	THE ASSOCIATION OF ELECTORAL ADMINISTRATORS

Formal response to the Electoral Commission review of electoral fraud and invitation for evidence and views on potential vulnerabilities in the current electoral system

1. Introduction

1.1. The Association of Electoral Administrators (AEA) was founded in 1987 and has since established itself as a professional body to represent the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has 1695 members, the majority of whom are employed by local authorities to provide electoral registration and election services.

1.2. The AEA encourages and provides education and training in electoral administration, in addition to a range of commercial and professional services.

1.3. The key **aims** of the AEA are to:
   a. contribute positively to electoral reform within the UK;
   b. foster the advancement of consistent and efficient administration of electoral registration and the conduct of elections in the UK;
   c. raise the profile of electoral administration both within the UK and internationally;
   d. enhance and maintain the AEA's reputation as the leading professional body for electoral administrators within the UK.

1.4. The AEA supports and advocates two key principles set out by Gould (Independent Review of Scottish Parliamentary and Local Government Elections, Ron Gould, 2007) in his report on the 2007 elections in Scotland, namely that:

- all those with a role in organising elections should consider the voters' interests above all other considerations: and

- electoral legislation should not be applied to any election held within 6 months of the new provision coming into force.

1.5. We note that the review focuses on the integrity of electoral administration within the UK, and does not address issues relating to the financing and regulation of political parties, organisations and individuals engaged in campaigning at electoral events.

1.6. In this response, we address the two questions posed by the Electoral Commission, namely:

a. What concerns do you have, if any, about vulnerabilities in the current electoral process (in relation to, for example, electoral registration, absent voting, voting in polling stations, count, staff responsible for elections)?

b. What evidence do you have - first-hand or indirect - about the extent and nature of electoral fraud which may have taken place in the UK?

1.7. We have drawn on evidence from previous AEA election survey data and reports, in addition to views and evidence specifically sought from AEA members in response to this consultation. However, we do not provide the detail of individual allegations and cases in this response. Rather, we set out the key concerns, issues and themes that emerge from the evidence and views we have received.

2. Overarching principles and issues

2.1. It is important to separate out the perception of 'fraud' from the evidence of actual electoral malpractice.

2.2. Whilst we recognise that the use of the term 'fraud' is an easy shorthand for communicating with the public and media, it is also an incomplete way of referring to the wide range of electoral and non-electoral offences that can impact on the actual and perceived integrity of the electoral process.

2.3. In our response to the Law Commission scoping consultation[1], we commented that a number of offences, such as undue influence and treating, use out-of-date language and terms which are unlikely to be well understood. Offences should be expressed in language which is understandable by all those who have an interest in the electoral process and particularly for voters and campaigners. Regarding the latter, it should be recognised that many of these participants are either independent (not supported by a political party structure) or are volunteers.

2.4. The UK electoral system is still largely based on trust. However, in recent years there have been increasing concerns about the vulnerability of this approach and steps have been taken to introduce some elements of security in order to respond either to actual events or to perceptions of fraud. Postal

voting on demand was introduced in Great Britain in 2001 in order to improve access to the electoral process. However, following the high profile cases in Blackburn (2003), Birmingham (2004), Peterborough (2004) and Bradford (2005), personal identifiers were introduced for absent voting.

2.5. Individual electoral registration (IER) was introduced in Northern Ireland in 2002 and a different version of IER is proposed for Great Britain with the *Electoral Registration and Administration Bill* (ERA Bill) currently in the UK Parliament.

2.6. In designing or modernising any electoral system, there is a balance to be struck between access to the process for all eligible participants (electors, candidates and campaigners) and ensuring the integrity or security of that system. In doing so, a holistic approach should be taken that balances the overall effect and the relationships between the various parts of the whole system. This has not been the approach to date and this remains a concern.

3. The role of the police and prosecuting authorities

3.1. It is vital that there is recognition and acceptance that electoral malpractice, when it occurs, is serious and undermines confidence in our electoral process and in the outcomes of elections. If the electorate and participants in our electoral process are to have confidence in it, allegations of electoral malpractice should be swiftly and appropriately investigated by the police and anyone found guilty of a serious electoral offence should receive a penalty that is appropriate to the offence.

