- *the Electoral Commission should review the effectiveness of proxy voting, in particular around extending the current emergency proxy arrangements to include other "emergencies" or circumstances that might prevent an elector from voting in person, with a view to recommending that the UK Government brings forward appropriate legislation as soon as possible.*

The Government continues to look at the systems which underpin the administration of elections to make sure the overall electoral process works well, and we agree with the principle that voters should be able to exercise their democratic right even where circumstances prevent them from attending a polling station in person. The Government is therefore pleased to announce that it will bring forward legislative proposals to extend the 'emergency' proxy voting facility to enable those called away on business or military Service unexpectedly, and at short notice, before an election, to appoint a proxy to vote on their behalf. At present, this facility is only available to those who fall ill once the routine deadline for proxy applications has passed and we believe this extension will benefit many of those electors caught out by the present arrangements.

We are also committed to considering how voting can be facilitated for those overseas and Service voters who wish to cast their vote from outside the UK. As we have noted above, the proposed extension to the UK Parliamentary electoral timetable will have benefits for both overseas and Service electors who wish to vote by post from locations abroad. As a further measure to assist access to the voting and registration processes for Service voters, we put in place an initiative to support the participation of members of the Armed Forces serving in Afghanistan who wished to vote at the 2010 General Election. Registration forms and specialised postal voting and proxy appointment forms were made available to Service personnel in Afghanistan and those at UK bases being deployed there in advance of the elections.

We are happy to provide a summary of the outcome of the initiative. In total, 475 personnel based in Afghanistan completed registration forms, 210 applied for postal votes and 294 completed fresh applications to appoint a proxy. Of course, many personnel may already have been registered (either as Service voters or as 'ordinary' electors) and have had existing proxy provisions in place; and it seems that a few had already asked for postal votes to be sent to Afghanistan through the normal

postal routes. These postal votes were identified and added to the others for transportation to Afghanistan through the existing logistics utilised to support the initiative. Including the postal votes requested outside the initiative, 261 postal votes were delivered to Afghanistan and 217 completed and returned for the count – a return rate of over 81%, with the percentage of those postal votes requested via the initiative and returned being closer to 85%.

This initiative was repeated for the Referendum this year with 327 requests for registration and, in accordance with Electoral Commission and MoD guidance, a significant number of requests for proxy votes in comparison with the number of requests for postal votes – 281 compared to 61 respectively. More widely, and at both the 2010 General election and at the recent polls, Counting Officers and Returning Officers were asked to prioritise the production of all postal ballot packs that were to be sent overseas. Those heading for British Forces Post Office (BFPO) addresses were treated as a priority by BFPO to facilitate the participation of Service personnel in the polls in general. The proposed change to the electoral timetable to facilitate the earlier dispatch of postal votes should assist here in the first instance, but we will continue to keep this matter under review, looking at issues that arise at each poll and with a view to identifying how future changes to electoral law can better support participation by Service personnel.

Turning to advance voting, it should be emphasised that whilst advance in-person voting is not available in the UK, voters are already able to cast their vote in advance of the poll by post. A series of pilot schemes were run by local authorities under the last Government between 2000 and 2007. The Electoral Commission conducted an evaluation of the pilots, and found that where advance voting was offered, few people used it and overall turnout was not enhanced as a result.[xi] Furthermore, an Ipsos MORI survey the following year asked a sample group 'what, if anything, would make voting easier/more convenient for you?', with just 8% of respondents supporting advance in-person voting or additional hours of polling.[xii] On this basis, we do not believe there is a strong case for re-considering advance voting at the present time.

Accessibility of the Voting Process

The Government is committed to ensuring that elections are accessible and that everybody who wishes to participate has an equal opportunity to cast their vote. In this respect we commend SCOPE's continued work to monitor the accessibility of UK elections and the publication of its fifth report in the *Polls Apart* series, which has helped to establish an evidence-base about the challenges still faced by disabled voters.

