

ELECTORAL ADMINISTRATION

A Policy Paper For Discussion

25 May 2005

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Foreword by the Secretary of State for Constitutional Affairs and Lord Chancellor

The Government believes that the recent general and local elections were safe and secure, and produced results that were fair and accurate. There were a number of issues, which arose during the course of the election, which may have raised issues of public confidence. We do not believe that electoral malpractice is widespread. Nonetheless any electoral process is capable of improvement, and the Government intends to take a number of improvements forward in its forthcoming Electoral Administration Bill.

The Government has already responded (in December 2004) to the Electoral Commission's proposals for change in its reports *Voting for Change* and *Delivering Democracy?*

I made an announcement about a number of improvements to electoral administration that were being considered on 13 May.

This paper is being published now because I regard it as important to have as many of the proposed security measures as possible in place for the local elections in May 2006. I also want to give as much time as possible to electoral administrators and those affected to implement the new measures. To achieve both of these objectives, there needs to be early introduction for the primary legislation and that in turn means that an initial consideration of the new measures needs to take place quickly.

We are therefore asking for written responses to this policy paper by 10th June.

In the meantime we will be holding a series of meetings with stakeholders to share our thinking and to seek their views.

Discussion will not end at this point. Over the summer we will continue to discuss these proposals and listen to suggestions. We will also be taking into account the proposals contained in the Electoral Commission's report *Securing the Vote* published on 20 May. The Commission has consulted widely in order to form the proposals in this report as it did previously for its *Voting for change* and *Delivering Democracy?* reports.

We welcome feedback from everyone and particularly people with an administrative or practical interest in these elections, including candidates in the election. We wish to work closely with stakeholders and will look for comments from local authorities, returning officers, political parties, interest groups and suppliers in finalising the proposals to be taken forward. These groups have proved to be very helpful in directing our thinking about how changing the processes should be effected in the past. Our thanks are due to those who contributed to previous work and we look forward to a positive outcome once again, to ensure that the final legislation results in a comprehensive and practical set of provisions. Our aim is to achieve as much consensus as possible on these proposals.

A handwritten signature in black ink, consisting of the name 'Charlie' on the top line and 'Falconer' on the bottom line, both written in a cursive style.

Lord Falconer of Thoroton QC

Contacts

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CONTENTS

	Page
Foreword	2-3
Contacts	4
Contents	5
Executive Summary	6-7
A. Improving the accessibility of elections	8-9
B. Enhancing security	10-15
C. Administrative effectiveness	16-17
Your views	18
Glossary	19

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Executive Summary

The Government is planning to introduce a range of measures which will improve the administration of elections. They will make the electoral process more accessible, enhance security and help improve administrative effectiveness. They include:

Improving access and participation

- Allowing people to register to vote after an election has been called (until 11 days before poll).
- Allowing people to apply for a postal vote at the same time as registering to vote.
- Allowing registered postal voters to apply for replacement ballot papers up to 5pm on polling day (with proof of identity).
- Allowing children to be taken into polling stations by parents or other carers.
- Providing guidance to voters in a variety of languages.
- Reviewing polling stations regularly to ensure that they provide proper access to people.
- Reducing the age of candidacy from 21 to 18.
- Having a simpler security statement for postal votes, without the need for a witness signature.

Enhancing security

- Strengthening the range of offences in order to provide stronger deterrents to electoral fraud. This will include a new offence of falsely applying for a postal vote.
- Extending powers of arrest to outside the polling station and increasing the length of time in which an investigation can take place.
- Improving security markings on ballot papers, through watermarks or security printing.
- Putting secrecy warnings on postal vote literature.
- Developing an on-line electoral register (CORE), based locally but providing national access to information. This will also support any future electronic voting.