3.2. Since 2004, there have been significant improvements in the recognition by the police of the kind of activity that might constitute electoral malpractice. The Electoral Commission (the Commission) has worked with representatives from police forces, ACPO, the CPS, political parties, Electoral Registration Officers (EROs), Returning Officers (ROs), electoral administrators, Royal Mail, and UK Government officials to ensure that there is more information available to the police and to campaigners about electoral offences and to coordinate activities to prevent and detect electoral malpractice. Quite rightly, the emphasis has been on prevention as the investigation of the cases cited above, for example, required a significant investment in terms of police resources. It should also be recognised that such cases also have significant resource implications for EROs and ROs and their staff.

3.3. As part of this initiative there has been a system of Single Points of Contact (SPOCs) within police forces with the aim of ensuring that there is an officer who takes particular responsibility for leading when allegations of electoral

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[1] http://www.aea-elections.co.uk/downloads/consultations_and_responses/aea_resp_lawcomm_law_review_170912.pdf

malpractice are made. This person should also be the source of expertise and knowledge for colleagues.

3.4. Feedback from AEA members collated since 2010 shows a variable level of response from the police from 'excellent, as always' with a high level of engagement in some areas, to 'less than interested' in other areas. It should be noted that the quality of the relationship with the police is one of the main areas of feedback that the AEA receives in relation to electoral integrity. The feedback possibly reflects that where there has been a history of issues, the police have developed expertise and recognition of the importance of building working relationships with electoral staff. Where incidents are rare this may be less likely to have taken place. The turnover of officers may have also resulted in knowledge being lost and a lack of continuity. In addition, there is recognition by electoral administrators that, "the police, like local authorities, are short of resources - they are unable to give adequate cover for elections if a serious incident takes place".

3.5. At a time when budgets and resources are coming under considerable pressure it is vital that this pressure does not impact negatively on the commitment of police forces to the role of the SPOCs within their area. Any lack of engagement on prevention or lack of responsiveness by the police to allegations would effectively result in vulnerability in the system within that area.

4. The Code of Conduct for Campaigners: postal voting, proxy voting and polling stations

4.1. The AEA welcomes the Commission's work to review and update the Code and that it is being addressed to all campaigners and not just to the main political parties. This recognises that there are many registered political parties, and campaigners, as well as independent candidates with no party structure to support them. Having resources that can be provided to the smaller parties and campaign groups as well as independent candidates and their supporters is vital if the message about acceptable and lawful behaviour at elections is to be sufficiently well communicated and understood. In particular, having the Code and the 'credit card' quick guide branded as being for all campaigners is a positive step.

4.2. It is important nevertheless that the main parties on the Political Parties Panels across the UK do sign up to and actively communicate and monitor compliance with the Code within their party organisations. It is in their interests to do so.

4.3. We also welcome the extension of the Code to include proxy voting and activity around polling stations.

4.4.   There is a fundamental point of principle involved that should be addressed. The officers responsible for electoral administration are required to be impartial and independent in law for a good reason which is to ensure that our electoral processes are in fact and are seen to be free and fair. Therefore, is it appropriate that our electoral system allows political parties and other campaigners to have a role in administrative processes such as the creation, dissemination and return of applications to register, and applications to vote by post or by proxy?

4.5.   In particular, administrators continue to report receiving large numbers of applications via the parties close to the 11 days before polling day deadlines. Many of these are duplications and the resources required to process and check these can be considerable. This situation does not provide administrators with the best environment in which to maintain vigilance to identify potential attempts at fraud.

4.6.   We continue to receive concerns about campaigners being involved in the absent voting application process given that the personal identifiers which are intended to provide security are included on the application forms. Similarly, administrators are concerned that campaigners continue to handle completed postal votes and later in this paper we identify the issue of large numbers of these being returned to polling stations in some areas.

4.7.   Quite apart from the integrity issues outlined above, the ability for anyone who wants to produce an application form to do so has the potential to undermine any efforts at ensuring accessible and consistent election forms, can create problems in the processing of such forms in order to give effect to the application, and has resulted in incorrect or less than helpful information being provided to electors. We commented on one such situation in relation to the 2011 UK-wide referendum[2].

4.8.   We have welcomed the work to review the Code given that, at present, it is all there is to address these issues. However, the Code is not a binding document and, as such, its effect is limited and relies on campaigners and political parties to respect and adhere to it. The lack of any mandatory requirement or enforcement clearly amounts to significant vulnerability in the system.

4.9.   As part of this review process, the Commission should consider recommending changes to electoral law to prevent candidates and campaigners from having a role in such administrative processes and especially not to handle postal votes (before, during or after completion). Even where there has been no actual irregularity, as the Code identifies, this practice is likely to continue to contribute to public perceptions of electoral fraud.