We have already taken steps to address some of SCOPE's concerns about the accessibility of voting, which we believe should improve access for voters with disabilities. For example, SCOPE's *Polls Apart 2010* report identified the need to move away from registering voters through the annual canvass (which relies on a single member of a household returning a canvass form on behalf of everyone living there) to a system of individual electoral registration. We have accelerated the implementation of IER so it will be in place ahead of the 2015 general election, which will allow all voters, including those with a disability, to take responsibility for their own registration. We will ensure that disabilities are taken into account where personal identifiers are asked for and will work with representative groups and the Electoral Commission to ensure information about registration is available in alternative formats.

Furthermore, SCOPE's report concluded that the introduction of fixed term parliaments and the extension of the electoral timetable would: "*significantly improve the environment that returning officers are operating in. As a consequence they could focus their efforts, working closely with presiding officers, in ensuring that best practice guidance and standards are implemented.*" We share the belief that the implementation of these measures will enhance the ability of Returning Officers to make effective plans for the provision of accessible voting options.

SCOPE made particular recommendations for Government about the accessibility of polling stations, namely that the Government should:

- *introduce new, or amend existing, legislation to give local authorities statutory powers to use any accessible (public or private) buildings in the districts that they cover as polling stations.*

- *introduce a statutory duty on returning officers to publish a list of buildings and their access features in advance of the election so voters can make fully informed decisions about which channels of voting they want to use.*

- *[introduce] new provisions [...] that enable disabled voters to use alternative polling stations where their assigned one has been deemed inaccessible.*

The issue of suitable buildings to use as polling stations was also raised by the Electoral Commission and echoed by the AEA. Returning Officers already have the power to use public buildings as polling stations, many of which should be set out with disabled access in mind. We are concerned that public buildings are either not

accessible or are not made available for ROs to use. However, we do not think it appropriate that legislation should require that private buildings should be made available for use as polling stations. We will review existing provisions for local authorities to use buildings as polling stations and consider how best to ensure all electors are able to access an appropriate polling station.

We also note SCOPE's recommendations that:

- *The Government and devolved administrations should work closely with the Electoral Commission, the AEA and local authorities to consider the most effective and accessible routes for educating the disabled electorate about new systems that they will be using to vote (the Single Transferable Vote); including a consideration of how to embed it into schools curriculum or public awareness campaigns.*

- *Capitalising on lessons learned from past pilots, and taking into account new technological developments, the Government should support expertise to come together to design a series of e-voting pilots, to be tested at forthcoming elections, that are targeted towards addressing the specific systematic barriers that disabled voters currently face. This should be embedded as a core part of forthcoming electoral reform.*

We will work with the Electoral Commission and other partners to help ensure all electors, including those with disabilities, understand any new voting systems which may be introduced in the future, in the election of Police and Crime Commissioners and in future elections to the House of Lords, for example.

The Government will keep under review ways in which the democratic process can be enhanced. The arguments for introducing alternative voting channels such as e-voting would need to be weighed against outstanding concerns about the security of those mechanisms, and the possible impacts on public confidence in voting in general. The Government has already set out a full agenda of electoral and constitutional reform and, whilst looking at e-voting may be something to consider in the future, it is not a priority in the current programme.

Electoral Integrity

The Government welcomes the joint analysis conducted by the Electoral Commission and ACPO of cases of alleged electoral malpractice at the 2010 elections. We are pleased that the analysis found no evidence of widespread, systematic attempts to undermine or interfere with the May 2010 election through electoral fraud, and value the detailed analysis of individual cases within the report. The Commission's work with ACPO to ensure that every police force now contains a Single Point of Contact (SPOC) officer with the role to prevent electoral malpractice and respond to allegations is an important step towards ensuring the electoral process remains secure. The Commission's commitment to report on the outcome of cases from successive elections will be a useful tool in helping the Government to keep integrity

issues under review and to make sure the public have confidence in the electoral process.