- Collecting individual identifiers such as signatures and date of birth from people when they register, which will help to verify postal votes and prevent personation at polling stations.
- Setting up a system of anonymous registration for vulnerable people.
- Ensuring that postal vote applications are returned to electoral administrators or a central point rather than political parties or community leaders.
- Introducing a marked register of postal votes received, similar to that currently used for polling station voters.
- Replacing serial numbers on ballot papers with barcodes, allowing greater control of production and any fraudulent votes to be more easily identified and removed.
- Requiring formal acknowledgement by administrators of all postal vote applications.
- Allowing observers into polling stations.

Improving administrative effectiveness

- Giving administrators more time to deal with postal vote applications, by making the deadline for applications eleven days before polling day rather than six.
- Recognising the difference between postal and polling station voting and supporting automated production of postal vote documents.
- Allowing administrators to rectify clerical and other errors by clarifying their powers to do so.
- Providing clearer performance standards for returning officers and electoral administrators and more transparent and flexible funding arrangements.
- Introducing clearer rules for candidates and political parties and reducing bureaucracy for smaller parties and independent candidates.

Many of the proposals in this paper have been subject already to extensive consultation, principally by the Electoral Commission. We are seeking views particularly on those measures which have not been fully discussed so far. They are mainly, but not exclusively, concerned with areas where recent experience of postal voting has identified potential improvements.

A. IMPROVING THE ACCESSIBILITY OF ELECTIONS

1. Our key proposals here are:

- Allowing people to register to vote after an election has been called (until 11 days before poll). *See A1 below.*
- Allowing people to apply for a postal vote at the same time as registering to vote. *See A2 below.*
- Allowing registered postal voters to apply for replacement ballot papers up to 5pm on polling day (with proof of identity).
- Allowing children to be taken into polling stations by parents or other carers.
- Providing guidance to voters in a variety of languages.
- Reviewing polling stations regularly to ensure that they provide proper access to people.
- Reducing the age of candidacy from 21 to 18.
- Having a simpler security statement for postal votes, without the need for a witness signature.

2. Our intention here is to make the process of registering to vote and voting itself easier and more convenient, addressing modern lifestyles and removing barriers to people's participation in elections.

A1. Change of last date for registration

3. One theme which emerged strongly in the most recent elections was the concern that some people only become aware of the need to register when the general election has been announced. They then found that the deadline for registration had already passed. We propose, therefore, that we should move the deadline for registration to that for close of nominations in a general election – 11 days before polling day. The proposal to use nominations as the cut-off date formed part of the Electoral Commission's *Voting for Change* proposals. The Government agreed with it; but there remains an issue about whether we should make the deadline 11 days for all elections, or make it differ according to the deadline for nominations in different elections. Given that elections are now often combined, to encourage participation, we are minded to have the same deadline irrespective of the election; but would welcome views on this proposal.

A2. Allowing electors to apply for a postal vote at same time as registering to vote

4. This would include any application on the annual canvass or rolling registration form. This makes the application process simpler and links the request to the registration process. Separate applications for a postal vote would be allowed at other times on specific application forms, as is currently the case.

5. Care needs to be taken to ensure that the difference between applying for a 'permanent' postal vote and one for just the next election(s) is made clear. Some people who have applied for a permanent postal vote have done so in error or just forgotten and encountered difficulties when trying to vote at a polling station subsequently.

6. It has been suggested that electors should only be able to request a postal vote for one election at a time rather than a permanent postal vote. Whilst this may help to prevent ballot packs being sent to addresses from which electors have moved, it may be counter-productive in significantly increasing the volume of applications that would need to be assessed by administrators each year.