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[2] http://www.aea-elections.co.uk/downloads/reports/aea_election_referendum_report_2011.pdf ; page 76.

5. Electoral registration

5.1. The potential for fraud in relation to electoral registration in Great Britain currently lies in the lack of any requirement for the applicant's identity to be verified. Similarly, eligibility in terms of the residency qualification is largely taken on trust with no evidence required to be produced, although EROs have powers to check other records, and are required to canvass properties. It should be noted that EROs have powers to require information in order to maintain the electoral registers and to ask for evidence of age and nationality. Overall, the current system relies on EROs being vigilant in watching for patterns of applications or irregularities in applications that might indicate an attempt at fraud.

5.2. It might be reasonable to assume that fraud is attempted where there is some significant advantage to be had in doing so. In the case of electoral registration in Great Britain, this would appear to be largely for non-electoral purposes - for financial, benefit or ID fraud[3]. The full electoral register is used for a range of non-electoral purposes including, in particular, by credit reference agencies as part of the process for vetting applications for credit. Having an entry on the electoral register is one of the factors that enable a person to create a fraudulent identity which can then be used to commit other fraud. There is therefore a significant financial incentive to obtain a fraudulent entry on the electoral register.

5.3. This is not the only purpose for fraudulent registration activity, and there have been localised attempts to obtain entries on the register with the intention of influencing elections - for example, the case in Slough Central Ward in 2007.

5.4. There have also been cases where fraudulent registration has been attempted to prove the vulnerability of the current system, and often linked to a media story. Such stories may have contributed to the public perception of 'widespread fraud'.

Individual electoral registration (IER)

5.5. The AEA has for some years called for the introduction of IER and has supported the Commission's recommendation to this effect. A system of IER is due to be implemented in 2014 ahead of the elections in 2015 (subject to the ERA Bill being passed by the UK Parliament). In trying to balance access to this new system with ensuring that it is secure and that there is some level of assurance of an applicant's identity, the Cabinet Office is in the process of developing a highly complex system which would be a hybrid of the current

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[3] http://www.electoralcommission.org.uk/__data/assets/pdf_file/0020/147161/Analysis-of-alleged-cases-of-electoral-malpractice-in-2011.pdf ; paragraph 2.9

household canvassing system with the requirement for individual applications and registration.

5.6. The system would require new applicants to provide their date-of-birth and NINo which would then enable verification to take place. It is recognised that it is likely that this data would become even more valuable than it is currently given the uses of the electoral register (see paragraph 5.2 above) with data security becoming an absolute priority.

5.7. The system as proposed would result in EROs being reliant on third party data holders such as DWP for verifying identifiers, and a newly developed IT infrastructure for transmitting data between EROs and data holders. For the reasons set out below, it is vital that this infrastructure and process works effectively and securely in real time with significant volumes of data.

5.8. In our 2010 report, we highlighted the challenge for electoral administrators faced with significant volumes of applications to register and to vote by post close to the deadlines 11 days before the poll. We said,

> "Whilst the current deadline for registration at 11 days before the poll is beneficial in terms of enabling people to register to vote who might not otherwise register in advance of an election, it leaves Electoral Registration Officers and their staff very little time to undertake any checks relating to applications to register to vote and to vote by post.[4]"

5.9. We noted that there had been a number of suspicious applications in the run-up to the elections in May 2010 and that the EROs involved had to take a variety of urgent actions working closely with the police.

5.10. One of the few options open to an ERO in such circumstances is to write to the applicant for further information or call them to a hearing which, given the timescales, does not give the applicant much time to respond. In some cases EROs mobilised local authority audit inspection teams to undertake visits to properties and to cross-check other data held by the local authority. All of this required a considerable resource commitment.

5.11. In the run-up to the UK Parliamentary General Election and other elections scheduled for May 2015, administrators will be operating an entirely new and complex system of registration at a time when there is likely to be significant interest in the elections, generating large numbers of last minute applications. In the event of the applicant being unable to provide their identifiers an exceptions process would be available whereby an applicant to register could provide identification documents or, if they are unable to provide any of the documents set out in the legislation, they could obtain a signed attestation in support of their application. There may be many instances where individuals

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[4] http://www.aea-elections.co.uk/downloads/reports/aea_election_report_final_PUBLICATION.pdf

apply via the exceptions process and this will require clear guidance and careful management, with consequential resourcing implications.

5.12. The postal vote application process will remain the same, with only a few days between the deadlines at 11 days before the poll for applications to register and to vote by post and the date on which those last minute postal votes will be required to be sent out (five days before the poll).