The Commission identified two specific actions for the Government in its report, namely that we should:

- *review the case for requiring proof of identity for voters at polling stations; and*

- *[introduce] mandatory 100% checking of all returned postal vote statements.*

The second of these followed a similar recommendation made in the Commission's report on the administration of the 2010 general election that the Government should:

- *set out how it intends to address significant policy issues, including […] further strengthening the security of postal voting, in particular by requiring the personal identifiers on all returned postal voting statements to be verified before ballot papers are counted [and] reviewing the case for requiring proof of identity for voters at polling stations.*

The Government is committed to ensuring the integrity of the electoral process and tackling fraud wherever it arises. We note the Commission's suggestions that we should review the case for requiring proof of identity at polling stations and mandate the checking of all postal voting statements. In respect of voter identification, the absence of a universal form of ID in the UK means that any voter identification requirement would need careful consideration to ensure that it covers all voters. We are considering how best to ensure the integrity of the electoral process is maintained and our approach will take into account wider reforms to registration and voting processes. In particular, the plans to accelerate the introduction of individual voter registration will help protect against fraud by improving the accuracy of the electoral register.

In respect of the 100% checking of postal vote statements, the Government is fully supportive of the principle of 100% checking of postal vote identifiers and provided sufficient funding for this to take place in the 2010 General Election. We welcome the news that, based on information collected by the Electoral Commission, the majority of Acting Returning Officers were able to check the personal identifiers on 100% of postal vote statements which were returned for this poll. The Government is pleased to announce that it will be developing legislative proposals to mandate the 100% checking of postal vote statements.

We note the further recommendation from the Electoral Commission that:

- *Anecdotal feedback from Returning Officers and electoral administrators suggests that many returned postal votes were rejected because voters had inadvertently entered an incorrect date of birth, or that their signatures may have changed since their first application. […]*

- *We have previously recommended to the UK Government a number of changes which would help to address these problems, including allowing the Returning Officer to request a refreshed identifying signature, and also provide electors with feedback if their identifier has been rejected.*

The AEA also had similar recommendations on postal voting, saying:

- *The UK Government should amend the legislation to provide Electoral Registration Officers and Returning Officers with the necessary powers to access and act on voters' postal vote rejection data to contact voters to explain the correct process and the penalties for malpractice; to invite the re-submission of their identifiers; and to make corrections to and update the record at any time.*

and

- *The UK Government should amend the legislation to require that applicants requesting a waiver must have their application attested in line with current arrangements for proxy applications.*

In considering these recommendations, a clear balance needs to be struck between the accessibility and security of elections. While instances of electoral fraud do not appear to be particularly widespread at present, it would nevertheless be important to ensure that allowing voters to be notified where their postal vote identifiers have been rejected does not give a second opportunity for fraudulent applications to be resubmitted. The Government will work with the Electoral Commission and electoral administrators to identify how those who have legitimately registered to vote by post could be assisted to help them avoid invalidating their ballot paper in error. We will also consider the merits of requiring applications for postal voting signature waivers to be attested, but will need to ensure that any possible options for change do not have unintended consequences for the accessibility of voting. We will continue to keep the relevant legislation under review to ensure postal voting remains secure and accessible.

We also note the broader recommendation from the GLA that:

- *The Cabinet Office should conduct a review into the provisions of postal votes to ensure that they are being used for the purposes intended.*

Postal voting on demand has proved a popular option for voters since it was introduced in 2001. It has become the option of choice for voters who find it difficult to cast their vote in person, for whatever reason, and enables voters to participate who would otherwise be unable to do so. The Government will keep the postal voting process under review in the light of any developments and in particular, the work of the Electoral Commission and ACPO to monitor both allegations and proven instances of electoral fraud.

