

Standing for election in the United Kingdom

Report and recommendations

January 2015

Translations and other formats

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We are an independent body set up by the UK Parliament. We regulate party and election finance and set standards for well-run elections. We work to support a healthy democracy, where elections and referendums are based on our principles of trust, participation, and no undue influence.

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Foreword

The Electoral Commission believes that trust, participation and no undue influence are essential principles for supporting a healthy democracy. The principle of participation relates not just to voters being able to register and vote, but also that those wishing to stand and compete for election can do so without facing unnecessary barriers. This report, which follows a wide ranging consultation on the current system and rules around standing for election, sets out some important reforms to make sure that this principle is better met.

The rules around standing for election determine whether someone is able to stand as a candidate. Our recommendations are designed to help make these rules as clear, fair and up to date as possible, so that they both encourage participation by candidates and maintain the confidence of voters in the system.

Electoral law has developed in a piecemeal fashion over time, which means that some aspects of the current system are complex, out of date and lacking in consistency. Our report sets out the need to update the rules around standing for election so that they are as consistent as possible across the electoral system, while recognising that different approaches may be appropriate in some cases. We have made a range of recommendations on changes to the current rules and procedures, including about qualifications, disqualifications, deposits, subscribers, candidate benefits and procedural issues.

We previously reported on standing for election in 2003. Several of our recommendations resulted in important policy changes, for example allowing candidates to use their commonly used name on ballot papers, and extending the deadline for the registration of political parties wishing to contest elections. Since then, other issues have been added to the debate including those relating to new elections such as Police and Crime Commissioners.

We received around 100 responses to our consultation, including from political parties, elected representatives, individual candidates (including those standing as independents) and electoral administrators. We are grateful to all who responded for their contribution to our thinking.

There was a range of views on each of the issues we raised in our consultation. Whilst some respondents were content with the current situation, others were clear that change was needed to make the system fairer and participation in it easier. The main challenges raised focused on the lack of clarity around the rules, including inconsistency between how they were applied at different elections. Respondents also pointed out where the rules put barriers in the way of standing for election which they saw as unfair or unnecessary.

We have considered all the points raised in the consultation, together with our own evidence and analysis. We have looked carefully at whether the rules

represent a barrier to standing for election that is still appropriate today and have made a series of recommendations for reform. For example, in light of the evidence we received, we are recommending that deposits are abolished for all elections, since we do not think it is appropriate to put a financial barrier in the way of someone standing for election. However, we are also recommending that subscriber requirements should be retained, to help ensure candidates are genuinely contesting the election.

On disqualifications, we think there should be a clearer distinction between offices or employment which would prevent someone from standing for election, and those which would prevent someone from holding office if elected.

We also make a number of recommendations about candidate benefits, including candidate mailings, party election broadcasts and access to the register. On procedural issues, our view is that the process around submitting nomination papers and related documents should be modernised. We also think that further consideration should be given to the process of allowing objections to nominations.

Given the complexity of this area, some of these changes will be straightforward, while others will require more detailed work. Policy makers in the relevant governments will need to consider these issues carefully and we look forward to working with them to take forward the issues raised in this report.

Jenny Watson
Chair

Executive summary

The Electoral Commission is an independent body which reports directly to the UK Parliament. We regulate political party and election finance and set standards for well-run elections. We report to the relevant Governments on recommendations for change that we have identified.

We have a strong interest in simplifying and updating the procedures used by candidates to stand for election in the UK. We last reviewed the rules around standing for election in 2003, after which a number of recommendations were taken forward by the UK Government. This report gives an updated view of these issues, including reporting on responses to a new consultation paper published in September 2013.

The following aspects of standing for election were within the scope of the consultation document:

- Qualifications and disqualifications
- Deposits and subscribers
- Candidate benefits, including candidate mailings, broadcasts, access to the register, free use of rooms, descriptions and emblems
- Procedural issues, including the use of candidate photographs on ballot papers, delivering and objecting to nomination papers.

We sought views from a range of people and organisations including elected representatives, political parties, electoral administrators and candidates who have stood for election. Around 100 responses were received from a range of individuals, organisations and groups.

The responsibility and entitlements of those standing for election are set out in law, and they vary depending on the election. Many of these rules have been in place for many years, and questions have been raised about whether they are still appropriate. Some of these have been highlighted in the Commission's statutory reports on elections, including: the value of the subscribers system (also known as signatures or assenters); the size and variation in deposits; the rules on access to the electoral register; the clarity of qualification and disqualification criteria; and the prohibition on independent candidates using descriptions on the ballot paper.

While the rules on standing for election are of most direct interest to potential candidates and political parties, they are also important for voters since they help determine the range of candidates available to them. The rules should also inspire confidence in elections amongst voters, candidates and parties.

To assess the robustness of the laws and procedures relating to standing for election, we have used the following set of principles:

- Clear election law – the rules on standing for election should be clear, straightforward and unambiguous.
- Encourage participation – processes should be accessible and transparent to promote the widest participation. There should be no unnecessary barriers to standing for election.
- Fair and equal treatment – fair and equal treatment should be ensured between all candidates, save where differences are genuinely justified.
- Trust – rules should inspire confidence amongst voters.
- Consistency of approach – as far as possible the rules on standing for election should be consistently set so they are easy to understand and any differences between them should reflect conscious policy choices by the relevant legislature.
- Up to date – the rules on standing for election should reflect current technology and the expectations of candidates, agents, political parties, voters and those administering elections.

We used these principles to assess the appropriateness of the current arrangements, drawing on the evidence submitted through the consultation.

During the review we have been able to identify some areas where relatively straightforward changes to the law could be made. However, in some other areas the issues and law relating to standing for election are very complex. Our recommendations make clear where this is the case and it will be important for further work to be done by the relevant policy makers before any changes are made to the law.

A summary of our analysis and conclusions is set out below.

Qualifications and disqualifications

To stand for election in the UK, a person must be qualified and also not be disqualified.

A core set of qualifications relating to age and nationality apply to all elections. Additional qualifications relating to demonstrating a local connection apply at local elections. Similarly, certain individuals are disqualified from standing for election, with different sets of criteria applying at different elections. In addition, some people are disqualified from standing in some elections because of a post that they hold.

Respondents to the consultation were of the view that qualification and disqualification criteria should be clearly set out. There was consensus that the rules could be simpler with greater consistency between elections. Specific queries were raised about particular aspects of the qualifications and disqualifications rules.

We agree that the qualifications and disqualifications criteria require review, and that candidates would benefit from increased clarity in the rules. We do not think however that it would be appropriate or possible to have one set of criteria applying to all elections, since there are good reasons for qualifications and disqualifications to vary depending on the election.

This is a complex area and it will be important for a range of issues to be taken into account before any changes to the law are proposed by the relevant policy makers. Consultation with representatives of local government, electoral administrators and Returning Officers on the detail of any changes will be particularly important.

- We recommend that the relevant Governments should clarify and update the law relating to the qualifications for local government elections including those relating to being a local government elector for the area, occupying as owner or tenant, principal or only place of work being in the area, and residence in the area (or within three miles at parish or community elections).
- We recognise that the qualification about continuing to be a local government elector for the area of the authority is different from the other three qualifications, since it must be satisfied throughout the whole of a councillor's term of office. This qualification does not apply in Scotland or Northern Ireland. We also note that enforcing this qualification is not practical since there is no requirement for nomination papers to be held (and where they are held it is not normally beyond one year). We therefore recommend that the Government considers whether this qualification is still appropriate.
- We recommend that the law in England, Wales and Northern Ireland is changed to make a clear distinction between offices or employment which would prevent someone standing for election, and those which would prevent someone from holding office if elected. A suggested framework of questions is put forward in this report to help establish whether a particular postholder could stand, but it would be up to the relevant Governments to determine how these should apply when reviewing the law. This reduction in restrictions on potential candidates would enable wider choice for voters.
- We recommend that the law is changed so that voters, voting in person in polling stations (and where practical those voting by post), are informed that a candidate had either been disqualified or no longer wants to be considered for election but has not withdrawn their candidature within the time allowed. This will ensure that the voter can make a more informed choice.

Deposits and subscribers

Deposit and subscriber (also known as signatures or assenters) requirements are the two main barriers to standing for election. Under a deposit system, anyone who wants to stand for election must lodge a specified amount of

money with the Returning Officer. The subscriber system requires anyone standing for election to gather the signatures of a set number of supporters, who must be registered electors. Deposit and subscriber requirements vary between elections.

Political parties expressed mixed views about deposits. Larger parties were generally of the view that paying a deposit required a candidate to demonstrate proper intent, and that deposits deterred 'non-serious' candidates. On the other hand, smaller parties and independent candidates said that deposits could be unaffordable and therefore they restricted their ability to participate in elections.

Similarly, some political parties said that the subscriber system should be retained because it helps validate the nomination process. Some electoral administrators expressed the view that the subscriber process was not particularly meaningful, and that it just added to the administrative process. Many respondents made the point that the variation in subscriber requirements between elections was not logical and was confusing for candidates.

Without either deposit or subscriber requirements, there is a risk of large numbers of candidates (especially in high-profile elections) which could potentially lead to ballot papers that are unwieldy for voters, undermine the credibility of the election, and are difficult and costly to administer. The other side of this argument is that reducing these barriers could mean an increased range of candidates standing for election, which would mean greater choice for voters.

In the case of deposits, it does not seem reasonable to have a barrier to standing for election that depends on someone's financial means. We do not think that the ability to pay a specified fee is a relevant or appropriate criterion for determining access to the ballot paper. We therefore recommend that deposit requirements are abolished.

The argument for subscriber requirements seems to carry more weight, in that they act as a proxy for support from the electorate and are an indication that candidates are genuinely contesting the election. Having said this, in practice subscriber requirements may test administrative ability rather than support from the electorate.

Given that we are recommending abolishing deposits, on balance we have concluded that subscriber requirements should be retained. There is however a need to review subscriber requirements to ensure that they are proportionate to the type of election and also where possible to increase consistency.

In considering these recommendations, it will be important that Governments look at subscriber and deposit requirements together for each election. We also recognise that different arrangements and solutions may be appropriate in different parts of the UK.

- We recommend removing the requirement to pay a deposit at all elections, as we do not consider that there should be a financial barrier to standing for election.
- We recommend that subscribers should be retained to maintain trust that elections are being contested by serious candidates and avoid ballot papers that are unwieldy for voters and difficult to administer. The number of subscribers should be reviewed for each election to ensure it is proportionate to the post for which the candidate is standing.

Candidate use of descriptions

Only registered political parties are permitted to use a description on the ballot paper (with the exception of parish and community council elections). Candidates that are not standing on behalf of a party are allowed to use the word 'Independent'.

In the consultation, respondents expressed mixed views about whether independents should be allowed to use descriptions. Independents themselves felt strongly that they should be allowed to use descriptions, and that this would add clarity for the voter about what the candidate stood for. Larger parties said that descriptions should continue to be restricted to registered political parties, with some saying that allowing independents to use descriptions would undermine the system of party registration.

During the European Parliamentary elections in May 2014, there were several issues with party descriptions that were felt to be offensive or could cause confusion with other parties. In the light of experience at the May 2014 elections and our previous recommendations on party descriptions, the Commission has reiterated the case for reforming the rules on party descriptions, including their use on ballot papers and the maintenance of the central register. We have discussed some of these issues with Government. Although it appears that the UK Government is prepared to consider addressing this issue in the medium term, there is no prospect of changes to the current legislation on party registration before the UK Parliamentary General Election.

Given this wider context of the need to review the purpose and use of the central register of descriptions for parties, at this stage we are not making any recommendation about the use of descriptions by independents. We will be monitoring the use of descriptions on ballot papers at the 2015 elections and will report on the issue in our post-election report after the May 2015 polls.

Candidate benefits

Candidates who stand for election have significant benefits, which might include a free mailing of campaign material, the free use of rooms for meetings, and a copy of the electoral register. Candidates from registered parties also have the opportunity to use a description (as set out above) and

party emblem on the ballot paper. Parties may also qualify for party election broadcasts.

A number of political parties expressed strong support for retaining **free candidate mailings** as they were the main vehicle for communicating with the electorate. Concern was raised about free candidate mailings not being available for PCC elections. While there was some support for online candidate addresses, concerns were raised about not everyone having access to the internet.

We are not recommending changing the right to a postal mailing to a right to display information online. Any move to online candidate communications should take account of internet use and the likelihood of the information being accessed online.

- We recommend that the law should be changed to ensure that electors are sent printed information about candidates standing for election as PCCs in their police area. This should take the form of a booklet with addresses from each candidate sent by the relevant Police Authority Returning Officer to every household in the police authority area. This was done on a trial basis for the PCC by-election in West Midlands in August 2014. The Home Office will be evaluating the effectiveness of this trial.
- We recommend that the legislation around free candidate mailings be amended to allow candidates at combined elections to use a single election communication covering both elections if that is their choice, but only where there is a right to a free mailing in respect of the elections referred to in the mailing.

We believe that the criteria for **party election broadcasts (PEBs)** are working well. However, there is some uncertainty about whether the law allows independent candidates who can demonstrate sufficient support to qualify for a PEB, and in our view it does not. In the case of candidates standing for Mayor of London this may disadvantage independents compared to party candidates. (This is only currently relevant in London since it is the only area where in practice broadcast areas and electoral boundaries are sufficiently aligned to have made this a possibility.) We think it is important that this is addressed at the earliest legislative opportunity. We also appreciate the clear problems expressed by the broadcasters in making provision for separate PEBs in different English regions, and believe that broadcasters should keep under review technological developments that may make such provision possible in the future.

- We recommend that the legislation is changed to enable independent candidates to have party election broadcasts where this is feasible (in practice this is only at London Mayoral elections at present). The criteria that regulators and broadcasters use to award broadcasts should, for those elections where this is relevant, identify what levels of past and current support an independent candidate would need to receive a broadcast.
- Broadcasters should keep under review technological developments that may make the provision of regional PEBs in England a more viable option in the future to ensure better access to voters by those that can demonstrate significant electoral support in a particular area.

There was support for independent candidates having **access to the electoral register** at an earlier stage. Such access would enable independent candidates to campaign on a more equal basis with candidates from political parties.

- We continue to recommend that the law is changed to allow all candidates to get earlier access to the register for electoral purposes.

There are strongly held views on both sides of the debate about whether **independents should be allowed to use an emblem** on the ballot paper. The case in favour is based on the argument that the current position is unfair as it provides an advantage to party candidates who are allowed emblems. On balance our view is that the use of emblems should remain a facility reserved for political parties, to help protect the identities of parties and preserve an incentive for registering a party.

There was support for retaining **free use of rooms for candidates**, although awareness of this entitlement was low.

- We recommend that Returning Officers should ensure that the information they make available to potential candidates includes information on their entitlements, including what facilities are available and the likely cost of hiring them.

Procedural issues

This section covers a number of procedural issues around standing for election, including: alphabetical listing on ballot papers; photographs of candidates on ballot papers; submitting nomination documents; and objecting to and determining the validity of nominations.

Alphabetical listing on ballot papers

The law says that the names of candidates appearing on the ballot paper should be placed in alphabetical order by surname (or party name where parties stand for election). It has been suggested that this discriminates against candidates and parties with names starting with letters towards the end of the alphabet because they appear lower down the ballot paper.

The views of political parties varied on this issue. The majority of parties did not see any need to move away from alphabetical listing, pointing out that any alternative could create problems for voters in finding names on the ballot paper. A small number of respondents said that there was clear evidence of an alphabetical effect.

Our view is that there is some evidence that candidates with names nearer the start of the alphabet do better in elections. Switching away from alphabetical listing could however lead to voters having problems finding candidates on the ballot paper. There is no strong argument to justify any particular alternative ordering method, and there are likely to be practical problems associated with each option. However, this is something that should be considered further and we will do so as part of our future review of electoral modernisation.

Positive abstention

In the consultation we asked whether a positive abstention option (e.g. 'none of the above') should be included on ballot papers. Respondents were roughly equally split in their views. Political parties were strongly opposed, but a more mixed range of views was given by elected representatives, candidates and electoral administrators.

Our view is that while including a positive abstention option might increase participation, it could also undermine the electoral process (the purpose of which is to elect a candidate to elected office) by discouraging engagement with the candidates standing for election. We are therefore not recommending that positive abstention be included as an option on ballot papers.

Photographs of candidates on ballot papers

Some countries use colour photographs on ballot papers. We asked in the consultation whether there was a case for introducing these in the UK and whether this would be beneficial for voters.

The majority of respondents were against having colour photographs on ballot papers. They said that there was no demand for them, that there were no clear arguments in favour, and that there would be practical problems producing the images. A small number of respondents were in favour of introducing photographs to help voters identify candidates.

We are not recommending that photographs are used on ballot papers.

Submitting nomination documents

At all elections nomination papers and some other documents relating to the candidate can only be delivered to the Returning Officer in person. In the consultation we sought views on whether more flexible arrangements, including fax, email, online or mobile device app, should be introduced for the receipt of nomination papers. We also asked whether the delivery of nomination papers should be standardised for all elections.

All the political parties who responded said that they supported the submission of nomination documents in different formats. There was agreement that whatever process was agreed it should be standardised for all elections. Electoral administrators were also in favour of modernisation but stressed the need for any change to the legislation to be precise about the new requirements.

We support the modernisation of the process around submitting nomination papers and other related documents.

- We recommend that the law is changed to allow nomination papers, consents to nomination, withdrawal notices, certificates of party authorisation and emblem requests to be submitted by post, email and fax for all elections in the UK, in addition to hand delivery. This would update this area of law, making standing for election more accessible.
- We recommend that consideration is given to allowing nominations to be submitted via an online system.

Objections to nominations and determining the validity of nominations

At UK Parliamentary elections the following persons are able to attend the proceedings for the delivery of nomination papers and may inspect those papers and also raise objections to their validity:

- A candidate who is validly nominated,
- The election agent of a candidate who is validly nominated, or
- The proposer or seconder of a candidate who is validly nominated

In the consultation we sought views on whether the objections procedures should be revised and replaced with a more consistent and transparent scheme and how such a scheme would work in practice. We also wanted to establish if the current timeframes set for objections were sufficient to meet the needs of candidates and electoral administrators alike.

Most responses on this topic expressed support for simplifying the rules around objections to nominations. We agree that there is a need to simplify these provisions to make the process more easily understandable and transparent.

We also support the argument that there should be a standard consistent objection system for all elections. This should include consideration of amending the law to allow for objections in elections where there is currently no objections procedure. In addition, we do not think it is appropriate that the right to inspect and object is reserved to a small group of persons associated with a validly nominated candidate.

Many respondents were keen that Returning Officers should be able to decide that a nomination paper is invalid if a candidate is not qualified or is disqualified. Our view is that consideration should be given to changing the law so that objections can be made on the grounds that a candidate is either not qualified or disqualified, and that the Returning Officer be required to hold

a nomination paper to be invalid where the Returning Officer finds that the candidate is not qualified or is disqualified. It appears to us to be an unsatisfactory situation that an obviously ineligible candidate should be allowed to stand for election and be able to serve out their full term of office unless someone was willing and able to challenge the eligibility of the elected person in the courts.

While this case is strong, we accept that the principle that the Returning Officer has no role in determining whether a candidate is qualified or disqualified (except under the RPA 1981) is well established and any change to this would be a fundamental change to electoral law and the role of the Returning Officer. There would be a need to ensure that the change to the law produced a system that worked in practice and did not produce inconsistency in how it was applied by Returning Officers, and in particular that any changes could be implemented within the election timetable. Any proposals for change would therefore require careful consideration and consultation with the electoral community, especially with Returning Officers.

- We recommend that the legislation should be amended to clarify and simplify the process of objecting to nominations for all elections in the UK. This includes ensuring that the system is easy to understand. This reform will help to increase the transparency of the standing for election process.
- We recommend that consideration is given to allowing objections to nominations on the grounds that a candidate is not qualified or is disqualified and, if satisfied that that is the case, requiring a Returning Officer to hold a nomination paper to be invalid. This would help to ensure the integrity of the process.

1 Introduction

1.1 The Electoral Commission is an independent body which reports directly to the UK Parliament. We regulate political party and election finance and set standards for well-run elections. We have a statutory responsibility to keep electoral matters in England, Scotland, Wales and Northern Ireland under review, and we report to the relevant Governments on recommendations for change that we have identified¹.

1.2 We are committed to the UK's strong tradition of free elections and we work to protect and promote democracy. We put voters first by working to support a healthy democracy, where elections and referendums are run on the basis of our principles of:

- **Trust:** people should be able to trust the way our elections and our political finance system work.
- **Participation:** it should be straightforward for people to participate in our elections and our political finance system, whether voting or campaigning and people should be confident that their vote counts.
- **No undue influence:** there should be no undue influence in the way our elections and political finance system work.

Review process

1.3 The Electoral Commission has a strong interest in simplifying and updating the procedures used by candidates to stand for election in the UK. We have a statutory duty to keep under review a range of electoral and political matters and to recommend change to the Secretary of State under section 6 of the Political Parties, Elections and Referendums Act 2000.