B. ENHANCING SECURITY

7. Our key proposals here are:

- Strengthening the range of offences in order to provide stronger deterrents to electoral fraud. This will include a new offence of falsely applying for a postal vote. *See B1 below.*
- Extending powers of arrest to outside the polling station and increasing the length of time in which an investigation can take place. *See B1 below.*
- Improving security markings on ballot papers, through watermarks or security printing.
- Putting secrecy warnings on postal vote literature.
- Developing an on-line electoral register (CORE), based locally but providing national access to information. This will also support any future electronic voting.
- Collecting individual identifiers such as signatures and date of birth from people when they register, which will help to verify postal votes and prevent personation at polling stations. *See B2 below.*
- Setting up a system of anonymous registration for vulnerable people.
- Requiring formal acknowledgement by administrators of all postal vote applications. *See B3 below.*
- Ensuring that postal vote applications are returned to electoral administrators or a central point rather than political parties or community leaders. *See B3 below.*
- Introducing a marked register of postal votes received, similar to that currently used for polling station voters.
- Replacing serial numbers on ballot papers with barcodes, allowing greater control of production and any fraudulent votes to be more easily identified and removed. *See B3 below.*
- Allowing observers into polling stations.

8. Many of the proposals in this area have been subject already to extensive consultation, principally by the Electoral Commission. We are seeking views particularly on those measures which have not been fully discussed so far.

B1. Offences

9. There are a number of ways in which the range of offences can be strengthened. Many have been consulted on before and in some cases the measures were piloted at the June 2004 European and Local Elections as part of the all-postal voting pilots.

10. We are particularly interested in your views about the following:

- The penalties for electoral offences.
- The impact of the Serious Organised Crime and Police Act 2005 on what needs to be done about arresting someone for suspected personation.
- Whether the offence of undue influence needs to be reworded and if so, how?

Offence of falsely applying for a postal (or proxy) vote

11. We have agreed to create this offence in our responses to *Voting for change and Delivering democracy?*. We have considered whether the appropriate level of penalty should be in line with that of personation (level 5 on the standard scale, which could result in up to two years in prison, a fine not exceeding £5,000 and being prevented from being registered to vote or standing as a candidate for five years) or whether both the new offence and personation ought to carry a maximum prison sentence of 5 years. Your views on this would be welcome.

Extension of time to complete an investigation

12. We have agreed to allow provision for an application to the courts to permit an extension of time of up to 24 months (the current time limit is 12 months), in exceptional circumstances, for police to complete an investigation and where the prosecution has demonstrated all due diligence. This was piloted at the June 2004 all-postal pilot elections.

Offences relating to failure to supply information and supplying false information

13. Currently it is an offence to fail to supply information at the request of the Electoral Registration Officer (ERO) and knowingly to supply false information on the annual canvass form. The penalty is a level 3 fine (up to £1,000) on the standard scale. It is not currently an offence to provide false information on the (voluntary) rolling registration application form.

14. In *Voting for change*, the Commission recommended that it should be an offence for an individual to fail to supply information to the ERO at any time or to supply false information, not limited to the annual canvass form as now.

15. We agree in part with this recommendation and intend to create a new offence for the provision of false information on a registration form (which includes rolling registration) in the EA Bill. However we think that the existing offence for failure to supply information at the ERO's request does not need change – to make it an offence not to supply information at any time would make return of a rolling registration form compulsory.

Extending personation provisions

16. Under the Representation of the People Act 1983 the Police can only arrest someone for committing personation at a polling station. The Electoral Commission recommended that the provisions relating to personation should be extended to give

the police the power of arrest, based on 'reasonable suspicion' of personation, at any location. We agreed to this recommendation. However, the Serious Organised Crime and Police Act 2005 may address this extension of arrest for personation already, by allowing the police the power to arrest anyone who is about to, or is committing an offence, and anyone who is guilty of, or anyone the Police have reasonable grounds for suspecting to be guilty, of an offence. The arrests can be made anywhere and without a warrant. (This Act received Royal Assent on 7 April 2005. The relevant provisions are expected to come into force in November 2005).

