

# The Association of Electoral Administrators

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## Response to the Public Administration and Constitutional Affairs Committee (PACAC) Call for Written Evidence - The Work of the Electoral Commission

### Organisation:

Association of Electoral Administrators (AEA).

### Summary of Organisation:

Founded in 1987, the AEA is the professional and qualifications body of electoral administrators in the United Kingdom. It is non-governmental and non-partisan with just under 2,000 members, the majority of whom are employed by local authorities to provide electoral registration and election services. There are eleven regional branches of the Association covering the United Kingdom.

### Contact Details:

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### Consultation Questions:

#### Question 1: The effectiveness of the Electoral Commission in discharging its statutory obligations

We believe the Electoral Commission is very effective in discharging its statutory obligations in relation to electoral administration.

The Commission has oversight of all aspects of the electoral process and provides excellent guidance, supporting resources and good practice. Its work and the guidance it produces for Returning Officers (RO), Electoral Registration Officers (ERO) and electoral administrators is invaluable and goes a long way to ensuring the smooth conduct and transparency of various elections, referendums, and electoral registration. It also provides essential guidance to candidates and political parties.

However, legislation and processes sometime hinder the Commission's effectiveness. For example, we suggested in our response to the Committee on Standards in Public Life (CSPL) [consultation on the review of electoral regulation in the UK](#) that the election expenses process be made an online submission. This change would greatly assist the Commission in monitoring returns, increase transparency and remove a burden from ROs.

The work it carries out on accessibility to elections and electoral registration, including information and guidance is invaluable.

# The Association of Electoral Administrators

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## Question 2: What roles and functions within the UK electoral system should the Commission perform?

The Electoral Commission has different roles relating to political parties and the administration of the electoral process, and it is vital they carry on providing key functions including:

- regulating political party funding in the UK to ensure the integrity and transparency of party and election finance.
- registering political parties and maintaining the register of political parties.
- setting performance standards for EROs and ROs.
- producing guidance for elections and electoral registration.
- administering national referendum responsibilities, including the role of chief counting officer.

As outlined in question one, the Commission's current role covers all aspects of the electoral process. It provides excellent and invaluable guidance for ROs, EROs, electoral administrators, candidates and political parties.

However, the Commission does not provide guidance and supporting resources for all election types and referendums. Only limited guidance is available for Parish and Community Councils and it produces no guidance or supporting resources for Neighbourhood Planning Referendums (NPRs), Council Tax Referendums and Business Improvement Districts (BIDs). These areas are not currently part of its remit. We have taken on the role of filling in these gaps and producing guidance for our members in recent years. To ensure the highest level of consistent support to both electoral administrators and those campaigning, we believe the Commission's remit should be expanded to include all types of elections and referendums.

As highlighted in question one the candidate election expenses process should be an online process. This would greatly assist the Commission in monitoring returns. At UK Parliamentary general elections, ROs are required to submit copies of all expense returns made to them to the Commission. The original returns are then held by the RO and made available for public inspection for two years from submission at individual local authority level. There is no single place of inspection for the UK. Each RO and their staff effectively act as intermediaries in the regulation of election finance, with local authorities meeting the costs. Consideration should be given to the Electoral Commission providing a single location for inspecting returns in addition to them being made available by each local authority.

Consideration should also be given to developing an online facility for candidates to submit their election expenses returns, allowing both the candidate and agent to securely approve the final return. Such a system could also provide a means for inspecting returns, declarations, and associated documentation.

# The Association of Electoral Administrators

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In the UK Government's response to our [2015 post-election report](#), it highlighted that the development and maintenance of such an online platform would likely incur substantial cost. However, it was prepared to consider the recommendation further with the Electoral Commission, in consultation with key stakeholders such as EROs and political parties.

In our [2017 post-election report](#) we expressed our disappointment at the lack of progress, and made the following recommendation:

*A full and thorough review of the processes that deal with the recording of candidates' expenses should be undertaken, including consideration of the return to, and subsequent reporting of, expenses to Returning Officers and the possible provision of online reporting and inspection mechanisms.*

We have continued to raise this issue in subsequent post-election reports.

At present AEA members collect in expense returns on behalf of ROs or Proper Officers (PO). This process is paper-based and often requires much prompting to receive returns, primarily for local government elections. We believe it is difficult for campaign spending to be properly scrutinised through a paper-based system, and urge the UK Government to introduce an online returns process.

Other areas worth consideration are providing guidance and support for new local authority mergers, acting as a single point for the distribution of the register of electors and holding a central database of candidates standing at an election.

## **Question 3: Should the remit of the Electoral Commission be changed?**

Yes.

As highlighted in question two the Commission does not provide guidance and supporting resources for all election types and referendums. Consideration should be given to including Parish and Community Councils, Neighbourhood Planning Referendums (NPRs), Council Tax referendums, Business Improvement Districts (BIDS) and others as part of their remit.