1.4 We last reviewed the rules around standing for election in 2003², after which a number of our recommendations were taken forward by the UK Government through the Electoral Administration Act 2006. These included: allowing candidates to use their commonly used name on ballot papers³; introducing new provisions about the nature and number of descriptions that candidates standing on behalf of political parties could use on ballot papers⁴; and extending the deadline for the registration of political parties wishing to contest elections⁵. Other recommendations, including abolishing or modifying the deposits and subscribers systems, and reducing the threshold for deposit forfeiture from 5% to 2%, were not taken forward as the Bill made its way through the UK Parliament.

¹ Section 6, Political Parties, Elections and Referendums Act 2000 (PPERA).

² The Electoral Commission, *Standing for election in the United Kingdom: Report and recommendations*, June 2003

³ Section 21, Electoral Administration Act 2006 (EAA).

⁴ Section 49, EAA

⁵ Section 52, EAA

1.5 Although some changes have been made to the procedures used over the last decade, not all issues have been addressed. In the interim, other issues have emerged as new electoral events, such as Police and Crime Commissioner (PCC) elections, have been introduced. Since our last review the evidence suggests that dissatisfaction and confusion about certain aspects of the procedures involved have continued⁶. These range from inconsistencies across the different jurisdictions of the UK to a lack of clarity about the required qualifications to stand as a candidate.

1.6 In response to the issues highlighted by stakeholders at recent elections, we commenced a further review of the processes in 2013 and published a [consultation paper](#) '*Standing for Election in the UK*' in September 2013. It sought views from a range of groups and organisations across the UK with a closing date for responses of 19 December 2013.

1.7 The following aspects of standing for election were within the scope of the review. Issues about each had been highlighted at recent elections held across the UK:

- Qualifications and disqualifications
- Deposits and subscribers
- Candidate benefits: including candidate mailings, broadcasts, access to the register, free use of rooms, descriptions and emblems.
- Procedural issues: including the alphabetical listing of candidates on ballot papers, the use of candidate photographs on ballot papers, delivering and objecting to nomination papers.

1.8 We sought to identify and evaluate the strengths and weaknesses of the current procedures, to highlight unjustified inconsistencies in the legislative provisions, and to make recommendations for simplifying and updating the procedures.

1.9 We acknowledged in the consultation paper that there were a number of areas which fell within this remit, but were not included in the consultation due to the fact that they had recently been considered elsewhere⁷. For example, we conducted a separate review identifying improvements to our party and election finance regulatory framework in 2013. That review assessed the Political Parties, Elections and Referendum Act 2000 (PPERA) and the relevant parts of the Representation of the People Act 1983 (RPA 1983). The report recommends ways to make the system more effective and proportionate, and reduce unnecessary burdens⁸.

⁶ See the Electoral Commission's statutory reports following elections (available at <http://www.electoralcommission.org.uk/our-work/publications/election-and-referendum-reports>).

⁷ The Electoral Commission, *Standing for election in the United Kingdom: Consultation paper*, September 2013, p. 10

⁸ Electoral Commission, *A regulatory review of the UK's party and election finance laws: Recommendations for change*, June 2013,

1.10 There are also barriers to standing for election that fall outside our remit and our consultation was confined to the issues described in paragraph 2.7. This meant that issues such as financial assistance to support candidates seeking election were not included⁹.

1.11 We sought views from a range of people and organisations including elected representatives, political parties, electoral administrators and candidates who had stood for election. Overall, around 100 responses were received from a range of consultees. For the first time we also made available an online survey which covered all the questions set out in the consultation paper. This was done to encourage a wider response and to make it easier for people to participate. We were pleased that a significant proportion of consultees completed the survey and contributed to the consultation in this way. Details of those who responded are outlined in Appendix 1 of this report.

Background

1.12 Those standing for elected office in the UK have certain responsibilities and entitlements which are set down in law. These vary depending on the type of election being contested and in which part of the UK the election is being held. Much of the relevant law dates from the nineteenth century and has changed little over the years. Some of those administering elections or standing as candidates have told us after each election that parts of the law are cumbersome, outdated and rigid with different rules applying for different elections and often without any clear rationale. Others have suggested that the procedures in place have stood the test of time and are broadly familiar to those taking part in elections and have served the electorate reasonably well.

1.13 Progress was made through the Electoral Administration Act 2006 in addressing some long standing issues associated with the nomination procedures used at elections in the UK. However, after almost every recent election aspects of the procedures have been questioned by stakeholders as to their suitability and relevance. Many of these have been highlighted in the Commission's reports on elections since 2001. Examples of issues that have emerged at recent elections include:

- the value of a subscribers (also called signatures or assenters) system in nominating candidates
- the variation and size of deposits required for some elections
- the prohibition of independent candidates using descriptions on ballot papers

http://www.electoralcommission.org.uk/_data/assets/pdf_file/0003/155874/PEF-Regulatory-Review-2013.pdf

⁹ For example, the UK Government is currently piloting a funding scheme under its Access to Elected Office Strategy which helps those with a disability to stand for elected office and pays for costs related to their disability.

- the rules on access to the electoral register which do not allow non-incumbent independent candidates access at the same time as party candidates
- the limitation on free candidate mailings at some elections
- the non-availability of party election broadcasts for independent candidates
- the potential for submitting nomination papers and other documents in other formats including electronically
- the value and purpose of the objections procedures used after nomination papers have been submitted.
- the list of roles that disqualify candidates from standing for election and whether disqualification should take effect when candidates are nominated or elected
- the clarity of the qualifications for being a candidate at a local election.

1.14 The Office for Democratic Institutions and Human Rights (ODIHR) in its report¹⁰ on the UK Parliamentary election in 2010 recommended the need for a consolidation, simplification and modernisation of the legal framework around elections. It suggested this would improve the transparency and accessibility of electoral legislation. The three Law Commissions in the UK are currently undertaking a joint review of the statutory framework governing our elections. This is an important and timely piece of work¹¹.

1.15 The main groups with an interest in the procedures for standing for election are potential candidates and political parties, who want to have greater clarity in the rules and in some cases more consistency between different elections. These issues are also relevant to voters however, since they help determine who can stand for election and hence the range of candidates available to them. It is also important that the rules on standing for election inspire confidence in elections amongst voters, candidates and parties.

Review principles

1.16 To assess the robustness of the laws and procedures relating to standing for election, we have used the following set of principles.

Clear election law

1.17 The rules on standing for election should be clear, straightforward and unambiguous so that candidates, agents, political parties, voters and those administering the electoral process understand them and can see that they are being followed.

¹⁰ OSCE/ODIHR Election Assessment Mission Report July 2010.

¹¹ For more information see: <http://lawcommission.justice.gov.uk/areas/electoral-law.htm>, <http://www.scotlawcom.gov.uk/law-reform-projects/joint-projects/electoral-law/>, <http://www.nilawcommission.gov.uk/index/current-projects/electoral-law-reform.htm> and <http://www.electoralcommission.org.uk/our-work/our-views/law-commission-review-of-electoral-law>

Encourage participation

1.18 In order to promote the widest participation, processes should be accessible and transparent. There should be no unnecessary barriers for candidates participating in elections.

Fair and equal treatment

1.19 Fair and equal treatment should be ensured between all candidates, save where differences are genuinely justified.

Trust

1.20 Rules should inspire confidence in elections amongst voters, candidates and political parties.

Consistency of approach

1.21 In order to promote participation and effective electoral administration, as far as possible the rules for standing for election should be consistently set so they are easy to understand out and any differences between them should reflect conscious policy choices by the relevant legislature

Up to date

1.22 The rules on standing for election should be up to date. They should reflect current technology and the expectations of candidates, agents, political parties, voters and those administering elections.

Structure of the report

1.23 The following chapters address the aspects of standing for election that we decided to review. These are:

- Chapter 2 - Qualifications and disqualifications
- Chapter 3 - Deposits and subscribers
- Chapter 4 – Candidate use of descriptions
- Chapter 5 - Candidate benefits
- Chapter 6 - Procedural issues

1.24 Each chapter is structured as follows:

- an introduction to the relevant law and practice
- a summary of the views of those who responded to our consultation
- a discussion of the issues and our recommendations for change (if any). This section draws on consultees' views but is based on our own analysis of the issues with reference to our review principles listed in paragraphs 1.17 to 1.22 above.

1.25 Further information on the background to some of the areas addressed in this chapter can be found in our consultation.

1.26 A summary of our recommendations is at Appendix A.

2 Qualifications and disqualifications

2.1 To stand for election in the UK, a person must be qualified and also not disqualified. This chapter discusses:

- qualifications¹²
- disqualifications
- disqualification under the Representation of the People Act 1981

Qualifications

2.2 To participate in UK Parliamentary elections a candidate must:

- be at least 18 years old¹³, and
- either be a British or Irish citizen, or a citizen of a Commonwealth country who does not require leave to enter or remain in the UK or has indefinite leave to remain in the UK¹⁴.

2.3 With the exception that citizens from other EU Member States can also stand in certain circumstances, these qualifications are also in place for candidates in elections to the Scottish Parliament¹⁵, the National Assembly for Wales¹⁶ and the Northern Ireland Assembly¹⁷.

2.4 In addition to the above qualification, citizens of other EU member states can stand for election to the European Parliament if their home address is in the UK¹⁸.

2.5 In the consultation we sought views on whether the current qualifications were still relevant, understandable and practical. We also asked if there were any other qualifications that should be met and if they should be varied depending on the nature of the election being contested.

2.6 Respondents to the consultation were generally of the opinion that the qualifications required for standing for election should be set out clearly so

¹² For the purposes of this report we describe age and citizenship requirements as 'qualifications' for becoming a candidate (whereas in much of the legislation they are framed as 'disqualifications'). Such requirements are present at all elections but at local government elections a candidate must also satisfy an additional qualification from a list of qualifications to ensure that they have a sufficient link to the local area (set out in paragraph 2.9).

¹³ Section 17(1), EAA.

¹⁴ Section 18, EAA and section 3 Act of Settlement 1700.

¹⁵ Sections 15 and 16(2), Scotland Act 1998.

¹⁶ Sections 16 and 17(2), Government of Wales Act 2006.

¹⁷ Section 36, Northern Ireland Act 1998.

¹⁸ Section 10(3), European Parliamentary Elections Act 2002.

that participants, administrators and observers could understand them. There was consensus that the rules on qualifications could be simpler with greater consistency.

2.7 No significant issues were raised by respondents about the two qualifications required to stand for UK Parliamentary elections or elections to the devolved legislatures in Scotland, Wales and Northern Ireland. However, a small number of respondents thought that candidates intending to stand for the UK Parliament should have a connection with the constituency by being resident there for a period of time before polling day, which would be similar to the position at local government elections. A one year residency qualification was proposed as being reasonable.

2.8 The Conservative Party, Liberal Democrats, Democratic Unionist Party and the Green Party for England and Wales were of the opinion that the current qualifications were relevant, understandable and practical. Plaid Cymru said they remained relevant but an effort should be made to apply consistency for candidature at all elections as confusion arises when qualifications vary. The Labour Party said that *“the key requirement is for qualifications and disqualifications at each type of election to be clearly stated and easily accessible to those considering putting themselves forward as a candidate.”*¹⁹

Qualifications at local government elections

2.9 To be qualified to stand for election at local government elections in England, Scotland, Wales and Northern Ireland, candidates must be at least 18 years old and a British, Irish, eligible Commonwealth citizen or a citizen of another EU member state²⁰. In addition, they must meet at least one of the following four criteria:

- Be **registered** as a local government elector for the local authority area. (In England and Wales the person elected must continue to be registered in the local authority area for the duration of the post)²¹
- Have **occupied** as owner or tenant any land or other premises in the local authority area during the whole of the 12 months before the day of nomination and the day of election. (The day of election stipulation does not apply in Scotland)²²

¹⁹ Labour Party, *Response to consultation on Standing for Election in the UK*, 10 January 2014.

²⁰ Section 79(1), Local Government Act 1972 (LGA 1972); section 29(1), Local Government (Scotland) Act 1973 (LG(S)A 1973) and section 3(1), Local Government Act (Northern Ireland) 1972 (LGA(NI) 1972).

²¹ Section 79(1)(a), LGA 1972; section 29(1)(a), LG(S)A 1973 and section 3(1)(a), LGA(NI) 1972.

²² Section 79(1)(b), LGA 1972; section 29(1)(b), LG(S)A 1973 and section 3(1)(b), LGA(NI) 1972.

- Their main or only **place of work** during the 12 months prior to the day of nomination and the day of election has been in the local authority area. (The day of election stipulation does not apply in Scotland)²³
- Have **resided** in the local authority area during the whole of the 12 months before the day of nomination and the day of election. (The day of election stipulation does not apply in Scotland)²⁴. There is a separate criterion for parish and community council elections in England and Wales (i.e. resided in either in the parish or community or within three miles of it during the whole of those 12 months)²⁵.

Views from respondents

2.10 Some electoral administrators and Returning Officers, the Association of Electoral Administrators (AEA) and a few political parties said they experienced difficulty in interpreting the rules around qualification for local government elections (see paragraph 2.9). In particular, clarity was sought about the meaning of occupying as owner or tenant any land or other premises in the local authority area. For example, the AEA wondered whether it would extend to renting a shed, an outbuilding or a caravan.

2.11 In addition, some respondents said it would be helpful to clarify what the main or only place of work meant in practice, for example if volunteering counted as “work”. Jeff Jacobs, the Greater London Returning Officer (GLRO)²⁶ addressed this issue in his response:

“The provision for a work qualification may need review and, if maintained, some clarification of the nature of that work would be useful to ensure that those interested in standing can understand for themselves the nature of the qualification”

2.12 The GLRO added that since the first Greater London Authority elections, there has been only one person elected who relied on the qualification of having his principal or only place of work during the twelve months qualifying period as being in Greater London²⁷.

2.13 Some respondents expressed the view that it was meaningless to include place of work and residence on a nomination paper since neither could be checked or verified by a Returning Officer. In commenting on this issue an agent²⁸ said *“the criteria relating to place of work or living in the authority area are very malleable and are not susceptible to being easily checked by the Returning Officer. The only solid criterion is being on the electoral register.”* Some respondents were of the opinion that Returning Officers should have the power to hold a nomination paper to be invalid where

²³ Section 79(1)(c), LGA 1972; section 29(1)(c), LG(S)A 1973 and section 3(1)(c), LGA(NI) 1972.

²⁴ Section 79(1)(d), LGA 1972; section 29(1)(d), LG(S)A 1973 and section 3(1)(b)(ii), LGA(NI) 1972.

²⁵ Section 79(1)(e), LGA 1972.

²⁶ Response from Jeff Jacobs: Greater London Returning Officer. 16 December 2013

²⁷ Section 20, Greater London Authority Act 1999.

²⁸ Response from an agent received online via Survey Monkey on 16 December 2013.

the relevant qualifications had not been proven (this issue is addressed in paragraphs 6.42 to 6.66 below).

2.14 The issue was raised as to why a person elected to a local authority in England and Wales and who used 'being registered as a local government elector for the local authority area' as their only qualifying criterion had to remain on the electoral register in the authority for the entire duration of the post when the same stipulation did not apply to the other three criteria. No such requirement exists in Scotland or Northern Ireland.

2.15 Warwick District Council²⁹ asked that consideration be given to Returning Officers being required to retain nomination papers for the entire term of office, in most cases for up to four years. This would enable them to check whether the qualification of remaining on the register was met.

2.16 Sinn Féin expressed the view that a candidate should be free to stand in any local authority area without the current restrictions applying.

Discussion and recommendations

2.17 Some of the basic qualifications in place for local government elections, including age and citizenship, are appropriate and easily understood. However, the same cannot be said of the specific local government qualifications, especially those relating to occupying land or other premises, place of work and residing in the area. Many respondents said that these qualifications were unclear, ambiguous in parts and required updating. Respondents emphasised the importance of having more consistent and straightforward rules in place and said that these would benefit all participants including those administering the process.

2.18 We agree that these qualifications require a review to increase their clarity and also to make sure that they remain appropriate. Our guidance ahead of elections provides a clear steer on how to apply the qualification criteria, but we acknowledge that the law itself is not clear in some areas and that respondents to the consultation said there was often confusion.

2.19 The aim should be to make it easier for the qualifications to be understood both by those standing for election and by administrators, as this will promote participation and assist the effective administration of elections. We set out below our own assessment of these qualifications.

2.19.1 The person is on the day of nomination and polling day and thereafter continues to be a local government elector for the area of the authority

2.19.1.1 As explained above, this qualification is unique in that it must be satisfied throughout the whole term of a councillor's office, rather than only applying on nomination and polling day. There is no

²⁹ Response from C Elliott Returning Officer Warwick District Council

such continuing requirement for local government elections in Scotland or Northern Ireland.

- 2.19.1.2 There may be an argument that this should be a continuing qualification throughout the UK (as it is in England and Wales). At local elections, the policy behind the qualifications is for the candidate to have a local connection to the area in which they are standing. If the ongoing registration requirement is removed, then there is nothing to prevent someone moving into a property for the purposes of the election and then moving out again shortly afterwards, thus removing any local connection that the individual would have had to the area they are representing. This is unless the qualification was changed to being registered for 12 months previously (but this would then overlap with the residence qualification, as residence in the local area is a pre-condition for registration in that area).
- 2.19.1.3 However, there may be arguments that a continuing qualification is unnecessary or impractical, and we note that the qualification is not a continuing one in Scotland or Northern Ireland. One practical problem caused by this qualification in England and Wales having continuing effect is that it seems difficult to monitor and take action if someone ceased to be such an elector during their term of office. Consent to nomination forms are normally destroyed one year after the election (the law does not provide how long they must be retained or when they must be destroyed), so there will not be any continuing record of whether someone relied on this qualification as their sole qualification and therefore would lose their qualification if they were no longer a local government elector. If the continuing requirement is to be retained in England and Wales there would need to be provision for retaining consents to nomination throughout the term of office and a mechanism for identifying and dealing with situations where someone who was only relying on this qualification ceases to be a local government elector.
- 2.19.1.4 There is a case for changing the law in England and Wales so that this qualification should not require someone to continue on the register throughout their term. This is because in our view there are significant difficulties in enforcing a continuing qualification, since it would not be known that a councillor had left the register or that this had been their sole qualification at the election. We therefore recommend that the UK Government considers whether this qualification is still appropriate.
- 2.19.2 The person has during the whole of the twelve months preceding the day of nomination and polling day occupied as owner or tenant any land or other premises in that area

2.19.2.1 As raised by respondents to our consultation, the meaning of 'occupied as owner or tenant any land or other premises' is unclear and causes uncertainty, much in the same way that the meaning of 'residence' does in the law of electoral registration. Given that the process for standing for election should be easily accessible to a lay person, there may be merit in more clearly setting out in law what this qualification means.

2.19.3 The person's principal or only place of work during that twelve months has been in that area

2.19.3.1 The phrase 'principal or only place of work' can cause problems. It is not defined and there is little relevant case law, which does not provide much guidance beyond saying that a councillor can use the council's offices as their principal or only place of work³⁰.

2.19.3.2 As noted by the GLRO it is not entirely clear what 'work' means. We are also sometimes asked what constitutes 'work', for example is studying for a degree 'work'. We advise that it is not, but whether 'work' must be paid is unclear. It may be seen to be unfair to exclude those doing unpaid voluntary work or students from this qualification.

2.19.3.3 We also have come across instances where someone worked entirely remotely, for example as an electrician or in an events management business and so were working in a different location from one day to the next. We have advised that if a person spends the majority of their time working at premises in the authority area, they would meet this qualification although it may be difficult to easily establish with certainty whether someone spends most of their working time in the relevant authority or outside. However, there is then the difficulty as to what address they must enter on the consent to nomination form, which asks for the address of the place of work.

2.19.3.4 Also, some people may work partly from home and partly in the office; would this allow them to stand in both areas or would it depend on which area they spent the majority of their time

2.19.3.5 This qualification seems to assume that everyone has a single workplace, which is not the case today when technology enables many different modes of working. In this regard, the qualification could be argued to be in need of updating to reflect current working arrangements. We would welcome this qualification being updated and clarified so that someone can easily establish whether they meet it.

³⁰ *Parker v Yeo* 90 L.G.R. 645.

2.19.3.6 Lord Justice Beldam in *Parker v Yeo* identified another problem. Given that a councillor could use the council's office as their principal or only place of work, they would appear to be qualified to stand for election even if they were not qualified or were disqualified to be elected in the first place. LJ Beldam stated: "*a person elected who was in fact disqualified because he neither lived nor worked within the area but who was not shown to be disqualified before re-election, might seek re-election by virtue of work carried out in an office for which he was disqualified*".

2.19.4 The person has during the whole of those twelve months resided in that area

2.19.4.1 There are multiple places in electoral law where there is reference to 'residence'. The Law Commissions will be looking at the meaning of this term in the context of registration and we request that a consistent meaning is applied wherever the term is used in electoral law, if possible. There is some case law on this qualification but much of it dates back to the nineteenth century) and the residence test is very unclear.

2.19.4.2 In the case of a member of a parish or community council he has during the whole of those twelve months resided either in the parish or community or within three miles of it.