Offence of undue influence

17. The Electoral Commission has identified the need to clarify the existing electoral offence of undue influence. In its responses to *Voting for change and Delivering democracy?* the Government stated that it did not consider that the existing law on undue influence is deficient. Although the law may use terms which are not in everyday use, their meaning is clear, and it fully covers what it is intended to cover. This includes intimidation and undue influence by family members. The Government is willing to consider the matter further. We would welcome responses on whether the current wording is too difficult to understand and leads to confusion about how to apply the law, and whether any change in the law would be necessary and helpful.

B2. Registration

Individual Registration - the issues

18. The issue of how the voter registration system could be changed, in order to improve the accuracy of the information held and the security of elections, has been widely discussed over the past two years, particularly in the context of the increasing take up of postal voting.

19. The Electoral Commission's suggestion in *Voting for Change* was to collect additional 'individual identifiers', such as signature and date of birth, from each person, and to do this using one registration form for each individual. Other bodies, such as the Northern Ireland Affairs Select Committee, have since said that the experience of this system in Northern Ireland – where registration levels dropped by 10% in year one and have declined further each year since – suggests that more work needs to be done before we can consider taking this model forward in Great Britain.

20. The Government's view on voter registration, expressed in our response to the Commission's *Voting for Change* report, was that while we were sympathetic to the principles of Individual Registration and recognised its potential benefits, we were concerned about maintaining a straightforward system and comprehensive electoral registers. We have therefore concentrated on producing a system that could improve security but without negative impacts on levels of registration.

21. Our preferred solution, particularly for the short term (ie: for the 2006 annual canvass) has, therefore been to collect the additional individual identifiers recommended by the Commission (signature and date of birth), but to do so on an adapted household form at the time of the annual canvass (although there will continue to be individual rolling registration forms). We recognise, however, that

there is a strong body of opinion that individual registration with individual forms remains the best option from a security point of view. We are therefore keen to seek a consensus on this issue before finalising any legislation.

22. We intend that the structure of any legislation would allow some flexibility with regard to both the individual identifiers to be collected and the type of form to be used. The precise detail will be set out in regulations to be made under powers we intend to include in the Bill. This detail will be consulted on at a later date.

The annual canvass - issues

23. There has been much discussion about the frequency of the canvass and whether the increased accuracy that collection of individual identifiers would bring might allow a canvass to take place less frequently than now. The recent Voter Registration Select Committee held this view, suggesting that if individual identifiers were collected the canvass could potentially be required only once every three or so years. The Electoral Commission has also suggested that this might be the case but felt unable to complete the analysis required to make a full recommendation without a system of individual identifiers being in place. There have also been suggestions that canvass provisions could be made more flexible, allowing EROs to decide locally whether a canvass is required in any particular year. We remain open minded and invite views.

24. We will also retain flexibility with regard to the carry-forward. The Act introducing Individual Registration in Northern Ireland removed the ability to carry-forward names onto the next year's register where no form had been received and it is widely suggested that this contributed negatively to registration levels. The carry-forward has been reinstated in Northern Ireland under the Electoral Registration (Northern Ireland) Act 2005. We intend to retain the current flexibility in Great Britain which allows the carrying forward of names.

2006 - Local elections and the annual canvass

25. It will not be possible to collect individual identifiers for all electors for local elections to be held in May 2006, as both primary and secondary legislation would have to be introduced and passed before the summer recess in order to be in place for the autumn 2005 canvass.

26. However, identifiers already collected on postal vote applications could provide an interim solution. These are already available for use by EROs and ROs when checking further applications and can be used to check the signatures of voters on declarations of identity (or security statements in the future).

27. This could be enhanced by allowing Electoral Registration Officers to confirm existing requests and seek additional identifiers through writing to those registered for a postal vote. This would also provide an opportunity to remind electors that they have requested a postal vote and confirm that they still wish to vote in that manner.

28. This would act as a transitional measure until collection of identifiers for all registered electors is practicable at the canvass in Autumn 2006 for use in elections in 2007 and beyond.