Electoral Law

We note the Electoral Commission's recommendation that:

- *Any future changes to electoral law must be developed in an open and consultative way, and implemented in good time before the next UK general election, so that the rules allow people to plan no later than six months before polling day.*

We note, too, the similar recommendation from the AEA, which is in line with the recommendation made by Ron Gould in his 2007 report on the Scottish elections.[xiii] We agree that it is important to give administrators and electors as much time as possible to adjust to changes in the electoral system, so that elections can run smoothly and accurately reflect the views of the electorate. As far as is practicable, we will continue to introduce changes in line with this principle. Although the PVSC Act received Royal Assent on 16 February, in line with the commitment made to the Electoral Commission, the Government ensured the provisions for the referendum and combination of polls on 5 May were in place in the Bill 6 months before the polls were due to take place.

We note the recommendation from the Electoral Commission that:

- *We have previously recommended to the Government the need to simplify and consolidate electoral law, and urge them once again to do so.*

The AEA similarly recommended that:

- *The UK Government should bring forward **a single Electoral Administration Act** in accessible language setting out the high-level framework governing electoral registration, elections and referendums in the UK, with the operational detail of registration, absent voting, and elections contained in secondary legislation, all with the key aim of achieving the simplification and consistency of rules across all elections.*

The OSCE/ODIHR has also recommended that electoral law in the UK is consolidated. We agree that there could be benefits to bringing together the complex legal framework which governs elections, but also recognise that the continual evolution of electoral law signals the healthy debate which exists around the electoral process and its development in the UK. The Law Commission are undertaking a review of electoral law as part of their 11th programme, which was laid before Parliament on 19 July 2011. This is a significant piece of work. The initial scoping stage of the review, which will include public consultation, will take until the end of 2012. If the Government and the Law Commission agree to the project proceeding beyond that point, the intention is for a Draft Bill to be produced for early 2017. This timetable would allow new legislation to apply to the 2020 Parliamentary general election.

Electoral Administration

Management and delivery of elections

We believe that all those involved in the running of elections must take responsibility for their successful administration but must also receive the appropriate support and guidance to do this. In this regard the Electoral Commission's continued monitoring and reporting on the performance of individual EROs and ROs is an important tool in identifying shortcomings and promoting best-practice. However, the Government recognises the role it plays in developing electoral policy and legislation which supports the needs of voters and administrators alike. In that regard, we note the recommendation from the Electoral Commission's interim report that:

- *the UK Government should bring forward a comprehensive plan for modernising and ensuring professional electoral administration in Great Britain*

and in its final report on the 2010 election that:

- *We want the UK Government to respond to the recommendations we made in 2008 to bring forward a comprehensive plan for ensuring consistently effective management and delivery of future elections*

- *there is effective management and coordination of the delivery of statutory functions by Returning Officers across the UK, rather than relying on trust in the effectiveness of several hundred individual Returning Officers*

The AEA report also recommended that:

- *The UK Government and the Electoral Commission in consultation with key stakeholders should undertake a thorough and systemic review of the electoral process in the UK that integrates with the development and implementation of the new individual electoral registration system*

The Government is considering the effectiveness of the governance and administration of the UK elections system in light of recent experience in order to determine where improvements may be made. We will consider the recommendations made in the Electoral Commission's 2008 report, along with other relevant views. We will also reflect on the effectiveness of the arrangements which operated at the recent referendum, and reach a clear view about the shape of the administrative and legislative framework which underpins elections in the longer term.

We note the Electoral Commission's thoughts on the (then) Interim Electoral Management Board in Scotland:

- *We welcome the joint commitment of the Scottish Government and the UK Government to recognise the Interim Electoral Management Board in statute and provide the Convener of the Board with powers to issue directions to Returning Officers, but we want to see early legislation to consolidate this commitment.*

Earlier this year, the Scottish Government established the Electoral Management Board in statute as an independent body through the Local Electoral Administration (Scotland) Act 2011. The Board represents Returning Officers and Electoral Registration Officers. Its Convener is appointed by Scottish Ministers and has the statutory power of direction over Returning Officers, similar to that exercised by the Regional Returning Officer at European Parliamentary elections, as well as more limited powers of direction over Electoral Registration Officers, in relation to Scottish local government elections.