5.13. Managing all of the above processes at this key pressure point in the timetable is likely to put electoral services staff and the new infrastructure under extreme pressure. In such a scenario, the risk to confidence in the process could potentially be as a result of system overload or disenfranchisement rather than any attempt at electoral fraud.

5.14. However, in implementing IER, consideration and guidance should be given to how administrators, the police and prosecuting authorities should manage any allegations or attempts at fraud within either the registration process or the absent voting process.

Residence and voting more than once

5.15. At present, a person can register at more than one address - this particularly applies to people with second homes and students. However, this facility is one which has been of concern to electoral administrators for some time, and in 2010 we highlighted that the law regarding "residency is not clear and leaves EROs to exercise their judgement in any particular case, with reference to general guidance in section 5 of *The Representation of the People Act (RPA) 1983* and to case law"[5].

5.16. Although people can register in more than one electoral area, they should not vote more than once at any election to a particular body - so, for example, a person should not vote more than once at a UK Parliamentary General Election. To do so is an offence.

5.17. However, there is no mechanism for identifying how many people, unwittingly or otherwise, voted more than once at the 2010 General Election. The availability of postal votes on demand with a provision to have the postal vote sent to an alternative address to that at which a person is registered makes it relatively easy for a person to commit this offence, either knowingly or unknowingly.

6.   Absent voting

6.1.   By virtue of the voting process taking place away from a supervised environment, there will always be a risk of interference, or undue influence in

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[5] http://www.aea-elections.co.uk/downloads/reports/aea_election_report_final_PUBLICATION.pdf ; page 40.

relation to postal voting. Similarly, the application process for absent voting facilities is also vulnerable to interference and we have commented on this in section 4 above.

6.2. Administrators have consistently expressed concern about houses of multiple occupation (HMOs), and residential and care homes in particular where there are vulnerable people involved. There has been a significant amount of work undertaken to provide information to managers of these kinds of HMOs as to what they should and should not do in relation to the electoral process.

Postal voting

6.3. It is the extensive 'on-demand' access to absent voting arrangements that has generated considerable media coverage and public concern in relation to the potential for electoral fraud.

6.4. The *Electoral Administration Act* (EAA) *2006* brought in a new requirement for personal identifiers (signature and date-of-birth) to be provided by people applying for an absent vote and for a minimum of 20% of these identifiers to be checked when they are provided on the security statement that accompanies the postal ballot paper. In fact, the vast majority of ROs check 100% of these, thereby providing a measure of security within the system. Cabinet Office has indicated an intention to mandate that 100% of identifiers should be checked which would bring the law up-to-date with practice.

6.5. Over the past few years, and specifically in 2011[6] and in our initial data from 2012, we have received reports in some areas that large numbers of postal votes were returned to polling stations during polling day, numbering in the hundreds at close of poll despite the collection by the RO's staff of returned postal votes from polling stations during the day.

6.6. Where a significant number of these have been rejected because the identifiers did not match it could give rise to concerns of an attempt at electoral fraud. There might be benefits in advertising clearly to candidates and campaigners that 100% of identifiers are checked regardless of when and where the postal votes are returned. It should be said, however, that this might also have arisen as a result of voters having made a mistake on their postal voting statement or at the time of providing the identifiers.

6.7. We have previously reported that many administrators are concerned about the barrier that this security measure can present for some voters who are disenfranchised because they may have made a mistake in completing the security statement. The AEA welcomes the UK Government's intention to

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[6] http://www.aea-elections.co.uk/downloads/reports/aea_election_referendum_report_2011.pdf , page 82.

provide statutory officers with the power to contact electors after the election to advise them of the error and how to correct it.

6.8. Where an applicant for a postal vote is unable to provide a signature, they can request that the signature requirement is waived. They are required to give a reason and the name and address of any person who has assisted them with the application.

6.9. In our report on the elections held in May 2010, the AEA recommended that the legislation governing applications for a postal vote should be amended to require that applicants requesting a waiver must have their application attested in line with current arrangements for proxy applications. This is a potential loophole in the security arrangements for postal voting that has yet to be closed.

Proxy voting

6.10. AEA members have reported concerns about the increasing number of proxy appointments particularly where campaigners are acting as proxies for a number of voters, with some proxies presenting at polling stations and not knowing on whose behalf they are supposed to be voting. Even if there is no fraud involved, this scenario gives rise to concern of some impropriety or perception of such.