2.19.4.3 We interpret that this qualification is available to all parish and community council candidates, whether they are incumbent members of the parish or not. However, there is a contrary interpretation, i.e. only existing parish and community council members can satisfy this qualification because it starts with the words 'in the case of a member of a parish or community council'; it does not say 'in the case of a candidate for membership of'.

2.19.4.4 The provision is not drafted as clearly as it might be, however an interpretation that restricts the qualification to existing members would create unfairness in the criteria for standing for election. We do not believe that this was the intention of parliament. Rather, by reading the section as a whole and particularly in the context of section 79(1)(d), it appears that the intention of parliament was to create an additional qualification for all candidates at parish and community council elections that extends the residency criteria at section 79(1)(d). The intention behind the qualification seems to be to increase the number of people eligible to stand for election to parish and community councils by allowing candidates to stand if they resided in the parish or community area or within 3 miles of it.

2.19.4.5 We would welcome this qualification being clarified to remove this uncertainty, so that it clearly reflects the apparent intention.

2.19.4.6 Other queries that we have received relate to whether the 3 miles (4.8km) should be calculated as the ‘crow flies’. This is not clear in the qualification but section 8 of the Interpretation Act 1978 provides that the distance is calculated in a straight line on a horizontal plane. There would be merit in making this clear in the qualification itself. We have also received queries about where the distance is calculated from, i.e. is it the ward boundary or the parish community boundary.

2.20 We have submitted the above analysis to the three UK Law Commissions. However, we understand that this may fall outside their review of electoral law, as it instead is primarily a matter of the law relating to the constitution of local authorities. Therefore, it will be for Governments to take on the task of clarifying and, where necessary, updating these qualifications and also, if possible, bringing greater clarity across the UK.

- We recommend that the relevant Governments should clarify and update the law relating to the qualifications for local government elections including those relating to being a local government elector for the area, occupying as owner or tenant, principal or only place of work being in the area, and residence in the area (or within three miles at parish or community elections).
- We recognise that the qualification about continuing to be a local government elector for the area of the authority is different from the other three qualifications, since it must be satisfied throughout the whole of a councillor’s term of office. This qualification does not apply in Scotland or Northern Ireland. We also note that enforcing this qualification is not practical since there is no requirement for nomination papers to be held (and where they are it is not normally beyond one year). We therefore recommend that the Government considers whether this qualification is still appropriate.

Disqualifications

2.21 Certain individuals are excluded from standing for election to the UK Parliament. These include Peers who can sit and vote in the House of Lords³¹, civil servants³², judges³³, army and police officers³⁴, particular types of bankrupts³⁵, persons found guilty of certain electoral offences³⁶, offenders who are in detention or unlawfully at large who have been sentenced to more than 12 months imprisonment³⁷ and members of the legislatures of any

³¹ *Re Parliamentary Election for Bristol South East* [1964] 2QB 257 and sections 1 and 3(1)(b), House of Lords Act 1999.

³² Section 1(1)(b), House of Commons Disqualification Act 1975 (HCDA 1975).

³³ Section 1(1)(a), HCDA 1975.

³⁴ Section 1(1)(c) and (d), HCDA 1975.

³⁵ Sections 426A(1) and 427(1) and (2), Insolvency Act 1986.

³⁶ Sections 160 and 173, Representation of the People Act 1983 (RPA 1983).

³⁷ Section 1, Representation of the People Act 1981.

country or territory outside the Commonwealth (other than Ireland)³⁸. There are also disqualifications relating to the age and nationality of the candidate but we describe these as 'qualifications' and they are discussed above. These disqualifications are set out in a variety of different legislative vehicles some dating back to 1700 and in some cases are set out in case law, making it difficult for prospective candidates to establish whether they are able to stand for election.

2.22 A list of additional offices, the holding of which would disqualify someone from standing as a candidate at a UK Parliamentary election is set out in the Schedules to the House of Commons Disqualification Act 1975. This list is frequently amended to include offices from bodies which are new or have changed, creating problems for candidates who want to check the most up to date list.

2.23 Similar disqualification legislation applies to the devolved legislatures in Scotland, Wales and Northern Ireland, and to the European Parliament. For Police and Crime Commissioners in England and Wales, the disqualifications criteria also includes conviction for an imprisonable offence, including spent convictions and where no prison time was served³⁹. Two candidates who had planned to stand for the first PCC elections in November 2012 found themselves disqualified because they had received fines for imprisonable offences when they were minors.

2.24 Different disqualifications criteria apply to candidates standing for local government elections in England and Wales. Disqualifications include bankruptcy, being certain employees or officers of the authority, holding a politically restricted post⁴⁰ and being sentenced to a term of imprisonment of three months or more during the five years before the day of election⁴¹. There are similar disqualifications, with some differences, applying to local government elections in Scotland⁴² and Northern Ireland⁴³.

Disqualification on the basis of holding a disqualified post

2.25 Some people are disqualified from standing for election because of a post that they hold. The general principle behind disqualifying posts is that there should not be a conflict of interest between the appointed post and the elected post.

³⁸ Section 1(1)(e), HCDA 1975.

³⁹ Section 66(3)(c), Police Reform and Social Responsibility Act 2011.

⁴⁰ The rules relating to politically restricted posts were introduced by sections 1 and 2 of the Local Government and Housing Act 1989, following the Widdicombe Report 1986 on the conduct of local authorities. This was to prevent conflicts from arising, as there were concerns that advice sought from local government officers should be objective and not political (John Gummer MP (Minister for Local Government) HC Deb 14 February 1989 vol. 147 cc.179-180).

⁴¹ Section 80 LGA 1972.

⁴² Sections 31 and 31A, LG(S)A 1973.

⁴³ Section 4, LGA(NI) 1972.

2.26 These rules on disqualification vary depending on the elected body and on the post held. The disqualifying posts for each type of election are set out in either primary or secondary legislation, or sometimes both. New legislation is often brought forward prior to each election to take account of changes to public bodies and offices.

2.27 The variation in rules for different elected bodies and for different postholders can cause confusion for potential candidates, and the case has been made that the rules sometimes lack a clear rationale and can be inconsistent across elections.

2.28 The courts have found that a candidate for election must not be disqualified both at the time of nomination and the time of election⁴⁴. In our guidance to candidates and agents we advise that a person holding a disqualifying post should resign from their position and have served any notice period at the time of the candidate's nomination⁴⁵. This means that candidates have to resign from disqualifying posts without knowing if they will be elected (or even nominated in some cases).

2.29 Particular questions have been raised about the rules preventing those employed or holding a paid post at a local authority from standing for election to that authority, which is the case in England, Wales and Northern Ireland⁴⁶.

2.30 In Scotland the rules were changed in 2005 so that an employee of a local authority could stand for election to that authority, and would only have to resign their employment if they were elected⁴⁷. The Policy Memorandum accompanying the Bill that made this change stated that:

The Scottish Executive believes that many local authority employees have the skills necessary to be effective councillors but recognises that many employees will be reluctant to seek office as a councillor, when they are, in effect, being asked to gamble their careers against the uncertainties of the ballot box. Given that, in some parts of Scotland, the local authority can be the major or a significant source of employment, a disproportionate percentage of the population in those areas is effectively being discouraged from standing for election⁴⁸.

2.31 In the consultation we sought views on whether there should be a common disqualification policy for all elections across the UK. Although different elections are legislated for by different administrations, we wanted to

⁴⁴ *Hartford v Linskey* 1899 1QB852; *Harrison v Gupta* QBD M/314/06

⁴⁵ Electoral Commission, *Guidance for Candidates and Agents at Local Elections in England and Wales*, p. 10, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0007/141784/Part-1-Can-you-stand-for-election-LGEW.pdf

⁴⁶ Section 80(1)(a), LGA 1972 and section 4(1)(a), LGA(NI) 1972. As elsewhere, this is only a summary of the provision; the actual provision is much more complex.

⁴⁷ Section 31A, LG(S)A 1973.

⁴⁸ Local Governance (Scotland) Bill Policy Memorandum, 21 November 2003, p. 6, ([http://www.scottish.parliament.uk/S2_Bills/Local%20Governance%20\(Scotland\)%20Bill/b14s2-introd-pm.pdf](http://www.scottish.parliament.uk/S2_Bills/Local%20Governance%20(Scotland)%20Bill/b14s2-introd-pm.pdf)).

hear views on whether disqualifications policy should be consistent to provide more clarity for potential candidates. We asked whether disqualification legislation should take effect when candidates were nominated or when they were elected. We also wanted to hear from respondents if they thought the rules on disqualification should be set out in legislation or be left to the discretion of the organisation where an individual works or holds office. We sought candidates' views about the clarity and accessibility of the disqualification process generally. Finally, we asked for views about what process should be put in place to deal with candidates who stand nominated but withdraw or are disqualified before polling day.

Views from respondents

2.32 Some electoral administrators, the AEA and a number of political parties including those represented on the Wales Political Parties Panel⁴⁹ were of the view that, where practicable, there should be a consistent law on disqualifications for all elections in the UK.

2.33 Respondents believed that the rules on disqualifying posts should be set out clearly in legislation and that not doing so could potentially create inconsistencies with local authorities adopting different approaches. The Labour Party, Green Party of England and Wales, Plaid Cymru and the Association of Liberal Democrat Councillors expressed this view. One local authority lawyer⁵⁰ commented "*Disqualifications should be determined nationally and should be enshrined in statute. Leaving qualifications to specific bodies will lead to an inconsistent approach to the same elected office in different areas, and could be subject to allegations of political considerations influencing criteria*". This view was also expressed by the AEA who had concerns about the potential anomalies that could arise if discretion was left to individual organisations. In contrast the Democratic Unionist Party (DUP) said that employers should be left to decide about employees standing for election.

2.34 Given the issues relating to disqualification at the 2011 elections to the National Assembly for Wales⁵¹, the Presiding Officer of the Assembly submitted a detailed response to the consultation relating specifically to the

⁴⁹ The Wales Political Parties Panel was established in 2002 with the remit to discuss issues affecting political parties in the National Assembly for Wales. The panel is made up of a representative from each of the Assembly's political parties with two or more sitting AMs. In the current Assembly there are four such parties: Plaid Cymru, the Labour Party, the Liberal Democrats and the Conservative Party. The panel meets quarterly, but with the option to vary frequency if necessary. The Standing for Election consultation was discussed at their meeting on 3 December 2013, and a joint response was submitted to the consultation following this discussion.

⁵⁰ Simon Young: Local Authority lawyer. Response submitted via Survey Monkey 3 October 2013.

⁵¹ See for example: Electoral Commission, *Report on the National Assembly for Wales general election on 5 May 2011*, October 2011, pp. 31-36, http://www.electoralcommission.org.uk/data/assets/pdf_file/0012/141330/Final-NAW-report-web.pdf

disqualification criteria for the Welsh Assembly election⁵². Her view was that candidates should be required to resign from disqualifying posts at the time of nomination “*if those offices would give them an unfair advantage in that election*”. Candidates in posts which did not give them that advantage would only be required to resign if successfully elected before taking the oath. The Presiding Officer’s view was that the current rules seem especially unfair on individuals who hold offices, which do not give them an advantage in the election, but which they may not be able to regain if they were unsuccessful. Since this consultation response was submitted to us, the National Assembly for Wales Constitutional and Legislative Affairs Committee has held an inquiry into candidate qualifications⁵³, and the Welsh Government has now published its response⁵⁴.

2.35 In terms of encouraging wider participation there was support from some political parties to the suggestion that disqualification should only apply in circumstances where a candidate was elected and not at the date of nomination. The Labour party commented “*In general, employment disqualifications should take effect when the candidate is elected. Other disqualifications including bankruptcy, previous convictions and prison sentences should take effect at the time of nomination*”. This view was broadly supported by the Liberal Democrats, the DUP, Plaid Cymru and the Green Party in England and Wales and Northern Ireland. The Conservative Party on the other hand stated “*There would be advantages in having a standard date of disqualification - that date should sensibly be the date of nomination. A candidate could only state that they were not disqualified on the date of submission of their nomination paper - they would never be certain of the position on polling day.*”

2.36 Some political parties and the AEA pointed out that the disqualification criteria had to recognise the changing nature of local government management arrangements. The Green Party in England and Wales commented “*The point at which matters have become unclear in our recent experience is largely due the proliferation of contracted out and ‘arm’s length’ bodies, with more or less Council involvement and control, so that we have had to seek advice on the eligibility of employees of some of these organisations to stand for local government elections.*” Similarly a number of respondents emphasised that complex contractual relationships within councils were now commonplace, meaning that the employment status of some potential candidates was unclear. The changing status of some schools was also important.

⁵² Response received from Rosemary Butler AC/AM Llywydd (Presiding Officer National Assembly for Wales)

⁵³ ⁵³ For further information, please see:

<http://www.senedd.assembly.wales/mglIssueHistoryHome.aspx?lId=9055>.

⁵⁴ The Welsh Government’s response (dated October 2014) can be found here:

<http://www.assembly.wales/laid%20documents/gen-ld9970%20-%20report%20of%20the%20constitutional%20and%20legislative%20affairs%20committee,%20%E2%80%9Cinquiry%20into%20the%20disqualification%20from%20member/gen-ld9970-e.pdf>

2.37 The position adopted in Scotland since 2005, where those employed by local authorities are permitted to stand and only resign their post if successful, was highlighted by some respondents including the Labour Party as a potential compromise position that the rest of the UK could adopt. We are not aware of any evidence that this relaxing of the rules in Scotland has caused any problems.

Disqualification on basis of past convictions

2.38 The political parties represented on the Wales Assembly Parties Panel expressed the view that the additional disqualification criterion on past offences, introduced for the PCC elections, had restricted some good candidates from standing. Another respondent said the rules on disqualification for PCC elections were *“too stringent and did not allow for any element of rehabilitation”*.

2.39 One elected representative⁵⁵ proposed that the law around prison sentences should be reviewed given that MPs were disqualified from standing for election if they were serving a prison sentence of 12 months or more whereas for locally elected councillors it was three months. She commented *“It seems illogical that in order to stand in a local government election disqualification occurs if a candidate has been sentenced to a term of imprisonment of three months or more (including a suspended sentence) without the option of a fine, during the five years before the day of nomination, but for a parliamentary election disqualification only occurs if the candidate is a convicted prisoner who is serving a prison sentence of more than 12 months. An MP makes the law, a councillor does not. Therefore the rules governing election to parliament should arguably be more stringent than those governing elections to a council.”*

2.40 Electoral administrators emphasised that it was impossible to remove a candidate’s name from the ballot paper after nominations closed because postal ballot papers had already been printed and distributed. They suggested that the issue of candidate withdrawal could only be satisfactorily addressed through changes to the elections timetable. Some respondents were of the opinion that if a candidate was disqualified or had decided not to stand after the deadline for withdrawal, then voters at the polling place should be informed of this development. This would help voters make a more informed choice before casting their ballot.

Discussion and recommendations

2.41 We agree with respondents to our consultation that disqualifications should be set out in law. Law has the benefit of ensuring the consistent treatment of candidates at an election and also provides greater transparency and certainty than other measures. Any disqualification from standing for election is a bar to participation in democracy and as such requires close

⁵⁵ Personal response: Prue Bray Liberal Democrat Councillor.

scrutiny from legislators and those consulted on the legislation to ensure that the restriction on participation is both justified and proportionate.

2.42 The views in the consultation put forward two main problems with disqualification rules as they work today. First, the rules are inconsistent across elections, are not easily understood by potential candidates, and cause considerable confusion. There was a strong call for greater consistency across different elections. Second, a large number of respondents made the point that disqualification rules should only apply if the candidate is elected, not at the point of nomination.

2.43 Firstly, on the basis of the evidence gathered during our consultation and drawing on our recent statutory reports on various elections, we are of the view that there is a strong case for the relevant UK Governments to review the legislation governing disqualifications to determine if it is still appropriate, justifiable and well understood. Some of the rules including those relating to employees or office holders at local authorities appear outdated and do not reflect the current complexity of local government administration. In our experience a number of candidates at every local government election find it difficult to work out whether their employment status means that they are disqualified; it is bad for democracy if it is not possible to easily establish whether you are eligible to stand for election. We would hope that reviewing these rules would make standing for election a possibility for more people, and so open up a wider range of candidates for voters.

2.44 There were several requests in the consultation for a set of disqualification rules that would apply to all elections. However, we do not think this would be feasible as rules on disqualification need to vary depending on the elected body and on the nature of the post held by the potential candidate. It is therefore not possible in our view to establish a common set of disqualifications to be used in all elections, and neither is it possible to specify what the disqualification rules should be for each election. However, there may be scope for legislating for a generic 'core' set of disqualifications that apply equally to all (or most) elections, including for example disqualifications relating to bankruptcy and the commission of offences or imprisonment. Such a task would require some policy changes in various parts of election law in order to create a consistent position but would significantly simplify the existing law, making it easier for everyone involved in elections.

2.45 Secondly, there is a clear justification in some cases for disqualifications to apply at the point of nomination on the basis of holding a particular post, because campaigning for election would be incompatible with holding a post that demands political neutrality (for example, a judge or civil servant)⁵⁶. This

⁵⁶ We note that this is also suggested in the Welsh Government's response to the National Assembly for Wales' inquiry into Assembly disqualifications, October 2014, paragraph 6, <http://www.assembly.wales/laid%20documents/gen-ld9970%20-%20report%20of%20the%20constitutional%20and%20legislative%20affairs%20committee,%20%E2%80%9Cinquiry%20into%20the%20disqualification%20from%20member/gen-ld9970-e.pdf>

may also apply to some employees who hold additional offices, for example as a trade union representative. However, we are of the view that in all other cases someone should be free to stand for election regardless of whether they hold a disqualifying office or employment and should only be required to resign their office or employment (with immediate effect) if they are elected. This would allow more people to stand for election and so provide a wider choice for voters, whilst at the same time would ensure that there is no conflict of interest either during the campaign or once someone is elected.

2.46 Although it does not seem possible to have a single set of disqualifications for each election, we have set out below a framework of questions which Governments could draw on to review their own rules on disqualification.

2.47 Firstly, is there a real conflict of interest between the appointed post and the elected post? If so, the postholder would have to resign before taking up elected office.

2.48 Secondly, does the postholder need to have resigned and served out notice by nomination or election, for example:

- Does the postholder's role require political impartiality during the election campaign?
- Does the postholder have access to privileged information that would advantage them over other candidates?
- Could the postholder exert undue influence over electors by virtue of their position⁵⁷?
- Is the postholder involved in the administration of the election?

2.49 Asking these questions would mean postholders who did not meet any of these criteria would be free to stand for election, and would only have to resign from their post if elected (if there was a conflict of interest in holding both positions at the same time). This would enable some individuals who hold a disqualified post to participate in the election without having to resign from their job, and so would serve to widen the range of candidates available to voters. This would mean making a clearer distinction between offices or employment which would prevent someone from standing for election, and those which would prevent someone from holding office if elected.

2.50 We think that voters in polling stations should be informed if the Returning Officer is satisfied that a candidate is not qualified or is disqualified, or where a candidate no longer wants to be considered for election but has not withdrawn their candidature before the statutory deadline for withdrawals, and so will be included on the ballot paper. Consideration should also be given to providing postal voters with this information. This would ensure that electors would be better equipped to make an informed decision, since they would be unlikely to want to vote for a disqualified candidate or one who has

⁵⁷ Richard Mawrey QC in *Harrison v Gupta* refers to a senior housing officer possibly being able to exert pressure on voters (paragraph 66).

decided not to stand. However, if the law is changed (as we suggest may be appropriate in para 6.56 to 6.66 below) so that a Returning Officer is able to hold a nomination paper to be invalid because they are satisfied that a candidate is not qualified or is disqualified, the notice would only need to deal with candidates whose lack of qualification or disqualification arose or was only discovered after the Returning Officer had determined the validity of the nomination paper, as well as those candidates who no longer wanted to stand but had missed the statutory deadline to withdraw.

2.51 This is a complex area and it will be important for a range of issues to be taken into account before any changes to the law are proposed by the relevant policy makers. Consultation with representatives of local government, electoral administrators and Returning Officers on the detail of any changes will be particularly important.

- We recommend that the law in England, Wales and Northern Ireland is changed to make a clear distinction between offices or employment which would prevent someone standing for election, and those which would prevent someone from holding office if elected. A suggested framework of questions is put forward in this report to help establish whether a particular postholder could stand, but it would be up to the relevant Governments to determine how these should apply when reviewing the law. This reduction in restrictions on potential candidates would enable wider choice for voters.
- We recommend that the law is changed so that voters, voting in person in polling stations (and where practical those voting by post), are informed that a candidate had either been disqualified or no longer wants to be considered for election but has not withdrawn their candidature within the time allowed. This will ensure that the voter can make a more informed choice.

Disqualification under the Representation of the People Act 1981 (RPA 1981)

2.52 Under section 1 of the RPA 1981 a person is disqualified from membership of the UK Parliament if they:

- have been found guilty of an offence,
- have been sentenced or ordered to be imprisoned or detained indefinitely or for over one year, and
- are detained anywhere in the British Islands or the Republic of Ireland in pursuance of the sentence or order or while unlawfully at large at a time when he would otherwise be so detained.