The Scotland Bill, which is currently being considered by Parliament, will transfer responsibility for the administration of Scottish Parliament elections to the Scottish Parliament. This transfer will allow the Scottish Government, should they so wish, to give the Convener of the Electoral Management Board a similar power of direction in relation to Scottish Parliament elections as they have for local government elections.

Queues at polling stations

We are pleased to note the Electoral Commission's conclusion that the 2010 polls were generally well run. However, in the light of problems at certain polling stations, there has been concern about the proper administration of elections and the need for clear mechanisms of accountability where mistakes are made. We also note that the Commission found in its interim report of 20 July 2010 regarding the causes of the queuing problems which arose at 27 polling stations out of 40,000 across the country, that the problems were contributed to by:

- *inadequate planning processes and systems – in particular unrealistic, inappropriate or unreliable assumptions; and*

- *inadequate risk management and contingency planning*

We further note the recommendation by the Electoral Commission (and a similar recommendation made by the OSCE/ODIHR) that the Government should:

- *change the law to make clear that eligible electors who are entitled to vote at a polling station and who are in the queue to enter the polling station at the close of poll will be allowed to vote.*

The GLA's Elections Review Working Group also made a related recommendation:

- *The Government needs to change the Electoral law to ensure that people are not disenfranchised because of queues. In the meantime the Cabinet Office should come forward with guidance as to how Returning Officers can best prepare polling staff to deal with any late surge of voters.*

We are clear that electors who wish to cast their vote should not be prevented from doing so by administrative failings. In most cases where problems occurred, the Electoral Commission found the common factor to be that inadequate planning processes and contingency arrangements were in place. Addressing these should be the priority before looking for a legislative solution, and we will work with the Electoral Commission, the AEA and electoral administrators to ensure adequate guidance on planning and contingency procedures is available, and that electoral administrators have the support they need to carry out their vital role in ensuring elections are administered effectively.

Performance of Returning Officers

In its main report on the 2010 General Election, the Electoral Commission recommended that the Government should ensure that:

- *there are appropriate mechanisms to hold Returning Officers to account for the delivery of their statutory functions, including mechanisms to direct them to ensure action is taken to address poor administration*

SCOPE similarly recommended that the Government should:

- *ensure that there is clearer accountability for the conduct of elections and consider how returning officers need to be better held to account for poor services.*

We agree that Returning Officers should be expected to carry out their duties effectively and to agreed performance standards, including making sure staff are given appropriate training on disability issues. While the Government has no role in the performance management of independent Returning Officers, we encourage the Electoral Commission to work closely with electoral administrators to ensure they have adequate information and guidance on appropriate performance standards. We are pleased that the Electoral Commission continues to review the performance standards it sets for EROs and ROs and we will respond to its recently published consultation on draft performance standards for ROs in Great Britain in due course. We were also pleased to note the Commission's general finding in its recent reports on the performance of ROs and EROs that in general, an improvement in performance against the Commission's standards was seen at the 2010 polls. It should also be noted that where a Returning Officer's actions can be shown to have affected the outcome of an election, their actions are subject to legal challenge through the courts.

Furthermore, the Government introduced provisions in the Parliamentary Voting System and Constituencies Act to allow the Electoral Commission to withhold either part or the whole of a Returning Officer's fee if they believe there is cause to do so. We are currently considering whether similar provisions should be introduced in respect of UK Parliamentary elections. We will need to consider how any proposals

would work with the existing performance standards set by the Commission and the current petition process, as well as how the process operated for the May referendum.