7. Polling station voting and 'personation'

> "Apart from names and addresses of voters, voter lists currently do not contain any personal identifiers which could help distinguish voters. In addition, voters are not obliged to present any identification to be able to vote."
>
> *OSCE / ODIHR Needs Assessment Mission, 2010*

7.1. International observers continue to question the lack of any requirement to produce identification at the point of voting in-person at a polling station. It remains a potential vulnerability in the electoral process in Great Britain. In Northern Ireland, voters are required to produce pictorial identification at the polling station.

7.2. Administrators, among others, continue to raise the issue of whether identification of some kind should be introduced in polling stations. We have not received reports of widespread personation, although isolated cases are reported. However, the lack of any check on a person's identity is a potential vulnerability in the system and is perceived as such. We noted in our response to the Law Commission scoping consultation[7] that the law reform project provides an opportunity to consider this issue further. In doing so the role of

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[7] http://www.aea-elections.co.uk/downloads/consultations_and_responses/aea_resp_lawcomm_law_review_170912.pdf

the prescribed questions should also be considered. The format of the prescribed questions has become increasingly complex and, if retained, ought to be reviewed and simplified.

7.3. If there is to be no requirement to provide a signature in polling stations then we believe the utility of corresponding numbers lists should be reconsidered, particularly in relation to the management of these at combined polls. Administrators have reported concerns expressed by voters in relation to the secrecy of their vote on seeing polling staff (in accordance with the rules) recording elector numbers on the corresponding numbers list.

7.4. However, all of the above issues should be considered in the round so that any new measures form part of a coherent process that delivers integrity and confidence in the process as well as being administratively efficient.

8. Campaigning and standing for election

8.1. A recurring issue for ROs is where one party makes allegations against another party and expects the RO to do something about it. Clearly, the RO is not there to investigate and such complaints are referred to the police. The following are examples of allegations and concerns that have been reported by our members:

- Lack of imprint on election materials, or incorrect imprint.

- Contents of election materials - incorrect, disparaging of another candidate etc.

- Allegations of forged signatures (subscribers) on nomination papers.

- Issues relating to candidates potentially being disqualified.

- Large groups of campaigners within the vicinity of the polling station leading to voters feeling 'intimidated'.

- Complaints about the activities of tellers - especially where they approach voters on the way in to the polling station rather than as they leave.

The imprint

8.2. The imprint requirements are an example of a significant offence within electoral law which is not always understood and with which a number of participants fail to comply (or to comply fully) seemingly inadvertently rather than by design. Such allegations can take up police time and resources and are rarely prosecuted. If it is not considered to be in the public interest to prosecute where there is evidence of this offence, then the law should be

amended accordingly otherwise it could be seen as being brought into disrepute.

9. The Count

9.1. The primary objective of the administration of the verification and count at any election must be to ensure the quality of decision-making in order to achieve an accurate result. Timeliness of the result is one of a number of key principles that should underpin good practice in the conduct of the count, along with transparency, security, professionalism, accuracy, secrecy, accountability and equity[8].

9.2. We are not aware of significant fraudulent activity in relation to counts. The more likely risk, given that key supervisory staff have generally been working for an extended period of time and are under considerable pressure, is that an error may undermine the integrity of the count and affect the accuracy of the result.

9.3. There are specific provisions in electoral law designed to ensure the transparency and integrity of the verification and count, most notably that these processes can be observed by candidates, agents and independent observers as well as representatives of the Commission. The transparency of the process is enhanced by ensuring that count processes are clear and lawful; provide an audit trail, and that there is regular communication to all observers about what is happening at any given stage.

9.4. With the increasing trend towards combination of polls, with some counts taking place overnight after the verification process, with the counts for the other polls being deferred to the Friday morning, it is essential to ensure that any ballot papers on which the votes are not being counted immediately are securely stored until they are counted. This is a matter of ensuring that proper arrangements are in place. Agents are allowed to affix seals to the ballot boxes where there is a break in proceedings.

10. Staff responsible for electoral processes

10.1. In considering potential concerns regarding the staff employed to deliver electoral processes, the integrity review might usefully also look at the impact of outsourcing or use of temporary or agency staff.

10.2. With increasing pressures on core electoral staff and reduced capacity within local authorities, and the trend towards the outsourcing of services, there is an increasing reliance on temporary staff who may not have the same understanding of what is and is not acceptable, or who may not have the same commitment as core teams to ensuring the integrity of the processes they

have been asked to undertake. This applies equally to electoral registration processes such as canvassing, as it does to election processes.

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[8] ACE Electoral Knowledge Network.