Question two also highlighted that consideration should be given to the Commission providing a single location for inspecting election expense returns in addition to them being made available by each local authority, single point for the distribution of the register of electors, and holding a central database for candidates.

# The Association of Electoral Administrators

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## Question 4: What powers should the Electoral Commission have? Should the existing powers of the Electoral Commission be changed?

In our response to the Committee on Standards in Public Life (CSPL) [consultation on the review of electoral regulation in the UK](#) we highlighted that the Commission's regulatory powers should be expanded to include enforcing candidate finance laws rather than having to rely on police enforcement.

The Commission has many strengths, with its specialist knowledge of election finance regulations and the conduct of elections. It has a full understanding of all electoral and regulatory processes including offences, and provides invaluable guidance to ROs, political parties and candidates on various funding returns. The Commission's guidance, supporting resources and good practice is outstanding.

Under PPERA the Commission is the regulator and under RPA police are the regulator. As such there is a crossover, and it is not clear which organisation regulates each type of offence.

The Commission can only investigate and issue a fine to a political party which has committed an offence under PPERA. However, it does not have the powers to investigate and bring forward a candidate's criminal offence for prosecution as this comes under RPA, so has to be enforced, investigated and prosecuted by the police. In some cases, prosecutions can straddle both sets of legislation. This is a serious disconnect.

Police and Crown Prosecution Service (CPS) resources are stretched dealing with serious criminal offences, and both organisations lack specialist electoral knowledge. As a result, we believe there have been few, if any, criminal prosecutions over recent years<sup>1</sup>. There is no deterrent to breaking the rules if the alleged offences are not taken forward to criminal prosecution. A far better approach would be to agree on a single regulator. Giving the Electoral Commission statutory regulator powers would help the police and CPS by bringing forward smaller criminal cases to magistrates' courts and act as a more effective deterrent.

The Commission currently provides guidance to the whole of the UK. The devolved nations have seen significant electoral change, with further changes proposed in the near future. Additional guidance and support will be needed in these areas, especially as we approach the May 2021 polls with extensive changes to the franchise for some elections in Wales.

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<sup>1</sup> [Public Administration and Constitutional Affairs Committee](#) - 2 July 2020

# The Association of Electoral Administrators

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## **Question 5: The governance of the Electoral Commission**

This question does not fall within our professional scope. We feel it inappropriate to comment, other consultees with greater experience will be better placed to do so.

## **Question 6: Public and political confidence in impartiality and ability of the Electoral Commission**

While we cannot speak for the general public, we have 2,000 members who look to the Electoral Commission for guidance and support. It is important to note that there has undoubtedly been a cultural shift in recent years away from the historical referral to the law books only, with the guidance provided now presented across the spectrum not only highlighting the legislative requirements but also the administrative application. It is clear that this has been of great benefit to our members and without doubt they have confidence in the quality of Electoral Commission guidance, advice and wider support.

## **Question 7: The international reputation of and comparators for the UK Electoral Commission**

In some countries the Electoral Commission or equivalent national body administers both elections and electoral registration nationally. We feel it is better in the UK for both to continue to be administered in local areas, supported by the Commission.

## **Question 8: What, if any, reforms of the Electoral Commission should be considered?**

Our responses to questions 2, 3 and 4 outline areas of reform for the Electoral Commission to be considered.

## **The Committee would also be interested in submissions on the effect of COVID-19 on UK elections.**

COVID-19 has had a significant impact on UK elections. All May 2020 polls were postponed until May 2021, and in England all other polls were also postponed till then. The level of combined polls now scheduled across most of the UK on 6 May 2021 in an ongoing pandemic, not to mention the change in franchise in Wales, means these elections present a significant set of challenges.

Additional safety precautions will be required for the safe delivery of polls in May 2021. Cleaning polling stations, supplying hand sanitiser and offering PPE to staff will all incur additional costs. Count arrangements will also need to be carefully considered and adjusted, bearing in mind the safety of staff and the access required by candidates and agents to the electoral process. ROs are making

# The Association of Electoral Administrators

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necessary arrangements and working towards ensuring elections are conducted safely, drawing on the experience of recent by-elections in Scotland.

We have concerns about sufficient staffing numbers being willing and available to work at the May 2021 elections. There are also potential issues with supplier capacity, particularly if absent voting numbers increase, especially as some areas look set to administer a combination of up to seven polls in one day.

There are also concerns about potential local lockdowns over the election period. Would attending a polling station, collecting subscribers or delivering nomination papers be classed as an essential journey under those circumstances?

It is difficult to predict what the situation will be in May 2021 regarding COVID-19. It should be noted that planning for the polls has already started, and that venue decisions, orders for additional supplies and contingencies are being booked and paid for now. It should become easier to predict which measures are necessary closer to the polls, but time, effort and finances will have been spent well before then.

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**13 November 2020**