2.53 This disqualification criterion has also been read across to elections to the Scottish Parliament⁵⁸, the National Assembly for Wales⁵⁹, the Northern Ireland Assembly⁶⁰ and the European Parliament⁶¹.

2.54 The RPA 1981 was introduced following the election of Bobby Sands to the UK Parliament as MP for Fermanagh and South Tyrone following a hunger strike at the Maze prison in Northern Ireland in 1981. The RPA 1981 was intended to stop prisoners in Northern Ireland from standing for election to achieve publicity⁶². The election rules require a Returning Officer in the UK, if it appears that a person nominated might be disqualified under the RPA 1981, to publish a notice enabling objections to the nomination on this ground⁶³. The Returning Officer will hold the nomination paper to be invalid if the candidate is disqualified under the RPA 1981⁶⁴.

2.55 Section 3 of the Elected Authorities (Northern Ireland) Act 1989 requires candidates standing for local elections in Northern Ireland to sign a declaration against terrorism. However, there are no similar provisions applying to candidates standing for local government elections elsewhere in the UK and the provisions do not apply for election to the UK Parliament or the Northern Ireland Assembly⁶⁵.

2.56 In the consultation we sought views on whether the disqualification in section 1 of the RPA 1981 should be repealed or amended in any way. In respect of the Elected Authorities (Northern Ireland) Act 1989 we also asked if the legislation should be repealed or amended⁶⁶.

Views from respondents

2.57 A large number of respondents did not put forward a view in relation to the RPA Act 1981 or the Elected Authorities (Northern Ireland) Act 1989 because they had no direct experience of either piece of legislation.

2.58 Some respondents emphasised that the RPA 1981 was peculiar from the point of view that it seems to place a duty on Returning Officers to be assured that any person standing for election to the UK Parliament, European Parliament or the devolved institutions in Scotland, Wales or Northern Ireland was not disqualified. For all other aspects of the nomination process a Returning Officer must accept at face value the statements and certification made on a nominations paper and has no authority to investigate their

⁵⁸ Section 15(1)(b), Scotland Act 1998.

⁵⁹ Section 16(2), Government of Wales Act 2006.

⁶⁰ Section 36(4), Northern Ireland Act 1998.

⁶¹ Section 10(1)(a), European Parliamentary Elections Act 2002.

⁶² William Whitelaw (Secretary of State for the Home Department), HC Deb 22 June 1981 vol. 7 c. 29.

⁶³ See for example rule 15(1), UK Parliamentary Elections Rules (Schedule 1 to the RPA 1983).

⁶⁴ Rule 12(2)(c), UK Parliamentary Elections Rules.

⁶⁵ Section 5 of the Elected Authorities (Northern Ireland) Act 1989 would apply the same rule to Assembly elections but this has not been brought into force.

⁶⁶ Section 5 of the Elected Authorities (Northern Ireland) Act 1989, which would require a declaration at Northern Ireland Assembly elections, has not been commenced.

veracity. For this reason it was suggested that the provision requiring the Returning Officer to hold the nomination paper to be invalid on the ground that someone was disqualified under the RPA 1981 should be removed. A number of respondents also commented that the disqualification relating to being in detention had never served any useful purpose and the changed political circumstances in Northern Ireland made it redundant.

2.59 In respect of the main political parties in Northern Ireland there was no agreement about what should be done both with the RPA 1981 and the Elected Authorities (Northern Ireland) Act 1989 in the future. Sinn Féin was in favour of repealing both pieces of legislation while the DUP was of the opinion that it should be retained and that the declaration on terrorism should be extended to Northern Ireland Assembly elections.

Discussion and recommendations

2.60 We note that there is an inconsistency between the principle in electoral law that the Returning Officer should treat a nomination paper at face value⁶⁷ and the way the RPA 1981 disqualification is treated where the Returning Officer will hold the nomination to be invalid if the person is disqualified. We set out our thinking on this principle of treating nomination papers at face value below (see para 7.56 to 7.66). We suggest that there would be merit in considering whether a Returning Officer should be able to decide that nomination papers are invalid in respect of all disqualifications (not just under the RPA 1981), although this has considerable practical implications which are discussed further below.

2.61 We also note the different views expressed in relation to section 3 of the Elected Authorities (Northern Ireland) Act 1989. Given the changing situation in Northern Ireland, Parliament should review this law when appropriate.

⁶⁷ Rule 12(2)(a) and (b), UK Parliamentary Elections Rules; *R v Election Court, ex parte Sheppard* [1975] 1 WLR 1319.

3 Deposits and subscribers

3.1 Deposit and subscriber requirements are the two main barriers to standing for election. This chapter sets out the current requirements, and considers how they might be reviewed given the evidence raised in the consultation responses.

3.2 A system of financial deposits applies to most elections in the UK. Under a deposit system anyone who wishes to be included on the ballot paper must lodge a specified amount of money with the electoral authorities. If a candidate obtains the required percentage of the vote, the deposit is refunded.

3.3 A subscribers (also known as signatures or assenters) system is intended to ensure that all those who present themselves as candidates for public office do so in a serious and responsible manner. At some elections candidates wishing to appear on the ballot paper must collect a specified number of signatures in support of their nomination. In the UK, all candidates must follow the same rules, whether they are affiliated to a political party or stand as an independent.

3.4 While deposit and subscriber conditions are separate requirements, there is an interaction between them since in their different ways they are both a barrier to standing for election. Deposits require a candidate to make a financial payment, while subscribers require a candidate to demonstrate some level of support from electors. They need to be viewed together as they both appear to aim to achieve the same thing, which is to deter ‘non-serious’ candidates⁶⁸ from standing. The argument has always been that without some deterrent, elections could include significant numbers of non-serious candidates, whose presence might undermine voter confidence in the process as well as creating complicated and burdensome administration. On the other hand there is an argument that democracy would be best served without any such a deterrent; it should be left to the voter to decide who they want to vote for, without any mechanism to filter out candidates before the election.

Deposits

3.5 The International Institute for Democracy and Electoral Assistance (IDEA) in its International Electoral Standards addresses the issue of deposits under ballot access and states:

‘Monetary deposits should be of a sufficient level to discourage frivolous independent candidates and political parties, but should not be so high as to prevent legitimate political parties or independent candidates from obtaining

⁶⁸ We use the term ‘non-serious’ in this report to mean candidates who are only seeking to promote their commercial interests, who are only seeking publicity, or whose participation might otherwise demean or bring into disrepute the election.

*ballot access. Additionally, monetary deposits should be refundable upon a reasonable number or percentage of votes being received. This threshold should be stated in the electoral legislation*⁶⁹.

3.6 A deposit of £150 was introduced in the Representation of the People Act 1918 following a number of candidatures which were described as frivolous in the latter part of the First World War (1914-18)⁷⁰. All the major parties supported the initiative. The Act allowed for the costs of the election to be met by central government for the first time. Previously costs were met collectively by the candidates, so the deposit acted as a safeguard against candidacies which had no realistic chance of success⁷¹. It was forfeited by all candidates who failed to secure 12.5% of the votes cast. Deposits did not apply to local elections and have never done so except in Northern Ireland where they were abolished in 1985.

3.7 The Representation of the People Act 1985 increased the deposit to £500 and the threshold for forfeiture of the deposit was reduced to 5%⁷². There has been no change to the size of the deposit or the threshold for UK Parliamentary elections since 1985⁷³.

3.8 When the issue of deposits was last reviewed by us in 2003, research showed that a large number of European countries (including Germany, Italy, Spain and the Netherlands) did not have deposit systems, nor were they applicable in the USA. In the European countries that retained deposits, and in Australia and Canada, the sums required were less than the £500 used for the UK Parliament⁷⁴.

3.9 Deposits are now required for most electoral contests in the UK (see Table 1). They are not required for local government elections, including elections to principal areas, parishes and communities. Table 1 shows the variety of different deposit requirements; rather than there being a single approach, the requirement differs for almost every election.

⁶⁹ IDEA, *International Electoral Standards Guidelines for reviewing the legal framework of elections*, 2002, p. 51, <http://www.idea.int/publications/register.cfm?title=International%20Electoral%20Standards%3A%20Guidelines%20for%20reviewing%20the%20legal%20framework%20of%20elections&forwardUrl=%2Fpublications%2Ffiles%2Floader%2Ecfm%3Fcsmodule%3Dsecurity%2Fgetfile%26pageid%3D10183>

⁷⁰ David Butler, *The Electoral System Since 1918*, p. 9.

⁷¹ Home Office, *Written evidence to the Home Affairs Select Committee report on Electoral Law and Administration*, HC 768, 1997-98, Appendix 1, paragraph 7.19

⁷² Section 13, Representation of the People Act 1985.

⁷³ If the value of the deposit in 1985 had increased in line with inflation, it would be just over £1300 today.

⁷⁴ Electoral Commission, *Standing for Election in the United Kingdom*, 2003, pp.17-18.

Table 1: Size of deposit required and threshold of valid votes necessary for return of deposit

Election	Deposit Size	Threshold
UK Parliament	£500 ⁷⁵	5% ⁷⁶
European Parliament	£5,000 for individual and party list ⁷⁷	2.5% for individual or party list in Great Britain ⁷⁸ 25% of quota in Northern Ireland ⁷⁹
Scottish Parliament	£500 for constituency candidates, individual regional candidates or a party's regional list ⁸⁰	5% (in a regional election the deposit will be forfeited if the party or candidate does not poll more than 5% and has not been allocated a seat) ⁸¹
National Assembly for Wales	£500 for individual or party list ⁸²	5% (for individual or party list) ⁸³
Northern Ireland Assembly	£150 ⁸⁴	25% of the quota ⁸⁵
Greater London Authority: Mayor	£10,000 Mayor ⁸⁶	5% Mayor ⁸⁹

⁷⁵ Rule 9(1), UK Parliamentary Elections Rules.

⁷⁶ Rule 53(4), UK Parliamentary Election, Rules.

⁷⁷ Rule 10(1), European Parliamentary Elections Rules in Great Britain (Schedule 1, European Parliamentary Elections Regulations 2004) and rule 8(1), European Parliamentary Elections Rules in Northern Ireland (Schedule 1, European Parliamentary Elections (Northern Ireland) Regulations 2004).

⁷⁸ Rule 62(5), European Parliamentary Elections Rules.

⁷⁹ Rule 65(5), European Parliamentary Elections Rules in Northern Ireland. The 'quota' is defined in rule 56.

⁸⁰ Rule 10(1) to (3), Scottish Parliamentary Elections Rules (Schedule 2, Scottish Parliament (Elections etc.) Order 2010).

⁸¹ Rule 67(6), Scottish Parliamentary Elections Rules.

⁸² Rule 10(1) to (3), National Assembly for Wales Elections Rules (Schedule 5, National Assembly for Wales (Representation of the People) Order 2007).

⁸³ Rule 65(6) and (7), National Assembly for Wales Elections Rules.

⁸⁴ Rule 9(1), UK Parliamentary Elections Rules, as amended and applied to Northern Ireland Assembly elections by paragraph 1 of Schedule 1 to the Northern Ireland Assembly (Elections) Order 2001.

⁸⁵ Rule 53(4), UK Parliamentary Elections Rules, as amended.

Constituency members	£1,000 constituency member ⁸⁷	5% constituency member ⁹⁰
London members (individuals and list candidates)	£5,000 individual or party list candidate ⁸⁸	2.5% individual or party list candidate ⁹¹
Mayors elsewhere in the UK	£500 ⁹²	5% ⁹³
Police and Crime Commissioners	£5,000 ⁹⁴	5% ⁹⁵

3.10 In the consultation we asked for views on the argument that deposits are a useful deterrent against non-serious candidates standing for election. We asked in particular for evidence to support the assertion that a deposits system either deters or disadvantages independents or candidates from smaller parties, and invited comment on whether the advantages of a deposit system were outweighed by the disadvantages.

3.11 In terms of increasing participation in elections we asked if the size of deposit should be the same for all candidates or should be varied for independent candidates or by the size of the political party contesting the election. We also wanted to find out if reducing the threshold for forfeiture would encourage wider participation. We sought views about introducing a sliding scale for deposits determined by the type of election or if there should be a maximum deposit for all elections. Finally, we asked for views about alternative methods of paying deposits and whether Returning Officers should be obliged to offer a range of options in addition to the payment methods that there are currently required to accept⁹⁶.

⁸⁶ Rule 9(1), London Mayoral Elections Rules (Schedule 3, Greater London Authority Elections Rules 2007).

⁸⁹ Rule 58(5), London Mayoral Elections Rules.

⁸⁷ Rule 8(1), Constituency Members Elections Rules.

⁸⁸ Rule 10(1) and (2), London Members Election Rules.

⁹⁰ Rule 55(5), Constituency Members Elections Rules.

⁹¹ Rule 58(5), London Members Elections Rules.

⁹² Rule 10(1), Mayoral Elections Rules (Schedule 1, Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007).

⁹³ Rule 55(5), Mayoral Elections Rules.

⁹⁴ Rule 9(1), Police and Crime Commissioner (PCC) Elections Rules (Schedule 3, Police and Crime Commissioner Elections Order 2012).

⁹⁵ Rule 63(5), Police and Crime Commissioner Elections Rules.

⁹⁶ Rule 9(2), UK Parliamentary Elections Rules.

Views from respondents

3.12 Political parties expressed mixed views about deposits. Some were supportive of them on the basis that having to pay a deposit demonstrated a level of commitment and serious intent, while others said their existence was unfair and undemocratic. The Conservative Party said that it did not believe that the current level of deposits deterred serious candidates, that the size of deposit should be commensurate with the level of election, and that serious consideration should be given to index-linking deposits. The DUP said that doing away with deposits and changing forfeiture thresholds would lead to wide scale abuse by narrow interest groups. The parties represented on the Wales Assembly Parties Panel were in general agreement that deposits should remain, that there should be greater consistency between elections, and that £500 was sufficient to demonstrate serious intent. The parties in Wales also suggested that the deposit should be increased for UK Parliamentary by-elections because they tended to attract candidates seeking publicity.

3.13 Other respondents were in broad agreement with these parties and said that the deposits system ensured the integrity of the process and acted as a strong deterrent against so-called frivolous candidates putting their names forward for election. The view was also expressed that deposits were necessary to discourage self-publicists and those seeking to exploit the system to take advantage of free candidate mailings. The GLRO commented, *'The profile of the Mayoral election is such that some might see the maximum cost of standing unsuccessfully as a small price to pay for extensive publicity. Some of the enquiries made in advance of the nomination period have, subjectively, come from individuals with no great ambition to secure elected office, but rather to achieve significant publicity. The deterrent appears primarily to have come from the number of subscribers required, rather than from the deposit'*

3.14 The Green Party in England and Wales reaffirmed its long held opposition to deposits for all elections in the UK. The Party said that the size of the deposit for UK Parliamentary elections was too high, and that it reduced the number of constituencies it contested at UK Parliamentary elections. By way of example it claimed to have contested only half the seats available at the 2010 UK Parliamentary election and that without deposits it could have contested three quarters or more seats. The Party stated that at the election the Party lost 328 deposits at a cost of £164,000⁹⁷. The Green Party in Northern Ireland said *'requiring candidates to pay large sums of money in order to stand for election is unfair, undemocratic and restricts the choice of candidates offered to the electorate towards those with the means to pay such sums of money. For example, the £5,000 deposit required to contest the European Parliament elections coupled with the high thresholds undoubtedly*

⁹⁷ At the 2005 UK Parliamentary general election the Party lost 163 deposits at a cost of £81,500. Further details of lost deposits at this election are set out in Table 2 of the House of Common Library Paper: *Electoral Administration Bill: changing the election deposit threshold* (SN/SG/3779), 19 October 2005.

*means that in effect some parties and candidates are deterred from contesting the election*⁹⁸.

3.15 Those who responded to the consultation were of the opinion that if deposits were retained they should be set at a level that is appropriate to the election being contested. On the question of what might constitute a maximum deposit, £500 was proposed by some candidates and political parties as a maximum figure for all deposits. Many of the responses called for more consistency in the level of deposits in similar elections.

3.16 Some political parties, the AEA and electoral administrators pointed out that the value of deposits had not kept pace with inflation.

3.17 Most respondents were of the view that the policy of having no deposits for local government elections should be continued across the UK. However, a small number of respondents including two elected councillors believed that deposits should be levied for all elections.

3.18 A number of respondents highlighted the significant difference between the deposit required for UK Parliamentary elections (£500) and that required for PCC elections (£5,000). The Association of Liberal Democrat Councillors said *'the level of deposit required for larger scale elections, such as for the London Mayor and Police & Crime Commissioners is such that it will deter many smaller parties and Independent candidates'*. Plaid Cymru in its submission said that the £5,000 deposit for the PCC elections was too high particularly as there was no freepost service available for these elections. Independent Councillors who gave their views on deposits to the Local Government Association and the AEA made similar points.

3.19 Most respondents were of the opinion that there should be 'a level playing field' between party candidates and independents in respect of deposits and that this was necessary to ensure adherence to equality and fairness. A small number of respondents including three electoral administrators believed that for elections requiring deposits a sliding scale should be introduced so that independents and candidates from smaller parties pay less, in order to encourage greater participation. No precise proposals were put forward as to what the scale should be. Sinn Féin proposed the introduction of an overall maximum party deposit in multi-seat constituencies rather than individual candidate deposits.

3.20 Most respondents believed that the threshold set for the forfeiture of deposits at UK Parliamentary elections was about right. However, a small number, including an electoral administrator, suggested that the threshold should be reduced from 5% to 2% for independents and candidates from smaller parties.

3.21 Many respondents expressed support for greater flexibility around paying deposits using modern banking methods including paying online. The

⁹⁸ The Green Party Northern Ireland written submission December 2013

AEA said that arrangements for the payment of deposits should keep pace with modern methods of payment. Other administrators thought there were too many risks associated with electronic payments and that the current arrangements should be retained. However, there was support for ending cash payments primarily in the interests of security and safety.

Subscribers

3.22 Subscribers have been a feature of the nominations process in the UK since the introduction of the Ballot Act 1872. Before its introduction nominations were conducted at public meetings by a show of hands. The Act introduced nominations in writing, a compulsory description in the form of name, address and 'rank, profession or calling', an objections procedure and a requirement that the form of the nomination paper be as 'prescribed by law'⁹⁹. The Act stated that 'every nomination paper must be signed by two registered electors, a proposer and a seconder and by eight other registered electors assenting to the nomination'¹⁰⁰. This requirement still exists for UK Parliamentary elections¹⁰¹.

3.23 The subscriber system has developed in different ways for different elections. For example, elections for PCCs in England and Wales in 2012 required nomination papers to be subscribed by 100 registered electors¹⁰². Before 1999 a proposer, a seconder and 28 subscribers were required for European Parliamentary elections¹⁰³ but this requirement was abolished when the voting system for European Parliamentary elections changed in Great Britain¹⁰⁴. There is now no subscriber requirement in the UK for candidates standing for the European Parliament. Instead parties and candidates nominate themselves, and a deposit of £5,000 must be paid either by an individual candidate or for the whole of the party list¹⁰⁵.

3.24 Similarly the introduction of elections to the devolved institutions and the Greater London Authority in the late 1990s increased further the number of subscriber systems operating with little consistency between them. For example, 330 subscribers are required for election as Mayor of London¹⁰⁶. The concept of subscribers for the Scottish Parliament was never adopted but the nomination paper must be signed by a witness to the candidate's signature¹⁰⁷ and in Wales one subscriber is required for elections to the

⁹⁹ Paragraphs 5 and 6, Schedule 1, Ballot Act 1872.

¹⁰⁰ Section 1, Ballot Act 1872.

¹⁰¹ Rule 7(1), UK Parliamentary Elections Rules.

¹⁰² Rule 7(1), PCC Elections Rules.

¹⁰³ Schedule 1, European Assembly Elections Regulations 1986.

¹⁰⁴ The new voting system was introduced by amendments made to the European Parliamentary Elections Act 1978 by section 1 of the European Parliamentary Elections Act 1999. Schedule 1 to the European Assembly Elections Regulations 1986 was revoked and replaced by the European Parliamentary Elections Regulations 1999.

¹⁰⁵ Rule 10, European Parliamentary Elections Rules.

¹⁰⁶ Rule 7(1), London Mayoral Elections Rules.

¹⁰⁷ Rules 4(2) and 5(2), Scottish Parliamentary Elections Rules.

National Assembly¹⁰⁸. In Northern Ireland, ten are required for the Assembly¹⁰⁹. Inconsistencies also exist for local elections in the UK with England, Wales and Northern Ireland requiring ten subscribers¹¹⁰ while the nomination paper only needs to be subscribed by one witness to the candidate's signature in Scotland¹¹¹.

Table 2: Number of subscribers required at elections in the UK

Election	Subscribers
UK Parliament	10 ¹¹²
European Parliament	0
Scottish Parliament	2 (the candidate and the witness to the candidate's signature ¹¹³)
National Assembly for Wales	1 (could be the candidate) ¹¹⁴
Northern Ireland Assembly	10 ¹¹⁵
Greater London Authority	Mayor: 330 (at least 10 from each London Borough and at least 10 from City of London) ¹¹⁶ Constituency and list members: 0
Police and Crime Commissioners	100 ¹¹⁷
Local, Mayoral and Parish elections in England and Wales	Local: 10 ¹¹⁸ Mayoral: 30 ¹¹⁹

¹⁰⁸ Rules 4(2) and 5(2), Scottish Parliamentary Elections Rules and rules 4(5), 6(4) and 7(6), National Assembly for Wales Elections Rules.