Legal challenge of elections

In its main report on the 2010 General Election, the Electoral Commission recommended that:

- *the current election petition process is reformed to provide proportionate and accessible procedures for challenging the result of an election where poor-quality administration may have affected the outcome*

The AEA also made a recommendation for changes to the petition process, stating:

- *The UK Government should design and implement **a clearer and local system of accountability and challenge** through the introduction in election law of a formal complaints system. This should establish a court of first resort to deal with complaints arising from the conduct of elections.*

We agree that proportionate and accessible procedures for challenging the result of an election act as an important check on the conduct of elections. We will keep the current petition process under review and consider whether the process remains the best method for challenging the outcome of elections.

Dual emblems on ballot papers

We note the recommendation by the Electoral Commission regarding emblems on ballot papers (also raised by the AEA in its report), namely that:

- *In 2006, changes to the rules for parties registering joint descriptions were introduced. However, corresponding changes to the rules for using emblems were not made at the same time […] As a result this caused particular confusion and difficulties for candidates and electoral administrators as candidates who wanted to use a joint description, approved by two or more political parties, could not also include a party emblem on the ballot paper. […] Having been made aware of this, we want the UK Government to address it as soon as possible*

The Government agrees that the oversight in existing legislation should be addressed and introduced the necessary legislative changes to ensure that the issue was addressed for the local government and parish elections, and elections to the devolved assemblies on 5 May 2011.

We have published draft legislation on a number of electoral administration provisions for pre-legislative scrutiny which includes provisions that will address the issue for UK Parliamentary elections, to ensure that candidates standing on behalf of more than one party may use an emblem on their ballot paper at UK Parliamentary elections. We will also address this issue for other polls as necessary (such as GLA elections).

The election count

We note the recommendation from the GLA's Elections Review Working Group that:

- *The Government should, at the earliest opportunity, bring forward legislation to repeal that provision in the CRAG Act that requires Returning Officers to begin counting within four hours of the close of poll.*

This amendment was made to the Constitutional Reform and Governance Act to reflect the broad Parliamentary consensus across the political spectrum that the overnight count should be retained, not least because there is a long-standing public expectation of a swift result, and any steps to frustrate this expectation would risk dampening the enthusiasm which surrounds election night and participation in elections more generally. Whilst we acknowledge the issues in respect of the administration of an overnight count, we have taken the view that a swift count remains an important way to engage voters in the electoral process.

Nominations

We note the recommendation from the AEA that the Government should:

- *bring forward legislation to remove the requirement for subscribers on nominations*

We will give careful consideration to the current requirement for candidates to have their nomination paper subscribed. This will include looking at, on the one hand, the impact which the current provisions have in helping to deter frivolous (and possibly extremist) individuals from standing as candidates at elections, and on the other, any practical benefits for candidates, agents and for Returning Officers of removing this requirement.

Corresponding Number Lists

We note too the AEA's recommendation that the Government should:

- *reconsider the rationale for Corresponding Number Lists and seek more viable solutions, with input from experienced electoral administrators*

We will keep under review the rationale for utilising corresponding number lists at elections and the possible alternative solutions which are available that would also give the benefit of assisting with the detection of any possible abuses or electoral fraud.

The election writ and candidates' expenses

We note too the recommendations from the AEA that:

- *The UK Government should introduce a system for the electronic delivery, receipt and return of the writ*

- *The UK Government and the Electoral Commission should consider developing an online facility for submission of candidates' election expenses returns with provision for both candidate and agent to give secure approval of the final return. It is recognised that this would involve scanning all the receipts relevant to the return. Such a system should also provide a means for inspecting the returns and declarations, and associated receipts.*

We will consider how we can make best use of new technologies to the enhancement of the electoral process. We will work with the Electoral Commission and electoral administrators to review the administration and processing of election expenses, with a view to streamlining this if possible.