Use of individual identifiers in polling stations

29. While there is no evidence to suggest that personation at polling stations is a significant problem, the collection at registration of individual identifiers such as signature and date of birth could provide Presiding Officers with a way to check a person's identity should they have doubts. They could be empowered to ask the voter to confirm their date of birth, or provide a signature, which could be checked against existing information. Both forms of identification would be instantly available to the elector and would not require someone to carry additional information.

30. The Commission notes in *Securing the Vote* that it would provide the necessary guidance to polling station staff to help put this into effect.

B3. Proposals for the postal voting process

Requiring formal acknowledgement of all postal vote applications

31. Under this proposal EROs would be required to write back to the elector's registered (home) address to acknowledge the application. This would make it difficult for people seeking to commit fraud by applying for a postal vote on someone's behalf and having it directed elsewhere. Any queries raised by the application (e.g. number of people registered at one address, previous occupiers still being registered there) could be dealt with at this stage.

32. It has also been suggested that checking with electors that they still wish to have a postal vote shortly before an election would be a useful security measure.

Providing for systems that ensure that completed application forms are returned to administrators

33. This proposal is aimed at addressing concerns that have been raised about whether it is right for candidates and political party agents to handle completed postal or proxy vote applications. Whilst perfectly legal under the existing system it raises concerns that not all applications are legitimate or that applications could be tampered with before return to the electoral administrator. We are not suggesting here that there is a large-scale problem here, but it is important to address key issues of public concern.

34. Mandating the use of the ERO's address for return on application forms is a helpful means of getting applications back to the ERO direct but there is concern that the positive role played by party websites, workers and candidates in making application forms available would be adversely impacted by requiring this.

35. One solution might be to provide a central point, a 'clearing house', to which applications could be addressed – thus avoiding problems with producing tailored forms that include a different address for each ERO and supporting production of a generic form that can be used across the country. However we will need to decide whether benefits would justify the cost of such a measure.

Requiring applications for a postal vote made separately from the registration process to be checked against the registration details

36. This would mean that the individual identifiers collected at registration could be used to verify the separate application. It would be a further check on the veracity of the application.

Replacing ballot paper serial numbers with barcodes

37. Barcoding allows a greater degree of control to be exercised over the issue and receipt of ballot packs and facilitates identification of fraudulent votes which can then be removed so that replacements can be given to genuine voters. The system has been used in a number of electoral pilots in recent years and in particular at the all-postal pilots in the June 2004 European Parliamentary and local elections and the North East Regional Assembly referendum in November 2004.

38. This system would also allow electors to check with a returning officer whether their postal vote has been received prior to close of poll.

39. It also supports ROs being able to issue replacement ballot papers where they have not been received by an elector up until 5pm on polling day - electors would have to get them from the elections office and produce ID.

C. ADMINISTRATIVE EFFECTIVENESS

40. Our key proposals here are:

- Giving administrators more time to deal with postal vote applications, by making the deadline for applications eleven days before polling day rather than six. See *C1 below*.
- Recognising the difference between postal and polling station voting and supporting automated production of postal vote documents. See *C2 below*.
- Allowing administrators to rectify clerical and other errors by clarifying their powers to do so. See *C3 below*.
- Providing clearer performance standards for returning officers and electoral administrators and more transparent and flexible funding arrangements. See *C4 below*.
- Introducing clearer rules for candidates and political parties and reducing bureaucracy for smaller parties and independent candidates.

C1. Changing the deadline for application for a postal vote from 6 to 11 days before the date of the election

41. This would increase time for electoral administrators to check postal vote applications and address concerns about the practicability of making adequate and effective checks during a pressured time for administrators.

42. The deadline for requesting the redirection of a postal vote would be also moved to the same latest date as for postal voting applications.

43. This would tie in with the proposed change to last date for registration made in the section above on accessibility. It would assist electors, adding clarity and simplicity by providing a single date by which they had to register and or apply for a postal (or proxy) vote and any change to their applications for any given election.