¹⁰⁹ Rule 7(1), UK Parliamentary Elections Rules, as applied by Schedule 1 to the Northern Ireland Assembly (Elections) Order 2001.

¹¹⁰ Rule 6(1), Local Elections (Principal Areas) (England and Wales) Rules (Schedule 2, Local Elections (Principal Areas) (England and Wales) Rules 2006) and rule 6(1), Local Elections (Northern Ireland) Rules (Schedule 5, Electoral Law Act (Northern Ireland) 1962).

¹¹¹ Rule 6(1), Scottish Local Government Elections Rules (Schedule 1, Scottish Local Government Elections Order 2011).

¹¹² Rule 7(1), UK Parliamentary Elections Rules.

¹¹³ Rules 4(2) and 5(2), Scottish Parliamentary Elections Rules.

¹¹⁴ Rules 4(5), 6(4) and 7(6), National Assembly for Wales Elections Rules.

¹¹⁵ Rule 7(1), UK Parliamentary Election Rules, as applied by Schedule 1 to the Northern Ireland Assembly (Elections) Order 2001.

¹¹⁶ Rule 7(1), London Mayoral Elections Rules.

¹¹⁷ Rule 7(1), PCC Elections Rules.

¹¹⁸ Rule 6(1), Local Elections (Principal Areas) (England and Wales) Rules.

¹¹⁹ Rule 8(1), Mayoral Elections Rules.

	Parish and community: 2 ¹²⁰
Local elections Northern Ireland	10 ¹²¹
Local elections Scotland	2 (the candidate and a witness to the candidate's signature) ¹²²

3.25 In our consultation we sought views on whether the subscriber system continued to serve the purpose for which it was originally designed and if a clear rationale existed for retaining it. We also raised the question of the impact of the subscriber system on independent candidates and whether it created additional hurdles, which might result in their non-participation in elections. We sought views on whether candidates of political parties, registered with the Commission under PPERA, should be exempt from securing subscribers on the basis that they had already gone through a party nomination process.

3.26 We questioned the value of continuing to ask independent candidates to have their nomination papers subscribed. We asked, if subscribers were retained, how many there should be and if the numbers should vary depending on the nature and type of election. We sought views on whether there should be a direct correlation between numbers of subscribers and the size of deposit and whether that number should be increased if deposits were abolished. Finally, we asked for views on whether potential candidates should be given a choice of using more subscribers or paying a deposit.

Views from respondents

3.27 Some political parties were of the view that the subscriber system should be retained because it helped validate the nomination process. The Conservative Party said *'the subscriber system plays a valuable part in our election system and helps to reduce the number of frivolous candidates. We do not believe that the system reduces proper participation in any way as any serious candidate is able to achieve sufficient signatures to stand'*. The Labour Party said that while it recognised there were inconsistencies with the current system of subscribers and deposits *'deterrents should remain to ensure that those who present themselves as candidates for public office do so in a serious and responsible manner'*. The Liberal Democrats believed there was merit in continuing with a mixed system of subscribers and deposits in elections but said *'the variations between Parliament and the GLA Mayor and Police and Crime Commissioners are difficult to understand'*

3.28 Parties represented on the Wales Assembly Parties Panel said that there was no logic as to why, in some elections, a candidate must get a large numbers of signatures while other similar elections required only one or two.

¹²⁰ Rule 6(1), Parish and Community Elections Rules (Schedule 2, Local Elections (Parishes and Communities) (England and Wales) Rules 2006.

¹²¹ Rule 6(1), Local Elections (Northern Ireland) Rules.

¹²² Rule 6(1), Scottish Local Government Elections Rules.

The parties concluded that *'the requirements for large numbers of signatures were disproportionate and burdensome for potential candidates'*. The DUP said it supported the standardisation of the subscriber system across all elections in the UK and that the current wide variation of requirements between different types of election was confusing.

3.29 In its response the AEA advised that it had recommended to the UK Government in 2010 that it should bring forward legislation to remove the requirement for subscribers. It highlighted the current arrangements in place for elections to the Scottish Parliament and the National Assembly for Wales in support of its recommendation. The AEA expressed the view that removing the requirement for subscribers would make the nomination process simpler and more efficient for candidates, agents and Returning Officers. Respondents from town and parish councils, which use a proposer and seconder system, advised that their system worked satisfactorily. This view was supported by the Chief Electoral Officer for Northern Ireland who said *'The subscriber system is, in my opinion, a complete waste of time. It adds no value to the electoral process and creates nothing more than unnecessary and unwelcome additional bureaucracy for electoral administrators. Application of the subscriber system varies wildly (without any good reason) depending on the election. In short, it should be abolished'*

3.30 The GLRO¹²³ said that without a high hurdle to negotiate for London Mayoral elections, it might reasonably be assumed that many people would pursue their interest to the stage of nomination. He claimed that the high combination of subscribers and deposit for the election of London Mayor worked as there have been 10 candidates for each election since 1999, except the most recent when there were seven. He said that there was considerable publicity awarded to the candidates, including that they get the benefit of inclusion in a booklet that is sent to every elector in London, which is costly to produce and distribute. He said that prior to the 2012 elections, over 60 people had registered an interest in receiving more information on the Mayoral nomination process and this did not include most of the parties that ultimately contested the elections.

3.31 Other respondents claimed that at some elections, including the London Mayoral election, candidates were unlikely ever to come into contact with subscribers given that 330 subscribers were required from 32 local authorities and the City of London. It was suggested that the task was largely an administrative exercise undertaken by party or candidate supporters and not usually by the candidate themselves. Similar views were expressed about the need to obtain 100 subscribers for PCC elections. The views of independent councillors who responded through the Local Government Association (LGA) Independent Group office were summarised as follows¹²⁴: *'a hundred subscribers required in the Police and Crime Commissioner elections was too many, creating a significant hurdle which does risk non-participation'*

¹²³ Response from Jeff Jacobs Greater London Returning Officer 16 December 2013

¹²⁴ Summary of individual views supplied to the Head of the Independent Group Office LGA.

3.32 While there was some support for making the subscriber system less onerous for independent candidates the general view was that there should be “a level playing field” between party candidates and independents and that treating candidates differently had implications for equality and fairness. There was little support for offering a straight choice between using subscribers or paying a deposit.

3.33 Some political parties including the Liberal Democrats and the Green Party of England and Wales were of the opinion that independents were disadvantaged because they did not have early access to the electoral register to assist with identifying subscribers. The Green Party said ‘*serious independents and candidates of all shades rely on register data for the year round work to get elected, so there is a case for independents to be able to register with their local Returning Officer in some way to get the same year long access that registered parties can do*’. Independents who responded by the LGA gave a similar view about access to the register for all candidates including independents. Other parties including the Conservative Party, the DUP and Plaid Cymru said they were content with the current arrangements regarding access to the register. This issue is dealt with in a separate section later in this report (see para 5.43 to 5.53).

3.34 A number of respondents to the consultation referenced the Scottish model as a potential way forward for all elections in the UK. Since 2002 a nomination paper at a Scottish local government election only needs to be subscribed by the candidate and by a witness to the candidate's signature. This is in line with elections to the Scottish Parliament, where the subscriber system was never adopted; instead there is a requirement for a single witness to the candidate's signature. There has been no surge in non-serious candidates in elections without subscriber requirements.

3.35 In response to our question about the value of candidates of political parties registered with the Electoral Commission having to continue to subscribe their nomination papers there was a consensus among some parties and others that this requirement should no longer be necessary. The Association of Liberal Democrat Councillors said, ‘*the purpose of subscribers had been to ensure that candidates can prove a basic level of support before being able to contest a seat, thereby removing frivolous candidates from the process. However, with the introduction of PPERA registered parties have already proved a level of commitment to the process (and would be likely to find the subscribers without too much difficulty anyway), and Independent candidates have had to show commitment by investigating the nomination process and then completing and returning their forms*’.

3.36 The DUP and Plaid Cymru supported this point, with the DUP adding ‘*It seems fair and proportionate that independent candidates would still be required to have their nomination papers subscribed, however, the number and conditions should be standardised across all elections in the UK*’. However, the AEA Southern Branch, several separate electoral administrators and the Green Party (England and Wales) said it would be unfair to ask Independents to have their nomination papers subscribed while not requiring the same for candidates of registered parties.

3.37 Some electoral administrators expressed the view that the subscriber system added significantly to their workload. When the overall time taken to complete the task was aggregated it represented a significant proportion of time which administrators believed could be better spent on other tasks associated with the election.

Discussion and recommendations

3.38 Given the similarity in purpose of the deposit and subscriber requirements, and the interactions between them, in this section we discuss and make recommendations on deposit and subscriber requirements together.

3.39 The main argument put forward during our review in favour of retaining deposits was that they act as a barrier to 'non-serious' candidates (although no respondents provided a definition to explain what 'non-serious' meant). This view was held by a large number of consultation respondents, particularly those representing larger parties.

3.40 The case for reducing or abolishing deposits was mostly made by smaller parties and independents. They argue that deposits may prevent or deter people and parties with limited financial resources from standing for election, even when they may be serious candidates. We have already referred to evidence from the Green Party about this effect. There is other evidence available, for example:

- No independent candidates stood for election in the May 2014 European Parliamentary elections and we understand that no independent candidate has been elected from the UK to the European Parliament¹²⁵. We do not know whether this is a result of the size of the deposit but it seems likely that it was a factor.
- In our report on the 2012 PCC elections we referred to research that we had carried out which showed that nearly four in ten (39%) candidates who responded to our survey said that it was difficult to raise the required deposit. Independent candidates were more likely to agree it was difficult to raise the deposit required to secure nomination compared to candidates who stood on behalf of a political party (58% and 29% respectively).

3.41 There is a particularly strong argument for reviewing the very high deposits in place for London Mayoral (£10,000), London Assembly (£5,000), European Parliament (£5,000) and PCC (£5,000) elections. These put a significant financial hurdle in front of independent candidates and smaller parties.

3.42 The consultation responses highlighted the burdensome nature of the subscriber requirements and the huge inconsistency between elections in the

¹²⁵ Independent Network, *Independents in European Elections*, <http://www.independentnetwork.org.uk/research/independents-european-elections> (accessed on 30 October 2014).

number of required subscribers. We also note the view held by the AEA, the Chief Electoral Officer for Northern Ireland and some electoral administrators that the requirements are largely meaningless and should be abolished.

3.43 Deposits and subscriber requirements are the two main barriers to standing for election. Without these barriers, there could be a risk of very large numbers of candidates (especially in high-profile elections), which could potentially be unwieldy for voters, undermine the credibility of the election, and be difficult and costly to administer.

3.44 The other side of this argument is that reducing these barriers could mean an increased range of candidates standing for election. Our view is that having a greater range of choice would be in the voter's interests. Any measure that increases candidate numbers and the range of backgrounds from which they are drawn may be seen as good for democracy. We recognise that an increased number of candidates could also result in increased administrative complexity for Returning Officers and their staff, but this should be set against the benefits to the electorate and democracy of having as wide as possible a range of candidates.

3.45 Deposits were originally introduced to deter non-serious candidates from standing¹²⁶. Subscriber requirements originally ensured candidates had some local support, and were not just representing themselves. We have questioned whether these arguments are still appropriate today.

3.46 In the case of deposits, it does not seem reasonable to have a barrier to standing for election that depends on someone's financial means. We do not think that the ability to pay a specified fee is a relevant or appropriate criterion for determining access to the ballot paper. In any event, the current requirements are unlikely to deter a well-off 'non-serious' candidate. Therefore we continue to support our preferred option for change in respect of deposits set out in our 2003 report, which was to abolish all requirements in electoral law to pay a deposit¹²⁷. However, we would support the argument that if deposits are retained, the law should be changed to require Returning Officers to accept deposits that are paid electronically in order to make standing for election easier.

3.47 The argument for subscriber requirements seems to carry more weight, in that they act as a proxy for support from the electorate and are an indication that candidates are genuinely contesting the election. Having said this, in practice subscriber requirements may test administrative ability rather than support from the electorate.

3.48 Given that we are recommending abolishing deposits for the reasons given above, on balance we have concluded that subscriber requirements should be retained since removing both could result in very long ballot papers

¹²⁶ For example, see Mr Serjeant Simon (MP for Dewsbury), HC Deb 31 July 1871 vol. 208 c. 607.

¹²⁷ Electoral Commission, *Standing for Election*, 2003, pp.15-24.

which could be unwieldy for voters and undermine the credibility of the election.

3.49 Although we are recommending that subscriber requirements should be retained, there is a need to review the requirements to ensure that they are proportionate to the type of election (for example reflecting the size of the electorate and the nature of the post being contested) and that any differences in the rules between elections reflect conscious policy choices by the relevant legislature. Requirements to obtain subscriber signatures are a barrier to standing for election and therefore they should be set as low as possible in order to promote participation in elections¹²⁸.

3.50 In considering these recommendations, it will be important that governments look at subscriber and deposit requirements together for each election. Some elections do not have subscriber requirements at present (for example elections to the European Parliament and Scottish Parliament) and it is possible that abolishing deposits for these elections could encourage non-serious candidates to stand. There are no polls at present which have neither deposits nor subscribers, other than local elections in Scotland, which makes it hard to predict the impact of such a combined change on a higher profile election. We therefore suggest that if the respective government proposes to remove deposits for elections that do not currently have subscribers, there should be an assessment of whether this might result in large numbers of non-serious candidates. If so, consideration might be given to whether introducing an appropriate subscriber requirement would help address this.

- We recommend removing the requirement to pay a deposit at all elections, as we do not consider that there should be a financial barrier to standing for election.
- We recommend that subscribers should be retained to maintain trust that elections are being contested by serious candidates and to avoid ballot papers that are unwieldy for voters and difficult to administer. The number of subscribers should be reviewed for each election to ensure it is proportionate to the post for which the candidate is standing.

¹²⁸ The more subscribers are required the more likely it is that the requirement will restrict participation, especially amongst independents and smaller parties. Research showed that at the 2012 PCC elections, where there was a requirement to gather 100 subscribers, 74% of independents surveyed agreed or tended to agree that it was difficult to get the number of signatures required to secure their nomination, compared with 29% of respondents who stood for election on behalf of a political party. Electoral Commission, *Report on the administration of the PCC Elections held on 15 November 2012*, March 2013, p. 60, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0003/154353/PCC-Elections-Report.pdf

4 Candidate use of descriptions

Background to descriptions

4.1 The full background to candidate descriptions is covered in House of Commons Library Research Paper 98/62 *The Registration of Political Parties Bill*. The ability to add some words of description on the nomination paper and ballot paper was offered by Rule 6 of the Ballot Act in 1872. However, candidates did not generally attach a party label to the description which was framed more in terms of occupation and address. The Representation of the People Act 1948 specifically prohibited party labels on ballot papers, to avoid ‘embarrassing controversy’¹²⁹. The position was reversed with the Representation of the People Act 1969 which repealed the party label prohibition and restricted the description to a six word limit.

4.2 It became necessary to protect a party’s identity following a number of high profile cases where it was thought that the description used by some candidates had the primary objective of confusing the electorate. The Literal Democrats case is probably the best known, which resulted in an election petition after the 1994 European Parliamentary election¹³⁰. The court ruled that the Returning Officer had no power to reject a nomination paper in such circumstances¹³¹. The 1997 UK Parliamentary election saw a further spate of candidates using misleading names including New Labour, or Conservatory and Liberal Democrat Top Choice. To curb future activity of this type the Registration of Political Parties Act 1998 (the 1998 Act) was introduced.

4.3 The 1998 Act brought about the registration of political parties on a voluntary basis. It also introduced restrictions on the descriptions candidates were permitted to use on the ballot paper. The restrictions in this Act were tightened further by PPERA when the compilation and maintenance of the register of political parties passed to the Electoral Commission. PPERA consolidated the restrictions, making it compulsory for parties that wished to field candidates at elections to register¹³². Independent candidates were prevented from including any description on the ballot paper except the word ‘Independent’ (and/or ‘Annibynnol’ in Wales)¹³³. Candidates for parish and community council elections were exempted from the requirements for registered political parties and are able to use descriptions of up to six words, even if not standing for a registered political party¹³⁴.

¹²⁹ Final report of the Committee on Electoral Law Reform Cmnd 1947, paragraph 12.

¹³⁰ <http://www.independent.co.uk/news/letter-of-the-law-backs-literal-democrat-1439807.html>

¹³¹ *Sanders v Chichester* (1995) 92(3) L.S.G. 37.

¹³² Section 22, PPERA.

¹³³ For example rules 6(3) and 6A, UK Parliamentary Elections Rules.

¹³⁴ Rule 4(2)(c) and (4), Parish and Community Elections Rules.

4.4 PPERA aims to place political parties within the regulatory control of the Electoral Commission and increase transparency with regard to political party finances. It also aims to protect the specific identity of registered political parties in respect of their party names, descriptions and emblems.

4.5 When PPERA was first enacted, parties could register one name¹³⁵ and up to three emblems¹³⁶. If a party wanted to use a different description, such as “the Labour Party candidate” or another variant of its name on the ballot paper, it had to make this request directly to the Returning Officer who used his/her discretion¹³⁷. There were difficulties and inconsistencies with this system, for example a party being permitted to use a variant of its name in one area, but not in another. Therefore in our 2003 report on Standing for Election, the Commission proposed that in addition to central registration of party names and emblems, there should be central registration of up to five descriptions per party¹³⁸. Following our recommendation, the Electoral Administration Act 2006 amended PPERA to allow parties to apply for the registration of up to twelve descriptions per party with the Commission¹³⁹.

Current situation

4.6 Today only candidates standing for registered political parties are permitted to use a description on the ballot paper¹⁴⁰, with the exception of parish and community council elections¹⁴¹. Other candidates are allowed the word ‘Independent’ (and/or ‘Annibynol’ in Wales) only¹⁴². When the legislation was being debated it was acknowledged that it imposed restrictions on non-registered political parties and independents¹⁴³. However, this was considered necessary to incentivise parties to register with the Electoral Commission¹⁴⁴.

4.7 There are a number of benefits to registering a political party including the ability to register and protect a party name, up to three emblems, and up to twelve descriptions. However, these benefits must be balanced against the requirement that registered parties must comply with the reporting requirements set out in PPERA¹⁴⁵.

¹³⁵ Section 28(1)(a) of, and paragraph 2 of Schedule 4 to, PPERA.

¹³⁶ Section 29(1), PPERA.

¹³⁷ For example rules 6(3) and 6A, UK Parliamentary Elections Rules.

¹³⁸ Electoral Commission, *Standing for Election*, 2003, p. 27.

¹³⁹ Section 28A, PPERA (as inserted by section 49, EAA).

¹⁴⁰ For example rules 6(3) and 6A, UK Parliamentary Elections Rules.

¹⁴¹ Rule 4(2)(c) and (4), Parish and Community Elections Rules

¹⁴² For example rules 6(3) and 6A, UK Parliamentary Elections Rules.

¹⁴³ Lord Mackay of Ardbrecknish, HL Deb 10 October 2000 vol. 617 c. 265. Lord Mackay, supported by some other Lords, argued that independent candidates should be able to include some words in addition to the word ‘Independent’ on the ballot paper, so long as they do not cause confusion or offence. Failing to allow independents this right would be unfair (HL Deb 10 October 2000 vol. 617 cc. 265-273).

¹⁴⁴ Lord Bassam of Brighton (Parliamentary Under-Secretary of State for the Home Office), HL Deb 10 October 2000 vol. 617 cc. 269-273.

¹⁴⁵ Quarterly returns detailing loans and donations and a full statement of accounts annually; there are also reporting rules during the regulated period at UK Parliamentary general elections and some other elections. For example, see Parts 3, 4, 4A and 5 of PPERA.

4.8 Those that do not register a political party – and therefore can only stand independent candidates – are free from the burdens of the regime, but equally enjoy none of the benefits of registration including using a description or emblem on the ballot paper. Allowing independent candidates to use a description would therefore remove one of the incentives to register a political party.

Independent candidates

4.9 Independents have a long standing place in the political system of the UK and have traditionally been an important force in local elections. Before the introduction of PPERA, all candidates were entitled to use a six word description on the ballot paper. The removal of this entitlement in PPERA represented a fundamental shift that some independent candidates felt disadvantaged them. Under the existing system, the only way that an independent candidate can use a description is by registering the description as a party name and perhaps registering a friend or supporter as a second party officer. Removing the ability for independents to have a description was a deliberate measure to prevent them from enjoying the same advantages of a registered party candidate without being subject to the same regulatory demands.

4.10 In recent years the number of independent candidates contesting elections has increased¹⁴⁶, and the proportion was particularly high for the first Police and Crime Commissioner elections held in England and Wales in 2012¹⁴⁷. Given the range of elections currently held in the UK and the possibility of new types of elections in the future¹⁴⁸, there is no evidence to suggest that the number of independent candidates will decrease at future elections. Consequently, the restrictions placed on the use of descriptions will likely impact a greater number of candidates.