Conclusions

The Government has been pleased to receive the several reports covered in this response paper on the conduct of the May 2010 General Election which have been published over the last year. The analysis and recommendations from the Electoral Commission, the AEA, SCOPE, the GLA and the OSCE/ODIHR continue to inform and assist the reviewing and development of electoral policy. We have already announced a series of improvements to the electoral process which should support the better running of elections in future, although we recognise there are always issues to consider and we look forward to working with our partners and stakeholders to address the challenges which remain and which will arise in the future. In particular, the pre-legislative scrutiny of the draft electoral administration and individual electoral registration provisions presents an ideal opportunity for consultation about the issues facing the electoral process, and we look forward to the Political and Constitutional Reform Committee's Report later this year.

References

i The Electoral Commission's main report on the 2010 UK General Election can be found at the following link: http://www.electoralcommission.org.uk/__data/assets/pdf_file/0010/100702/Report-on-the-administration-of-the-2010-UK-general-election.pdf

ii The Electoral Commission reports referred to in this document are as follows:

-2010 UK Parliamentary General Election- Interim report: review of problems at polling stations at close of poll on 6 May 2010 (May 2010) (http://www.electoralcommission.org.uk/__data/assets/pdf_file/0010/99091/Interim-Report-Polling-Station-Queues-complete.pdf);

-Report on performance standards for (Acting) Returning Officers in Great Britain (December 2010)

(http://www.electoralcommission.org.uk/__data/assets/pdf_file/0018/106623/Analysis-of-RO-Performance-final-no-embargo-29Nov.pdf)

-Joint report with ACPO: *Analysis of cases of alleged electoral malpractice in 2010* (February 2011)

(http://www.electoralcommission.org.uk/__data/assets/pdf_file/0013/109012/Integrity-report-FINAL-no-embargo.pdf)

-Report on performance standards for Electoral Registration Officers in Great Britain (April 2011)

(http://www.electoralcommission.org.uk/__data/assets/pdf_file/0020/116444/ERO-Performance-Report-Final.pdf)

iii SCOPE's report *Polls Apart 2010* (July 2010) is available at the following link: http://www.pollsapart.org.uk/docs/Scope-Polls%20Apart%205%20Report.pdf

iv We have responded to the OSCE/ODIHR's report in a separate document which can be found on the Cabinet Office's website.

v The AEA's report *Beyond 2010: the future of electoral administration in the UK* (July 2010) can be accessed here: http://www.aea-elections.co.uk/downloads/reports/aea_election_report_final_PUBLICATION.pdf

vi The GLA's Elections Review Working Groups report can be accessed here: http://www.london.gov.uk/moderngov/mgConvert2PDF.aspx?ID=2851

vii The draft legislation is available at: http://www.cabinetoffice.gov.uk/sites/default/files/resources/draft-electoral-administration-provisions.pdf

viii The Government's response to the OSCE/ODIHR's Election Mission Report on the 2010 UK Parliamentary General Election is available on the Cabinet Office's website.

ix The AEA's report on the administration of the 2011 referendum and elections is published online at: http://www.aea-elections.co.uk/downloads/reports/aea_election_referendum_report_2011.pdf

x The White Paper and Draft IER legislation is published online at: http://www.cabinetoffice.gov.uk/sites/default/files/resources/individual-electoral-reform.pdf

xi The Electoral Commission's analysis of the 2007 advance voting pilot schemes can be found at: http://www.electoralcommission.org.uk/__data/assets/electoral_commission_pdf_file/0009/13221/Advancevotingsummarypaper_27195-20115__E__N__S__W__.pdf

xii p.32, *Political and Electoral Reform- an Ipsos Mori Briefing* (Ipsos Mori, July 2010) http://www.ipsos-mori.com/Assets/Docs/Polls/Political%20and%20Electoral%20Reform%20-%20Ipsos%20MORI%20Briefing.PDF

xiii Ron Gould, *Independent review of the Scottish Parliamentary and local government elections* (May 2007): http://www.electoralcommission.org.uk/__data/assets/electoral_commission_pdf_file/0011/13223/Scottish-Election-Report-A-Final-For-Web.pdf

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