C2. Provisions to support automated production of postal vote documents

44. Currently postal vote ballot papers have to be identical to the ones used in polling stations in all respects except for the pattern of the 'official mark'. This causes production problems as suppliers and administrators cannot automate production of the ballot packs and take advantage of modern technologies.

45. The law as it stands was originally designed to ensure that the rare postal vote did not stand out against the ones cast at the polling station which would potentially allow people to identify how someone voted. This concern is no longer a real issue given the volume of postal votes.

46. We have already piloted use of alternative 'official marks' (whilst keeping the security benefits of having different patterns) and, in responding to *Voting for change*

agreed to provide for watermarks or other security-printing to be used in place of the existing perforations.

47. We have also seen in pilots that automated production of ballot packs can be achieved successfully and allows for large volumes to be produced more effectively. This is becoming increasingly necessary as the number of requests for postal votes rises.

48. This requires an acknowledgement that postal voting and polling station voting are subject to differing pressures in terms of the production of ballot papers. This does not undermine secrecy or security but instead enhances it by taking account of the advances technology can provide for remote voting.

C3. Provision to allow electoral administrators to correct clerical and administrative errors

49. Current legislation does not explicitly provide for electoral administrators to address issues that arise from problems with production or administration. Whilst the law does lead administrators towards a positive approach in ensuring electors are not disenfranchised, some are reluctant to undertake actions that are not expressly provided for in legislation. This can lead to administrators feeling they are unable to take action when they can see a sensible and responsible solution to the problem facing them.

50. Examples of this scenario have occurred in recent elections where isolated production problems have meant ballot papers have been technically invalid because of mismatched numbering or not having perforations. There has been no express ability to remedy these problems through issue of a new ballot paper.

51. Making provision that explicitly enables administrators to address these issues, without limiting it to specified instances, supports participation by the elector and adds to security by enabling greater certainty when faced with an anomaly.

C4. Clearer performance standards and more transparent and flexible funding

52. While the Electoral Commission has consulted extensively on the issues here, experience in recent elections has strengthened the views of some stakeholders that a clear set of performance standards would help in establishing reasonable expectations about the service that electors and candidates should receive. Inevitably this debate is tied in with funding issues, and this is why we have proposed measures to increase the transparency of funding of electoral services. It will then be possible to begin to match expectations against capacity to deliver. Views on what the key performance standards should be and on the role of returning officers administrators in today's electoral world would be welcome.

YOUR VIEWS

53. We would welcome your views on the proposals which are covered in detail in the main body of the paper – under sections A, B and C. We suggest that you might wish to ask following questions:

1. Do you agree that the proposed measures are appropriate?
2. Do you have any practical concerns about bringing these measures into effect?
3. Are there any practical solutions which in your view are missing?
4. What would the impact of the proposals be on your organisation or the people you represent?

54. Please see page 4 for details on how to respond.

With thanks in advance for your contribution to the debate.

**Electoral Policy Division
Department for Constitutional Affairs**

25 May 2005

GLOSSARY

Barcode - A series of vertical bars of varying widths, in which each of the digits zero through nine are represented by a different pattern of bars that can be read by a laser scanner. The bars are commonly found on consumer products and are used especially for inventory control.

Commission - The Electoral Commission – an independent body set up under the Political Parties, Elections and Referendums Act 2000.

DCA - Department for Constitutional Affairs.

Declaration of Identity - A form submitted with the postal ballot paper to validate the vote, signed by the elector and a witness.

Personation - To assume the identity of another person, in order to cast that person's vote.

Postal Voting on Demand - Where any elector can specifically request to vote by post in a traditional election.

Proxy Voter - A person authorised to vote on behalf of another; an agent or substitute.

Turnout - The number of voters returning ballot papers to the Returning Officer before the close of poll.

Watermark - A translucent design impressed on paper during manufacture and visible when the paper is held to the light.