4.11 When we considered this issue in 2003 we concluded that the current system discriminated against independent candidates¹⁴⁹. We were also concerned that electors were disadvantaged by the current arrangements, as the ballot paper provides no opportunity for independent candidates to communicate their political platform in the same way as other party candidates or to distinguish themselves from other independent candidates on the same ballot paper. However we recognised that it would be inappropriate

¹⁴⁶ We understand that 315 independent candidates contested the UK Parliamentary general election in May 2010. This is the largest number since 1885 when records began and almost double the number of independents standing in the 2005 General Election. Independent Network, *Number of Independent General Election Candidates Almost Doubles*, 22 April 2010, <http://www.independentnetwork.org.uk/press/number-independent-general-election-candidates-almost-doubles>

¹⁴⁷ 54 candidates were independent, which was 28.1% of the total number of candidates. Electoral Commission, *Report on the administration of the PCC Elections*, pp. 59 and 64.

¹⁴⁸ For example the recent proposals for National Parks Authority elections set out in the Draft Governance of National Parks (England) and the Broads Bill.

¹⁴⁹ Electoral Commission, *Standing for Election*, 2003, page 27.

to return to the pre-PPERA situation in which parties registered voluntarily and in which independents could still use a description.

4.12 In 2003 the Commission therefore recommended that subject to approval by the Returning Officer in each case, independent candidates should be allowed to stand under descriptions of up to six words at all elections held in the UK. The Returning Officer would operate under guidance from the Commission in determining the acceptability of a proposed description. The key criteria would be the need to avoid confusion with any registered party name¹⁵⁰. The Commission did consider whether it would be better to create a central register of independents' descriptions, alongside the central register of party descriptions that the Commission was also recommending, but decided that it was better to leave it to the discretion of Returning Officers, since Returning Officers would have more knowledge of local issues and be better placed to deal with any difficulties¹⁵¹.

4.13 Following our recommendation, the subsequent draft bill included allowing a six-word description for independent candidates¹⁵². However, this was not proceeded with and was withdrawn by the Government¹⁵³.

4.14 Following our review of voter-facing election forms and notices in 2009 (including ballot papers) we concluded that 'Independent candidates should be able to include information on the ballot paper that is equivalent to the information that registered parties or their candidates are permitted to include'¹⁵⁴. This was based on our own research and was primarily intended to ensure that the candidates on the ballot paper appeared to have equal importance. In our user-testing of ballot papers, voters felt that independent candidates appeared 'inferior' and lacked credibility without an emblem or a description (other than 'independent') – which could make the voter less likely to vote for an independent candidates.

¹⁵⁰ Electoral Commission, *Standing for Election*, 2003, p. 29.

¹⁵¹ Electoral Commission, *Standing for Election*, 2003, p. 28.

¹⁵² Clause 23 of the Electoral Administration Bill 2005 (as introduced) would have introduced a new Rule 6B into the Parliamentary Elections Rules in RPA 1983.

¹⁵³ There was concern expressed by some members of the Bill Committee that this clause could give independent candidates an unfair advantage as it would allow them to put a slogan on the ballot paper relating to a local issue, whereas party candidates would be restricted to using one of the party's registered descriptions at a national level and so could not use a local slogan. For example, see David Heath MP (Somerton and Frome), Electoral Administration Bill in Standing Committee B, 2nd Sitting, 15 November 2005, cc. 59-68. In the Committee the Minister defended the clause saying that he could see no good reason why an independent candidate should not be able to enjoy the same privileges as those given to party candidates with respect to descriptions and also that it would avoid confusion where multiple independents appear on the same ballot paper (David Cairns MP, Electoral Administration Bill in Standing Committee B, 2nd Sitting, 15 November 2005, cc. 62-67). However, the clause was subsequently withdrawn by the Government (HC Deb 11 January 2006 vol. 441 c. 384).

¹⁵⁴ Electoral Commission, *Making Your Mark: Design guidance for voter materials (Summary)*, October 2009, p. 3.

4.15 In 2013 the Commission carried out a review of the legal framework for regulating party and election finance¹⁵⁵. This considered changes that could be made to the regulatory regime to make it more effective, proportionate and to reduce burdens on the regulated community. As part of this review we explored whether independent candidates could use a description without undermining the essence of PPERA (registration, financial reporting and protecting the identity of political parties). The review concluded that a way could not be found of allowing independents to use a six word description now that PPERA provided for the registration of political party descriptions with the Commission, which was not the case when we made our initial recommendation in 2003. Doing so could potentially have undermined one of the incentives for registering as a political party and would therefore be incompatible with the current regulatory regime.

4.16 In the 2013 Regulatory Review we also noted some issues around the use of party descriptions that did not make the identity of the party clear enough¹⁵⁶. For example, at the 2012 elections for the London Mayor and London Assembly, candidates could use either the party name or a registered description. A candidate standing for the UK Independence Party appeared on the ballot paper with the description “Fresh Choice for London”. This description did not include the party’s name, and the rules on the content of the ballot paper did not include a separate line for the party’s registered name.

4.17 We therefore recommended that where a candidate represents a political party, it should be clear which party that candidate represents. If a description is used on a ballot paper, the identity of the party must be clear. We said that the Government should consult political parties and the Commission on the practical considerations of achieving this change. The UK Government is still considering the recommendations of that review.

4.18 The 2013 Standing for Election consultation sought to widen the question of how to retain the effectiveness of the regulatory system while allowing independent candidates the use of a six word description. In the consultation we sought views on how this might be done in a proportionate way without undermining the regulatory regime for political parties. We also asked what other opportunities (other than descriptions) could be used by independents to communicate what they stood for.

¹⁵⁵ Electoral Commission, *A regulatory review of the UK’s party and election finance laws: Recommendations for change*, (June 2013), page 18, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0008/157499/PEF-Regulatory-Review-2013.pdf

¹⁵⁶ At the following elections, the rules allow candidates to use *either* their party name *or* a registered description on the ballot paper: Mayoral, National Assembly for Wales, Northern Ireland Assembly, UK Parliamentary elections, Greater London Authority, Police and Crime Commissioner elections, local elections in England, Wales, Scotland and Northern Ireland. At European Parliamentary elections and the election of regional candidates for the Scottish Parliament, parties must use their registered name but also have the option to include a registered party description as well. At Scottish Parliamentary constituency elections a party is only allowed to use its party name but this may be preceded with the word ‘Scottish’. See the various election rules dealing with the nomination of candidates.

Views from respondents

4.19 A large proportion of respondents to the consultation did not comment directly on whether independent candidates should be entitled to use a description on the ballot paper. Many responses came from large political parties. These respondents were mostly of the opinion that the rules should not be changed and that descriptions should be restricted to registered political parties.

4.20 The Labour Party commented that independent candidates should not be permitted to use a six word description because it would undermine the regulatory regime and potentially turn the ballot paper into a campaigning tool. The Conservative Party was of the view that if people wished to stand for election, other than as an independent, then they should register as a political party and use a six word description. The Liberal Democrats were not convinced of the need for change particularly given the increase in the number of independents standing in recent elections and the ease with which a party can be registered. Other parties including the DUP, Plaid Cymru, Sinn Féin and the Green Party in Northern Ireland were opposed to independents being allowed to use descriptions on ballot papers. Plaid Cymru suggested it would be preferable to abolish descriptions altogether rather than permit the use of descriptions by independents. The DUP said that any change would discourage party registration and may compromise the integrity of the existing political parties and leave the way open for independents to mislead the electorate.

4.21 The Association of Liberal Democrat Councillors said it did not believe that independent candidates should be allowed to use a six word description. It commented *“the introduction of PPERA ensured that candidates could not stand with misleading names, however watering down this legislation would result in the need for a new procedure for the approval of names during an election which would add extra cost and bureaucracy to the nomination process. Given the large number of registered parties, many of which are in effect groups of independents, anyone wanting to use an alternative to Independent can simply register a party instead, as many of them do already”*. Prue Bray, a Liberal Democrat Councillor, said she supported the current system and to allow independents to use six word descriptions would introduce inconsistency and confusion and there was the risk of groups seeking to subvert PPERA rules.

4.22 The Wales Assembly Parties Panel had mixed views about whether independent candidates should be entitled to use a description on ballot papers. One view expressed was that requiring a candidate to register as political party in order to use descriptions could be viewed as overly bureaucratic where the motivation for standing for election concerned a single issue. Such a candidate might only ever contest one election and so registering as a party may not be the best option.

4.23 In contrast other respondents were of the view that independent candidates should be entitled to use a description on the ballot paper. A number of independent councillors who made their views known to the LGA were of the opinion that voter choice would be enhanced by independent

candidates being permitted to use six word descriptions. They highlighted the fact that in circumstances where there was more than one independent candidate, voters were often confused by the lack of distinguishing detail. They argued that allowing a six word description would not undermine the regulatory regime if the description was issue or place based, for example, – ‘Croydon resident for 16 years’ or ‘Fighting to retain XX School’. In effect the six words would affirm affiliation to a place or issue.

4.24 This view was supported by the Conservative Group on Salford City Council who said the use of descriptions would help determine the key policy concerns of the candidate. Examples put forward included “Independent - Save Local Schools” or “Independent - Fighting for Green Belt”. It suggested that simple guidelines could be issued including rules as to what was and was not acceptable, in much the same way as alternative party descriptions are regulated.

4.25 The AEA said it was in favour of allowing independent candidates to use a six word description and suggested that the provisions that currently apply at parish elections could be used as a starting point¹⁵⁷. However, the AEA emphasised the need to ensure that independent descriptions did not closely resemble any party descriptions and that they were subject to the same scrutiny as party descriptions. Before proceeding, it recommended consultation with Returning Officers and electoral administrators on the workability of descriptions for independents.

4.26 Most respondents offered no specific suggestions about what opportunities (other than descriptions) could be used by independents to communicate what they stood for to the electorate. The Conservative Party and Plaid Cymru pointed out that independents were no different from political party candidates and had the same opportunities to communicate directly with the electorate through the circulation of literature.

4.27 In respect of whether it is appropriate for descriptions to contain political slogans rather than simply state the name of the party, the independent PCC for Norfolk stated that “*Elections are about candidates communicating with the electorate, so it is up to each candidate to do that and the ballot paper is not the place for that*”.

Discussion

4.28 Independents make the case strongly that they are disadvantaged by not having descriptions on the ballot paper and our *Making Your Mark* research provides this argument with some support. Large established parties overwhelmingly maintain that the use of descriptions on the ballot paper is one of the benefits of registering as a party, and setting up a party is an option available to independents if they wish to benefit from descriptions.

4.29 However, it is becoming increasingly apparent that the purpose of using party descriptions on ballot papers is unclear. As explained earlier,

¹⁵⁷ Rule 4(2)(c) and (4), Parish and Community Elections Rules.

descriptions can be used in different ways at different types of elections, depending on whether the rules for that election allow a description to be used *alongside* a party name or as a *substitute* for a registered party name. At recent elections using both types of rules, there has been evidence of risks of voter confusion. For example:

- During the European Parliamentary elections in 2014, the names of candidates standing for election on behalf of a political party could appear alongside both the party's name and a registered description. Our post-election report highlights several issues with party descriptions on European election ballot papers that were either felt to be offensive or could cause confusion with other parties.
- At the recent November 2014 Rochester and Strood Parliamentary by-election, candidates standing for a party were able to use either a registered party name or description on the ballot paper, but not both. Some party candidates stood under the registered party name (eg: "Labour Party" or "UK Independence Party (UKIP)". Others stood under registered descriptions which included a reference to their name "The Conservative Party Candidate" or "Green Party - Say No To Racism". The Britain First candidate stood under the description "Vote British!" which did not contain a version of the party name. The variety of forms of descriptors used on the ballot paper raises the same questions around consistency of voter information that we highlighted in our 2013 Regulatory Review.

4.30 We are now looking ahead to the UK Parliamentary General Election and local government elections due to take place in May 2015, where candidates standing for a party will be able to use either a registered party name or description on the ballot paper.

4.31 In the light of the issues at the European elections, and our previous recommendations on party descriptions, our post-election report recommended that "*In the light of the experience at the May 2014 elections there is a case for reforming the rules on party descriptions. We will continue to discuss with Governments ways to ensure it is made clearer on ballot papers for voters which party a candidate is standing for. We will also consider further reforms to the rules that could reduce the potential for confusion at the ballot box*"¹⁵⁸. Although it appears that the UK Government is prepared to consider addressing this issue in the medium term, there is no prospect of changes to the current legislation on party registration before the UK General Election.

4.32 We will report on the issue in our post-election report after the May 2015 polls. We will also be monitoring the use of party names and descriptions on ballot papers at the 2015 elections. In the meantime, we are considering the

¹⁵⁸ Electoral Commission, *Report on the administration of the 22 May 2014 elections*, July 2014, pp. 27-28
http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/169867/EP-and-local-elections-report-May-2014.pdf

early findings of new research that we have commissioned into how voters use ballot papers.

4.33 Given this wider context of the need to review the purpose and use of the central register of descriptions for parties, at this stage we are not making any recommendation about the use of descriptions on ballot papers by independent candidates.

5 Candidate benefits

5.1 There are significant benefits accruing to candidates standing for some elections in the UK. These may include a free candidate mailing of an 'election address' (or its inclusion in a booklet alongside other candidates' election addresses), the free use of public rooms for meetings and a free copy of the register. Candidates from registered political parties also have the opportunity to use a description (discussed above) and party emblem on the ballot paper. Parties may also qualify for party election broadcasts (PEBs) provided certain criteria set by broadcasters are met.

5.2 Although these benefits are sometimes referred to as being 'free', candidates themselves are responsible for covering the printing costs of their electoral communications and it is only the postal element that is paid for from public funds. The rules vary on who meets the costs of printing booklets of election addresses. Similarly, with the free use of rooms candidates are responsible for paying the ancillary costs associated with the use of the venue (e.g. heat, light, caretaker costs). In the case of PEBs production costs are the responsibility of the party in receipt of the broadcast and the air time allocated free of charge. The table below summarises the current benefits.

Table 3: Benefits to candidates

Election	Candidate mailings*	Use of rooms	Copy of register	PEBs***
UK Parliament	Yes ¹⁵⁹	Yes ^{160**}	Yes ¹⁶¹	Yes
European Parliament	Yes ¹⁶²	Yes ^{163**}	Yes ¹⁶⁴	Yes
Scottish Parliament	Yes ¹⁶⁵	Yes ¹⁶⁶	Yes ¹⁶⁷	Yes
National Assembly for Wales	Yes ¹⁶⁸	Yes ¹⁶⁹	Yes ¹⁷⁰	Yes

¹⁵⁹ Section 91, RPA 1983.

¹⁶⁰ Section 95, RPA 1983.

¹⁶¹ Regulations 104 and 108, Representation of the People (England and Wales) Regulations 2001 (RPR 2001) and the equivalent regulations in Northern Ireland and Scotland.

¹⁶² Regulation 63, European Parliamentary Elections Regulations 2004 and equivalent in Northern Ireland.

¹⁶³ Regulation 67, European Parliamentary Elections Regulations 2004.

¹⁶⁴ Regulation 108, RPR 2001 and the equivalent in Northern Ireland and Scotland.

¹⁶⁵ Article 61, Scottish Parliament (Elections etc.) Order 2010.

¹⁶⁶ Articles 66 and 67, Scottish Parliament (Elections etc.) Order 2010.

¹⁶⁷ Paragraph 4, Schedule 1, Scottish Parliament (Elections etc.) Order 2010.

Northern Ireland Assembly	Yes ¹⁷¹	No ¹⁷²	Yes ¹⁷³	Yes
Greater London Authority	Yes: Mayoral elections ¹⁷⁴ No: Assembly elections	Yes ¹⁷⁵	Yes ¹⁷⁶	Yes
Mayoral elections	Yes ¹⁷⁷	Yes ¹⁷⁸	Yes ¹⁷⁹	No
PCC elections	No	Yes ¹⁸⁰	Yes ¹⁸¹	No
Local elections England and Wales	No	Yes ¹⁸²	Yes ¹⁸³	Yes
Local elections Scotland	No	Yes ¹⁸⁴	Yes ¹⁸⁵	Yes
Local elections Northern Ireland	Yes ¹⁸⁶	No	Yes ¹⁸⁷	Yes

¹⁶⁸ Article 65, National Assembly for Wales (Representation of the People) Order 2007.

¹⁶⁹ Article 69, National Assembly for Wales (Representation of the People) Order 2007.

¹⁷⁰ Regulation 108, RPR 2001.

¹⁷¹ Section 91, RPA 1983 (as applied by Schedule 1, Northern Ireland Assembly (Elections) Order 2001).

¹⁷² Schedule 1, Northern Ireland Assembly (Elections) Order 2001 does not apply section 95.

¹⁷³ Regulations 103 and 106, Representation of the People (Northern Ireland) Regulations 2008.

¹⁷⁴ Article 3, Greater London Authority Elections (Election Addresses) Order 2003.

¹⁷⁵ Section 96, RPA 1983

¹⁷⁶ Regulations 104 and 108, RPR 2001.

¹⁷⁷ Regulation 6, Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007.

¹⁷⁸ Section 96, RPA 1983 (as applied by regulation 3 Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007).

¹⁷⁹ Regulations 104 and 108, RPR 2001.

¹⁸⁰ Article 56, PCC Elections Order 2012.

¹⁸¹ Paragraphs 4 and 5, Schedule 1, Police and Crime Commissioner Elections Order 2012.

¹⁸² Section 96, RPA 1983.

¹⁸³ Regulations 104 and 108, RPR 2001.

¹⁸⁴ Section 96, RPA 1983.

¹⁸⁵ Regulations 103 and 107, Representation of the People (Scotland) Regulations 2001.

¹⁸⁶ Regulations 103 and 107, Representation of the People (Scotland) Regulations 2001.

¹⁸⁷ Regulation 106, Representation of the People (Northern Ireland) Regulations 2008.

* In this column we use 'candidate mailings' to mean a right for an election address to be sent to electors free of charge or a right to have an election address included in a booklet of election addresses to be sent free of charge. The rules for each election vary as to the costs of the production of such material.

**Not applicable in Northern Ireland¹⁸⁸

***Certain criteria need to be met before PEBs are granted. PEBs are allocated only to registered parties but candidates benefit from these (section 37 PPERA 2000).

Candidate mailings

5.3 Candidates at UK Parliamentary elections have traditionally distributed a written statement of their political views and intentions to every voter in the constituency in which they are standing for election. The recommendation of the 1918 Speaker's Conference was embodied in the Representation of the People Act 1918:

Any candidate at a parliamentary election shall, subject to regulations of the Postmaster-General, be entitled to send, free of charge for postage, to each registered elector for the constituency, one postal communication containing matter relating to the election only, and not exceeding two ounces in weight¹⁸⁹.

5.4 Candidates at UK Parliamentary elections, European Parliamentary elections¹⁹⁰ and those standing for election to the Scottish Parliament¹⁹¹, the National Assembly for Wales¹⁹² and the Northern Ireland Assembly¹⁹³ have a right to send one postal communication to electors free of charge. In Northern Ireland the same opportunity is afforded to candidates standing in local government elections¹⁹⁴.

5.5 At London Mayoral elections the GLRO produces a booklet which includes all the election addresses¹⁹⁵ of the mayoral candidates who want to be included and this is sent to all registered voters in the area¹⁹⁶. All candidates are listed in the booklet, whether or not they have requested an election address¹⁹⁷. Candidates contribute to the production costs of the

¹⁸⁸ Section 95(8), RPA 1983 and the European Parliamentary Elections (Northern Ireland) Regulations 2004.

¹⁸⁹ Isobel White, *Election addresses*, House of Common Library Standard Note: SN/PC/06434, 28 July 2014, p. 3.

¹⁹⁰ Regulation 63, European Parliamentary Elections Regulations 2004 and regulation 58, European Parliamentary Elections (Northern Ireland) Regulations 2004.

¹⁹¹ Article 61, Scottish Parliament (Elections etc.) Order 2010.

¹⁹² Article 65, National Assembly for Wales (Representation of the People) Order 2007.

¹⁹³ Section 91, RPA 1983 (as applied by Schedule 1 Northern Ireland Assembly (Elections) Order 2001).

¹⁹⁴ Section 53, Electoral Law Act (Northern Ireland) 1962.

¹⁹⁵ 'Election addresses' refers to a document setting out candidate's campaign material.

¹⁹⁶ Greater London Authority Elections (Election Addresses) Order 2003.

¹⁹⁷ Article 8(2)(b), Greater London Authority Elections (Election Addresses) Order 2003.

booklet, which was £10,000 per candidate at the 2012 elections, but postage is paid for by the Returning Officer¹⁹⁸. Candidates at Mayoral elections in England are also entitled to inclusion in a booklet of election addresses, but may be required by the Returning Officer to contribute to the production costs¹⁹⁹.

5.6 Those standing in the first PCC elections in England and Wales in 2012 were not entitled to free candidate mailings. Instead information about candidates was made available online or, on request, in hard copy²⁰⁰. This approach marked a significant shift from the tradition of providing candidates in most elections with support to help them communicate with voters directly through a mailing. In August 2014 there was a trial of free mailing of a booklet of candidate addresses for the West Midlands PCC by-election²⁰¹. The Home Office will be evaluating the effectiveness of this trial.

5.7 Legislation governing candidate mailings stipulates that an election communication must only contain ‘matter relating to the election’²⁰². The use of the word ‘election’ (singular) has led to queries at some combined elections in Northern Ireland about whether candidates could produce one leaflet covering both elections, in order to save costs and better target messages.

5.8 We raised a series of questions in our consultation about the future direction of free candidate mailings. We sought views on whether the right to send free mailings should continue. In thinking about more modern communication techniques we asked for views about making greater use of on-line candidate addresses or co-ordinated booklets rather than each elector being sent separate communications from a large number of candidates. In circumstances where elections are combined we sought views on whether the legislation should be changed to allow for greater flexibility.

Views from respondents

5.9 Political parties were generally supportive of free candidate mailings. The Conservative Party said that electors still garnered most of their political information from leaflets and for this reason candidate mailings for Parliamentary and Assembly elections in the UK should continue. However they also suggested that a time may come when piloting of alternatives might be worthwhile. The Liberal Democrats also supported their retention and proposed that reconsideration be given to the use of free candidate mailings for PCC elections. The parties represented on the Wales Assembly Parties Panel also supported the requirement for free candidate mailings for PCC elections. The Labour Party and the DUP said they were opposed to any change to free candidate mailings and both related the low turnout at the PCC elections to the fact that there were no direct candidate mailings available at those elections.

¹⁹⁸ Article 10(1), Greater London Authority Elections (Election Addresses) Order 2003.

¹⁹⁹ Regulation 6 and paragraph 8, Schedule 4, Local Authorities (Mayoral Elections) (England and Wales) Regulations 2007.

²⁰⁰ Article 52 of, and paragraph 13 of Schedule 8 to, PCC Elections Order 2012

²⁰¹ Police and Crime Commissioner Elections (Amendment) (No. 2) Order 2014

²⁰² For example section 91(1), RPA 1983.

5.10 Some parties were of the view that it was too early to switch to online communications because not everyone, including a proportion of older people, had access to the internet. The Association of Liberal Democrat Councillors commented “*online candidate addresses are not yet a suitable alternative to candidate mailings addressed to each house by the Royal Mail. Apart from the fact that 20% of homes continue not to have access to the internet (and some of those that do may not feel comfortable enough to access these candidate addresses), it relies on people proactively looking for the information. Candidate mailings continue to have a role in encouraging turnout which would not be achieved without something being delivered to each home*”. A similar view was also put forward by the Green Party in England and Wales.

5.11 In his submission the Greater London Returning Officer said “*In an era of ever greater digital communication, greater reliance on the official website (“pull”) for election information and on social media (“push”) should be recognised and encouraged. However, this should not ignore the fact that there currently remain electors within the population who either do not have, or do not wish to use, internet access and so transition from existing means of communication to more modern options would need to be phased*”.

5.12 A number of respondents were in favour of having a co-ordinated booklet rather than separate mailings. The Green Party in Northern Ireland said that free candidate mailings should be replaced with one booklet sent to every household containing information and addresses from all candidates with the order in the booklet being assigned randomly. It highlighted reduced costs, convenience for the electorate and easier comparison of candidates’ policies as reasons as to why a booklet was more effective than separate leaflets. A number of independent councillors who responded via the LGA Independent Group were also complimentary about the London Mayoral election booklet and described it as “*a brilliant example, nice and clear for the electorate*”.

5.13 The AEA however said that the compilation and production of co-ordinated booklets would be impossible to achieve within the current election timetable with the deadline for nominations so close to polling day. The GLRO highlighted the fact that the London Elects booklet in 2012 cost £1.6m to print and dispatch to all those registered whereas the candidates’ contributions amounted to £70k. He said it was legitimate to ask if this was the best use of public money at a time of economic constraint.

5.14 Some respondents were of the view that it would be beneficial to pilot alternatives to free candidate mailings including entirely online and candidate booklets. It was suggested that this would reduce the volume of unsolicited material sent to voters and would reduce the overall costs of the service. However, electoral administrators urged caution given the amount of work likely to be required in compiling such information and the implications for the election timetable. In the event that the legislation was changed electoral administrators wanted clarity that there would be no ambiguity about what material was acceptable and how issues such as mis-spelt names would be handled.

5.15 The DUP emphasised that free candidate mailings were important at STV elections, not only from the point of view of informing the electorate but also for vote management purposes. For example, in multi-seat constituencies voters were advised about which preferences should be given to the party's candidates depending on where they resided in the electoral area. Sinn Féin agreed that the voting system and the larger size of district electoral areas in Northern Ireland meant free candidate mailings at local elections should continue.

5.16 A consistent theme that emerged from a cross section of consultees was that there should have been free candidate mailings at the 2012 PCC elections. Alan Hardwick, Police and Crime Commissioner for Lincolnshire made the following comment in respect of candidate mailings. *“Another shortcoming of the PCC elections was the decision by Government, on financial grounds apparently, not to send out free election addresses or similar material to every household. This meant that despite the best efforts of candidates, many people had no real idea of what they were voting for. I could probably forgive the Government’s parsimony in the event of an election for an MP; after hundreds of years, everyone has at least some idea of what an MP is supposed to do. Not so with PCCs. The cumulative effect of the timing and lack of information was electorate apathy. Add to that a new voting system and the low turnout should not have come as a surprise to anyone.”*

5.17 Some parties were in favour of allowing flexibility around free candidate mailings in circumstances where elections were combined. Plaid Cymru said that the legislation should be changed to allow for flexibility around Wales Assembly constituency and regional elections. Sinn Féin was supportive of a single leaflet at combined elections because it would reduce overall printing costs and would limit the amount of material sent to electors. However, a number of candidates were opposed on the basis that this would disadvantage independent candidates at local elections in Great Britain where there was no access to free candidate mailings. At a combined UK Parliamentary and local government election it could mean that a party could reference its local candidates potentially giving them an advantage over other candidates. The Labour Party raised concerns about free candidate mailings at UK Parliamentary elections being used to promote candidates of the same party in local elections.

Discussion and recommendations

5.18 A large number of political parties and candidates expressed strong support for retaining the right for candidates to send an election address free of charge for major elections in the UK as this form of communication was regarded as the main vehicle for communicating with the electorate. Without the right to a free mailing some candidates may not be in a position to pay for a mailing. This could limit the amount of information available to voters thus reducing participation. Northern Ireland's political parties were in favour of candidate mailings continuing for local government elections and we think this should continue.

5.19 There would be merit in considering whether a booklet, which brings information about candidates together in a single place and would therefore

make comparing the candidates easier, would be better for voters than receiving a separate communication from each candidate. Booklets are already in use at some elections and responses to our consultation show that some find them useful. There are costs in producing them but it would be useful to consider whether their use should be extended to other elections. The primary aim should be to serve voters' interests.

5.20 Concern was raised that free candidate mailings were not available for PCC elections. In our statutory report on the PCC elections we recommended to the UK Government that the legislation be amended to ensure that electors were sent printed information about candidates standing for election as PCC in their force area. We said this should take the form of a booklet with addresses from each candidate sent by the relevant Police Authority Returning Officer to every household in the police authority area. The Government in its response agreed to keep under review the sending of printed information to all electors at future PCC elections and has since piloted their use at a by-election. We continue to recommend that there should be a right for candidates to be included in a free printed booklet, distributed to voters, at PCC elections.

5.21 While there was some support for online candidate addresses, concerns were raised that not everyone had access to the internet and there may be reluctance, on the part of some electors, to source candidate information online. Any move to online candidate communications should take account of internet use and the likelihood of candidate information being accessed online.

5.22 In respect of combined elections there was an acceptance that there should be greater flexibility around the use of combined communications but this right should only extend to elections where there is already a right to a candidate mailing free of charge.

- We recommend that the law should be changed to ensure that electors are sent printed information about candidates standing for election as PCCs in their police area. This should take the form of a booklet with addresses from each candidate sent by the relevant Police Authority Returning Officer to every household in the police authority area. This was done on a trial basis for the PCC by-election in West Midlands in August 2014. The Home Office will be evaluating the effectiveness of this trial.
- We recommend that the legislation around free candidate mailings be amended to allow candidates at combined elections to use a single election communication covering both elections if that is their choice, but only where there is a right to a free mailing in respect of the elections referred to in the mailing.

Party election broadcasts

5.23 Political advertising on TV and radio by political parties is prohibited under law in the UK²⁰³. However, party political broadcasts, which include party election broadcasts (PEBs), provide an opportunity for political parties to disseminate their message to a potentially large audience at election time²⁰⁴. PEBs are now legislated for in the Communications Act 2003²⁰⁵.

5.24 This Act requires Ofcom to ensure that PEBs on behalf of registered political parties are included in every licensed public service television channel²⁰⁶, every local digital television programme service and every national (i.e. UK-wide, commercial) analogue radio service, and their digital simulcast services²⁰⁷ (the Licensees)²⁰⁸. Ofcom is also required to make rules setting out the minimum requirements which the Licensees are required to follow in determining the length, frequency, allocation and/or scheduling of PEBs, although the Licensees may exceed these minimum requirements²⁰⁹. So long as they act within these rules, the Licensees are free to take their own decisions as to the precise length, frequency, allocation and/or scheduling of broadcasts offered to political parties.

5.25 Before a UK Parliamentary general election, Ofcom's rules state that each 'major party'²¹⁰ should be offered at least two PEBs, the length of a series offered to a particular party being determined by the Licensee²¹¹. Other registered parties should qualify for a PEB if they are contesting one sixth or more of the seats up for election²¹². Such parties can qualify for additional PEBs if evidence of the individual party's past electoral support and/or current support in a nation²¹³ means that it would be appropriate to do so.

5.26 The BBC is not regulated by Ofcom but by the BBC Trust. The BBC is required to broadcast PEBs by the Agreement accompanying the BBC's

²⁰³ Section 321(2), Communications Act 2003.

²⁰⁴ For background information on PEBs, see: Oonagh Gay, *Party Political Broadcasts*, House of Commons Library Paper SN/PC/03354, 2 May 2013.

²⁰⁵ Section 333, Communications Act 2003 (as modified by paragraph 14, Schedule 1, Local Digital Television Programme Services Order 2012).

²⁰⁶ This includes regional Channel 3, Channel 4 and Channel 5.

²⁰⁷ Classic FM, Talksport and Absolute Radio AM.

²⁰⁸ Ofcom, *Ofcom Rules on Party Political and Referendum Broadcasts*, 21 March 2013, rule 1, <http://stakeholders.ofcom.org.uk/broadcasting/guidance/programme-guidance/ppbrules/>

²⁰⁹ *Ofcom Rules on Party Political and Referendum Broadcasts*, rule 2.

²¹⁰ These are those parties on Ofcom's List of Major Parties. At present, see:

<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/major-parties.pdf>

²¹¹ *Ofcom Rules on Party Political and Referendum Broadcasts*, rules 12 and 13

²¹² For proportional representation elections the minimum qualifying requirement for the allocation of one PEB should be set, reasonably and fairly for each election, according to criteria which have regard to the particular system of voting, the number of seats available for election, the number of constituencies/regions, and the number of candidates nominated by the party (*Ofcom Rules on Party Political and Referendum Broadcasts*, rule 14).

²¹³ *Ofcom Rules on Party Political and Referendum Broadcasts*, rule 13. In determining allocations of PEBs at elections, the four nations of the UK should be considered separately (rule 16).

Charter. The BBC Trust approves the BBC's criteria for being eligible to a PEB²¹⁴.

5.27 Section 11(3) of PPERA specifies that the BBC must have regard to the views of the Electoral Commission when determining policy on PEBs. Section 333(5) of the Communications Act 2003 places a similar duty on Ofcom.

Party election broadcasts and independent candidates

5.28 For the London Mayoral elections in 2012, the BBC's eligibility criteria stated that exceptionally, a PEB may be offered to an individual candidate for Mayor who can demonstrate evidence of substantial current electoral support in London²¹⁵. In our report on the 2012 London Mayoral and GLA elections we said that we would discuss with the BBC Trust and Ofcom the current law in relation to PEBs²¹⁶ and how this applied to independent candidates. The allocation criteria used by broadcasters for the 2012 elections allowed for the possibility that an independent candidate could receive a broadcast (providing they could demonstrate sufficient support) but an issue arose during the election which suggested the law might not allow this. In our report we added that if, following these discussions, we believed a change in the law was required to clarify the position we would raise this issue with the Government²¹⁷.

5.29 In our response to Ofcom's consultation on the Ofcom Rules on Party Political and Referendum Campaign Broadcasts in 2013, we explained that our view was that Section 37 of PPERA prevents independent candidates from qualifying for PEBs²¹⁸. Section 37 provides that a broadcaster must not include in its broadcasting services any party political broadcast made on behalf of a party which is not a registered party. Section 40(1) defines 'party' as including any organisation or person, so in our view section 37 prohibits a broadcaster from including a party political broadcast (which we consider would include a PEB) from any organisation or person other than a registered political party in its services.

²¹⁴ The BBC's PEB criteria for 2014 can be found here:

http://downloads.bbc.co.uk/bbctrust/assets/files/pdf/our_work/peb/2014/peb_criteria.pdf

²¹⁵ Broadcasters Liaison Group, *Party Election Broadcasts: The BBC's criteria for allocation - 3 May 2012*, http://www.broadcastersliaisongroup.org.uk/criteria_may2012.html

²¹⁶ Electoral Commission, *Report on the administration of the GLA elections held on 3 May 2012*, July 2012, pp.12-13, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0006/149424/2012-GLA-election-report-web.pdf.

²¹⁷ Electoral Commission, *Report on the administration of the GLA elections*, p. 13.

²¹⁸ Electoral Commission, *Electoral Commission response to review of the Ofcom Rules on Party Political and Referendum Broadcasts and Proposed Ofcom Guidance for broadcast coverage of elections*, January 2013, paragraph 19, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0011/153488/Response-to-Ofcom-consultation-on-Political-Party-and-Referendum-Broadcast-rules.pdf.

5.30 However, we stated that we could see no reason why an independent candidate at a London Mayoral election²¹⁹ should be treated differently from a party candidate and feel that the current situation is potentially exclusionary and that the law presents a barrier to participation in elections²²⁰. Therefore, we recommended a change to the law to enable independent candidates to be eligible to qualify for a PEB. We undertook to raise this issue with the Government²²¹, so that a change in the law is made at the appropriate opportunity.

5.31 Following its review of the Rules on Party Political and Referendum Broadcasts, Ofcom underlined its support that independent candidates should be eligible, in principle, as individuals for PEBs (in certain circumstances), and stated that it would welcome the law being clarified²²². Both Ofcom and the BBC Trust supported the steps being taken by the Electoral Commission to raise this issue with the Government so that a change in the law may be made²²³.

Regional PEBs in England

5.32 A separate issue is that of regional PEBs in England. Separate rules are in place for Scotland, Wales and Northern Ireland to allow for PEBs to be provided for political parties with support in these parts of the UK²²⁴. However, changes in the electoral landscape in England, such as an increase in the popularity of a party in a particular region, may also provide a case for enabling a party that is fielding a significant number of candidates in that region to be eligible for a regional broadcast. Mayoral elections outside London may also provide an opportunity for broadcasts related to these contests.

5.33 In the consultation we sought views on whether any changes could be made to the current criteria for awarding broadcasts to independent candidates that would take account of the difficulties they face in demonstrating current electoral support, while preventing the likelihood of non-serious candidates from standing. In respect of allocating PEBs to parties operating at a regional level or standing for Mayoral elections outside London we asked for evidence to support the workability of this proposal.

²¹⁹ It appears to us that it is currently only feasible for independent candidates to be eligible for a PEB at London Mayoral elections, where the regional broadcast area and the electoral boundaries are aligned.

²²⁰ Electoral Commission, *Response to Review of the Ofcom Rules*, paragraph 20.

²²¹ We have now asked the Government to amend the law at the earliest available opportunity ahead of the 2016 London Mayoral elections and we remain of the view that there is still a strong case for doing so.

²²² Ofcom, *A Review of the Ofcom Rules on Party Political and Referendum Broadcasts and Proposed Ofcom Guidance for broadcast coverage of elections: Statement*, 21 March 2013, p. 24, <http://stakeholders.ofcom.org.uk/binaries/consultations/ppbs/statement/statement.pdf>.

²²³ Ofcom, *A Review of the Ofcom Rules*, p. 24.

²²⁴ Ofcom, *Ofcom Rules on Party Political and Referendum Broadcasts*, 21 March 2013, rules 7-10 and 16-19.

Views from respondents

5.34 The main respondents to the questions raised about access to PEBs came from ITV and the BBC Trust. Both said they would welcome clarification from Government on whether independent candidates standing for Mayoral elections in London should qualify for PEBs. Neither thought it would currently be practical to provide regional PEBs for elections outside London. The BBC Trust advised that regional broadcasts would be impractical and inappropriate for by-elections, PCC elections and Mayoral elections other than London because of the disparity between the electoral area and the regional broadcast area. However, noting the theoretical possibility that in a General Election or European Election a regional party could obtain substantial support in one electoral area which mirrors a BBC region, the BBC Trust stated that in such an event it would consider carefully any proposals from the Electoral Commission that the criteria should change to allow for regionally broadcast PEBs in that part of the UK. ITV said it would be inappropriate for viewers in an entire area to be subjected to a broadcast that had no relevance to them.

5.35 The Conservative Party said it could not see scope to allow independent candidates to have access to PEBs. The Liberal Democrats commented “*we would not see the need to change the current arrangements for party election broadcasts. However, as the party leader debates become a more permanent feature of elections it may make sense to replace party broadcasts with more debates between candidates for other main offices of state*” Plaid Cymru and the DUP were opposed to any change to the current rules on PEBs and the DUP believed that a relaxation in the law could potentially lead to widespread abuse. The Green Party in Northern Ireland suggested that for some elections, such as European Parliamentary elections, independents should be allowed broadcasts given that the entire region is one constituency and Northern Ireland is a discrete broadcast area. The Green Party of England and Wales suggested that regional broadcasts would not be feasible without an acceptance of boundary overspill and that this could cause voter confusion.

5.36 Some independent candidates thought there should be a level playing field and that all candidates should be offered broadcasts. Others, however, acknowledged that this was not feasible and would be complex to administer. The idea of a broadcast being allocated to a body representing independents, such as the LGA’s independent group of councillors, was proposed.

5.37 On the specific issue of regional PEBs in England, some broadcasters and the BBC Trust suggested that such a development would be difficult for them to implement primarily because the broadcast footprints of the BBC and ITV do not map onto electoral boundaries. They also suggested there would be other workability issues to be considered including the number of different broadcasts that political parties would have to produce and their associated costs.

Discussion and recommendations

5.38 We believe that the UK-wide criteria for PEBs, as well as the provisions for Scotland, Wales and Northern Ireland are working well. We have

consistently supported the broad criteria set by Ofcom and the BBC Trust to determine which parties may benefit from PEBs because it imposes a threshold that is high enough to reduce the risk of non-serious candidates standing for election purely to get the benefit of receiving a broadcast (e.g. for commercial gain).

5.39 However, in our view the law does not allow independent candidates to qualify for a PEB. At present, if the law was changed, it would only seem possible to allow independent candidates to qualify for a PEB in London Mayoral elections, where the regional broadcast area and the electoral boundaries are aligned. In the case of elections for the Mayor of London, this restriction means that candidates standing for election for Mayor on behalf of a registered political party may benefit from their party's broadcasts, while independent candidates would not benefit similarly. This presents a barrier to equal participation by independent candidates at London Mayoral elections.

5.40 We therefore want to see the law amended to allow independents to be given PEBs at London Mayoral elections. We have already asked the Government to amend the law at the earliest available opportunity ahead of the 2016 elections and remain of this view. Removing the legal barrier to independents having PEBs will not necessarily mean they are granted a broadcast as this will be determined by the regulators' and the broadcasters' criteria. We note that alternative criteria that would determine the allocation of broadcasts to independent candidates would likely involve a greater level of judgement by broadcasters than at present.

5.41 It is therefore important that this issue is addressed at the earliest possible legislative opportunity. There will be less than a year until the 2016 London Mayoral election when the next Parliamentary session begins. Waiting until then to change the law will make it difficult for the BBC Trust and Ofcom to think through the impact on allocation criteria for PEBs. We therefore recommend that this change should be made as soon as possible.

5.42 We also appreciate the clear problems expressed by the broadcasters in making provision for separate PEBs in different English regions, including for Mayoral elections, outside London. However, this also presents the risk of smaller parties or independent candidates that command significant support in a particular area being disadvantaged. Whilst we agree that provision for PEBs on this basis is not practicable at this stage, broadcasters should keep under review technological developments that may make such provision more feasible in the future.

- We recommend that the legislation is changed to enable independent candidates to have PEBs where this is feasible (in practice this is only at London Mayoral elections at present). The criteria that regulators and broadcasters use to award broadcasts should, for those elections where this is relevant, identify what levels of past and current support an independent candidate would need to receive a broadcast.
- Broadcasters should keep under review technological developments that may make the provision of regional PEBs in England a more viable option in the future to ensure better access to voters by those that can demonstrate significant electoral support in a particular area.

Access to the electoral register

5.43 Irrespective of whether an election has been called political parties²²⁵, local constituency parties²²⁶ and elected representatives²²⁷ are entitled to a copy of the full electoral register at any time on making a written request²²⁸. Political parties require access to the register on an ongoing basis to meet the regulatory requirements of PPERA and to confirm the permissibility of individual donors.

5.44 Once a person becomes an official candidate at an election they are entitled to a free copy of the register²²⁹ and the lists of people voting by post or proxy²³⁰. Strict legal restrictions apply to the use of information in the full register and absent voter lists. A person who has been supplied with a copy of the register can only pass a copy to another person, disclose any information contained in it (that is not included in the edited register) and make use of it for 'electoral purposes' and, at some elections, to check the permissibility of donors²³¹. We interpret 'electoral purposes' to include helping to complete nomination forms and helping with an election campaign.

5.45 Independent candidates perceive they are disadvantaged in respect of access to the register. The reason for this is that they only have access to it at the earliest on the day of the dissolution of Parliament (at UK parliamentary elections) or the last day for publication of the notice of election (at local elections)²³² and therefore have less time to campaign and identify subscribers than party candidates who may benefit from year-round access to the register through their party. This is more of a problem in circumstances where large numbers of subscribers are required such as PCC and London

²²⁵ Regulation 106, RPR 2001 (and equivalent regulations in the Representation of the People (Scotland) Regulations 2001 and the Representation of the People (Northern Ireland) Regulations 2008).

²²⁶ Regulation 105, RPR 2001

²²⁷ Regulation 103, RPR 2001

²²⁸ Regulation 102, RPR 2001.

²²⁹ Regulation 104 and 108, RPR 2001.

²³⁰ Regulation 61, RPR 2001.

²³¹ Regulation 108(5) and 104(3) and (4), RPR 2001.

²³² Regulation 108, RPR 2001, read together with the definition of 'candidate' in section 118A, RPA 1983.

Mayoral elections as it is necessary to use the register to identify eligible subscribers and make sure that their details are correctly stated on the nomination paper.

5.46 In the consultation we sought views on whether independent candidates should have the same access to the register as political parties. In the event that access was extended we asked for views about the current safeguards around the misuse of electors' personal data and what might be done to protect it.

Views from respondents

5.47 Some parties were supportive of independent candidates having equal access to the register at the same time as party candidates. The Liberal Democrats agreed that "genuine independent candidates should have equal access to the register". The Conservative Party said that political parties required access to the register in order to comply with donation regulations and there was no similar requirement on independent candidates whose existence in electoral law did not extend beyond the period of the election. The DUP said it did not see the need for change, a view also expressed by Plaid Cymru.

5.48 It was claimed by a respondent that the disadvantage faced by independents had become more pronounced over recent years with the increased use of postal votes. In practice, this meant that party candidates were able to engage much earlier with their support base than were independent candidates, who were not incumbents, who had to wait until they were nominated before getting access to the register. Independent councillors who responded to the LGA commented "*We take it to be a self-evident, democratic and ethical endorsement of electoral practice that no one candidate should be distinguished from another on the issue of access to any information relevant to a campaign*"

5.49 It was suggested by a candidate that allowing wider access to the electoral register could lead to misuse of it for commercial purposes. A number of respondents said there was no evidence to show that independent candidates were any less trustworthy as regards the handling of the register than their party candidate counterparts. The view was also expressed that once party candidates were given a copy of the register there was no guarantee as to what it was used for and there was no follow-up or checking mechanism in place.

5.50 In order to ensure fairness and equal access to registers it was suggested by the AEA that all candidates should have to sign a declaration stating they understood the purpose for which the register was being supplied and that any misuse would be an offence. For this to be effectively enforced it proposed that the Commission should work with the Information Commissioner and prosecuting authorities to determine who might be responsible for bringing forward any cases.

Discussion and recommendation

5.51 There was support for independent candidates having access to the register at an earlier stage. Such access would enable independent candidates to campaign on a more equal basis with candidates from political parties as they would benefit from having more time to prepare for the nominations period and the campaign.

5.52 It is a long-standing recommendation of the Commission that the Government should review the provisions relating to the supply of electoral registers to candidates in order to ensure greater equality of treatment for independent candidates. We first made this recommendation in 2008²³³ and have reiterated it several times subsequently²³⁴. It has not yet been acted on by the Government.

5.53 We continue to make this recommendation as we consider it to be unfair that some candidates are at a disadvantage over other candidates because they can only get hold of a copy of the register at a later date. For more details on this recommendation, please refer to our report on the local government elections in 2008.

- We continue to recommend that the law is changed to allow all candidates to get earlier access to the register for electoral purposes.

Emblems

5.54 PPERA allows political parties to register up to three emblems for use on the ballot paper²³⁵. Once registered, no other political party can use an emblem identical to, or confusingly similar, to one already registered²³⁶. Only candidates that have been authorised to use a description from a party's nominating officer can use an emblem on the ballot paper²³⁷.

5.55 In 2003 we recommended that independents should be able to request that the abbreviation 'IND' is included on the ballot paper next to their name (or the Welsh equivalent 'ANNIB'), in the place normally reserved for emblems²³⁸. While this recommendation was initially accepted by the UK Government and included in the Electoral Administration Bill 2005-06 as laid

²³³ Electoral Commission, *Report on the administration of the 1 May 2008 local elections in England*, July 2008, pp. 21-22 (<http://www.bipsolutions.com/docstore/pdf/22701.pdf>) and Electoral Commission, *Report on the administration of the 1 May 2008 local elections in Wales*, July 2008, pp. 23-24.

²³⁴ For example Electoral Commission, *Report on the GLA elections on 3 May 2012*, pp. 24-25.

²³⁵ Section 29(1), PPERA.

²³⁶ Section 29(2)(a), PPERA.

²³⁷ For example rule 6A, UK Parliamentary Elections Rules.

²³⁸ Electoral Commission, *Standing for Election in the United Kingdom*, p. 29.

in Parliament, it was later removed from the Bill and did not make it into legislation²³⁹.

5.56 We considered that this would lead to greater parity between independent and party candidates. In 2009, as mentioned above, we concluded (following user-testing research of ballot papers) that ‘Independent candidates should be able to include information on the ballot paper that is equivalent to the information that registered parties or their candidates are permitted to include’²⁴⁰. The research highlighted that voters queried the lack of emblems for independent candidates and suggested that independent candidates appeared less credible as a result.

5.57 As part of our regulatory review in 2013 we explored whether independent candidates could use an emblem without undermining the essence of PPERA in protecting the identity of political parties²⁴¹. The review concluded that we could not find a method for emblems to be used by non-party candidates within the scope of the current PPERA framework; doing so would undermine one of the incentives for registering as a political party.

5.58 The consultation sought to widen the question of how to retain the effectiveness of the regulatory system while at the same time allowing independent candidates use of an emblem. In doing so we sought views on how the use of emblems might be administered in a proportionate way.

Views from respondents

5.59 The majority of political parties that responded were of the opinion that the current rules should not be changed and that emblems should be restricted to registered political parties. The Conservative Party said there was no obvious proportionate way of regulating the use of emblems by independents. At the 2011 local elections around 1,700 independent candidates had stood for election, so any regime would be large and unwieldy. The Labour Party said independent candidates should not be permitted to use emblems on the ballot paper as it would “undermine the regulatory regime”. The Liberal Democrats said they were not convinced of the need given the rise in the number of independent candidates and the ease with which a party can be registered. Plaid Cymru, the DUP and Sinn Féin were opposed to change. Sinn Féin said that opening up the use of emblems to every candidate would undermine the purpose of registering as a party.

5.60 Councillor Marianne Overton MBE, LGA Independent Group Leader commented: “*We consider it democratically an unfair advantage for political groups registered with the Electoral Commission to use a logo, and Independent candidates not. Logos and emblems are a key visual clue for*

²³⁹ Clause 23(5) of the Bill as introduced. The clause was subsequently withdrawn by the Government (HC Deb 11 January 2006 vol. 441 c. 384).

²⁴⁰ Electoral Commission, *Making Your Mark*, p. 3.

²⁴¹ Electoral Commission, *A regulatory review of the UK’s party and election finance laws: Recommendations for change*, (June 2013), page 18, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0003/155874/PEF-Regulatory-Review-2013.pdf

voters in remembering who they want to vote for on entering the ballot booths at polling stations and in postal votes. The bench mark of Independent candidates is that they work as closely as possible to their communities without the intervention of national party policy or, indeed, policy within a political party group at a local level. Our suggestion was that non-aligned candidates would benefit from the option of using a logo which would have reference to, for example, a well-known, local, historical or current artefact (statue, flag, local landmark) allowing voters to fully comprehend their stance and attachment to the local area, and, critically so that voters can distinguish between one Independent candidate and another where they may be rivals for one seat’.

5.61 In its response the AEA said it did not support the introduction of emblems for independent candidates and said it was unclear what independents would gain. The AEA added that if the provision was to be taken forward then there would have to be specific criteria for the submission of emblems in a format that could be used by Returning Officers and their printers. A key practical concern would be around the nature of the images supplied, for example, an emblem that might be deemed in some way to be offensive or very similar to an emblem used by a registered political party.

5.62 The AEA also said that a nationally approved emblem for use by all independents would not necessarily be of any benefit to candidates, especially if a number of independent candidates were standing within a particular electoral area. It suggested that the use of emblems by independent candidates could confuse the voter into thinking that the candidate was standing for a political party.

5.63 There were mixed views from candidates as to whether independents should be allowed to use an emblem. Those against made reference to potentially subverting PPERA rules, complicating the ballot paper, confusing the electorate and using the ballot paper as a campaigning tool. Those in favour of emblems suggested that independents should either be allowed to choose from a set list, use a one off emblem or simply register as a political party.

Discussion

5.64 There are strongly held views on both sides of the debate about whether independents should be allowed to have emblems. The case in favour of allowing independents to be able to use emblems is based on the argument that the current position is unfair as it provides an advantage to candidates from political parties, who can benefit from the inclusion of an emblem on the ballot paper. Those who support allowing emblems for independents also say that they could help voters find their chosen candidate party on the ballot paper. Non-generic emblems for independents could also help voters understand an independent candidate’s connection to the local area and to distinguish between multiple independent candidates contesting the same seat.

5.65 We recognise the strength of these arguments and our *Making Your Mark* research demonstrates that there is evidence that the lack of an emblem

places independents at a disadvantage but on balance our view is that the use of emblems should remain a facility reserved for political parties. This would help to protect the identities of parties and preserve an incentive for registering a party and thereby being subject to the PPERA regulatory regime. There are also practical issues to consider. Although we recommended a generic emblem such as 'IND' in 2003, on further reflection we consider that such an emblem might not be recognised by voters as an abbreviation for 'Independent' and could cause confusion. It would also not help to distinguish independents from each other where there are multiple independents appearing on the same ballot paper. A system that allowed independents to use their own emblems, which had the support of the Leader of the LGA Independent Group, could be difficult to administer, with either Returning Officers having to make quick and consistent decisions about the proposed emblems with reference to the Commission's register of party emblems, and/or the Commission running a central registration scheme for the emblems.

Free use of rooms

5.66 Section 95 of the Representation of People Act 1983 gives a candidate the right to use a suitable room in certain schools or certain meeting rooms in other premises for public meetings in order to further their candidature at a UK Parliamentary election. Table 3 shows the other elections where there is such a right. Candidates are allowed the free use of a suitable room at reasonable times, subject to defraying certain expenses such as heating, lighting and cleaning²⁴². The entitlement to free use of rooms does not extend to candidates standing for election in Northern Ireland²⁴³. The meeting rooms that may be used are those that maintained wholly or mainly out of public funds, or by a body whose costs are so payable²⁴⁴. A list is kept of rooms that may be used, which may be inspected by candidates and elections agents, or those authorised by them²⁴⁵.

5.67 The entitlement to free rooms was used more in the past when candidates used local public meetings as one of their main channels of communication. Rooms are requested less frequently now because candidates have more effective ways of communicating with their prospective voters. Awareness of the entitlement may also be low, although we set it out in our guidance to candidates and agents²⁴⁶.

5.68 In the consultation we sought views on whether the availability of free rooms was still an entitlement that candidates supported or if it had been

²⁴² Section 95(1) and (4).

²⁴³ Section 95(8) of the RPA 1983 disapplies this right in Northern Ireland.

²⁴⁴ Section 95(3), RPA 1983.

²⁴⁵ Paragraphs 2, 3 and 5, Schedule 5, RPA 1983.

²⁴⁶ For example Electoral Commission, *UK Parliamentary general election: Guidance for candidates and agents (Part 4: The Campaign)*, pp. 8-9, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0013/173020/UKPGE-Part-4-The-campaign.pdf.

replaced by more modern communication techniques such as on-line communications. We also asked for views on awareness of the entitlement, what was available and on what basis.

Views from respondents

5.69 There were mixed views about continuing with the free use of rooms. The Conservative Party said it had no firm view on the issue but would not be in favour of the removal of the provision. The Liberal Democrats said that they would encourage the continued use of meeting rooms. Plaid Cymru was also supportive but commented that the entitlement needed to be clarified and promoted. Both Sinn Féin and the Green Party in Northern Ireland wanted to see the facility extended to Northern Ireland.

5.70 A number of experienced candidates who had stood for election on more than one occasion said they had never heard of the entitlement while others, although aware of it, had never used it. The LGA Independent Group which responded on behalf of a number of independents quoted one councillor as follows *“I have been paying for rooms for 20 years, and did not know this was available. I have listed them on my expenses and no-one said a word. It does sound like an inexpensive but useful facility”*. Some respondents thought it served no useful purpose and should be abolished. Those in favour of retaining access to free rooms believed there should be an obligation on Returning Officers to inform potential candidates of the entitlement. The view was also expressed that in the digital and internet age there was a need for candidates to have real ‘face to face’ engagement with the electorate and retaining the entitlement was important for this reason.

5.71 There appeared to be a lack of knowledge as to what the entitlement covered and that ancillary costs such as heating and lighting had to be paid. The AEA in its response said it did not have comprehensive evidence about whether this facility was used, although it seemed to be taken up rarely. It suggested that the requirement to meet the costs of heating and lighting deters candidates from taking up this right. The AEA said it would be helpful to seek further evidence as to whether there remains a need for this facility. Some administrators were in favour of seeing the entitlement scrapped while others were of the opinion that it should be retained with more information being made available about it.

5.72 Some suggested that if the entitlement was retained then it was important to promote it effectively on local authority websites and in information packs made available to candidates at the time of nomination. It was also emphasised that the ancillary cost of hiring each facility needed to be made clear.

Discussion and recommendations

5.73 There was support for retaining free use of rooms for candidates. Some respondents were of the opinion that the entitlement served a useful purpose although awareness of it was low. The importance of ‘face to face’ discussion with electors was highlighted. We believe the provision of free rooms should be kept because it enhances fairness as it helps ensure that all candidates are able to get their messages across. It also, if used, leads to greater

information being communicated to voters. Local hustling events are an important part of local democracy and the right to conduct them should be available to all candidates equally, with voters being the ultimate beneficiary as they get to hear and interact with candidates. However, this right clearly needs to be better promoted to ensure that all candidates know of the entitlement and are able to use it if they want to.

- We recommend that Returning Officers should ensure that the information they make available to potential candidates includes information on their entitlements, including what facilities are available and the likely cost of hiring them.

6 Procedural issues

6.1 This chapter covers a number of procedural issues around standing for election, including alphabetical listing on ballot papers, photographs of candidates on ballot papers, submitting nomination documents and objecting to and determining the validity of nominations.

Alphabetical listing on ballot papers

6.2 The law says that the names of candidates appearing on the ballot paper should be placed in alphabetical order by surname (or party name where parties stand for election, e.g. in European Parliamentary elections)²⁴⁷. It has been suggested by some candidates and observers that the listing of names in alphabetical order on the ballot paper discriminates against candidates and parties with names starting with letters towards the end of the alphabet because they appear lower down the ballot paper.

6.3 In our 2003 report on ballot paper design we commented that alphabetical ordering could present difficulties in elections where voters are able to vote for more than one candidate in a local government election ('multi-seat constituencies')²⁴⁸. We were informed that voters faced with 12 or more candidates for three seats often appear to vote for only one or two party candidates and do not 'find' the third party candidate on the ballot paper. However, we acknowledged that the information available was inconclusive. We said that we would support further research to establish the extent of the influence of alphabetical listing prior to making a final recommendation. In the interim we recommended that legislation be introduced to enable the piloting of alternative listing methods on ballot papers in order to assist in determining the impact of the present arrangements²⁴⁹. However, the UK Government at the time did not accept our recommendation.

6.4 Consideration of the ordering of candidates' names on ballot papers was discussed in the Gould Report published in October 2007²⁵⁰. As a result, in the Scottish Government's subsequent consultation document in 2010 respondents were asked to consider alternatives for ballot paper ordering²⁵¹. The alternatives discussed in the 2010 consultation were:

²⁴⁷ For example rules 14(3) and 19(2)(a), UK Parliamentary Elections Rules and rules 15(2) and 22(2)(a), European Parliamentary Elections Rules.

²⁴⁸ Electoral Commission, *Ballot paper design: Report and recommendations*, June 2003, p. 12.

²⁴⁹ Electoral Commission, *Ballot paper design*, p. 12.

²⁵⁰ Electoral Commission, *The independent review of the Scottish Parliamentary and local government elections 3 May 2007*, October 2007, pp. 60-61, http://www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0011/13223/Scottish-Election-Report-A-Final-For-Web.pdf

²⁵¹ Scottish Government, *The Administration of future elections in Scotland: A Consultation Exercise to examine the recommendations of the Gould Report to improve administration of*

- Alphabetical listing by surname of candidate as at present
- Candidates grouped by party on the ballot paper either alphabetically or randomly.
- For local Government elections having the position determined by public lottery.
- Rotating the order of candidates' names on the ballot paper. This is known as Robson rotation and it means that a candidate's name appears an equal number of times at the top of the ballot paper²⁵².

6.5 Responses to the Scottish Government's 2010 consultation were inconclusive and no strong views emerged in support of any of the alternatives to alphabetical listing of candidates on the ballot paper. In 2014 the Scottish Government recently published a consultation paper about Scotland's electoral future and sought views on the ballot ordering of candidates' names and whether the listing by surname was discriminatory²⁵³. The closing date for responses to the Scottish Government's consultation was July 2014 and we will take account of the views expressed in Scotland before determining a definitive position.

6.6 There are a number of academic studies suggesting evidence of alphabetic bias²⁵⁴. For example Webber et al conclude that "*There is clear evidence of alphabetic bias even for the simplest ballots where only one person is to be elected and where there are very few other candidates. As the complexity of the ballot paper increases, both in terms of the number of seats to be filled and the number of competitors, so the bias becomes greater. Ultimately, this advantage is sufficiently large that in some cases it affects who gets elected*"²⁵⁵.

6.7 In the consultation we sought views and asked for evidence on whether the alphabetical listing of candidates and/or parties on the ballot paper favoured certain candidates especially in multi-seat constituencies.

Views from respondents

6.8 The views of political parties varied. The Labour Party said it would oppose a move away from alphabetical listing without conclusive evidence that the current system favoured those at the top of the ballot paper or which demonstrated that other methods of listing candidates were fairer. The Conservative Party said the current system was well established and any change would likely lead to as many problems as voters looked for their

future elections in Scotland, September 2010, pp. 9-11,

<http://www.scotland.gov.uk/Resource/Doc/323358/0104134.pdf>.

²⁵² Scottish Government, *The Administration of future elections in Scotland: A Consultation Exercise*, pp. 9-11.

²⁵³ Scottish Government, *Scotland's Electoral Future: Delivering Improvements in Participation and Administration: A Consultation Exercise*, April 2014, pp. 15-17, <http://www.scotland.gov.uk/Resource/0044/00448004.pdf>

²⁵⁴ There have been a number of academic papers on this subject. For example: Webber, R., Rallings, C., Borisyuk, G. and Thrasher, M, 'Ballot Order Positional Effects in British Local Elections, 1973–2011', *Parliamentary Affairs* (2014) 67, pp. 119–136,

²⁵⁵ Webber et al, 'Ballot Order Positional Effects', p. 134.

candidate's name. The Liberal Democrats said it was not convinced that alphabetical listing had any real effect even where a contest was close.

6.9 Sinn Féin was of the view that it was difficult to determine what alternative method of listing could be used to produce a definitively fair outcome and that alphabetical listing was recognised as a neutral system that was easy to administer. This view was shared by Plaid Cymru. However, the DUP said there was evidence that candidates whose names were further down the alphabet were sometimes disadvantaged in STV elections and that good voter management and communications were needed to manage the situation.

6.10 The Green Party in Northern Ireland was of the view that the alphabetical listing of candidates should be changed to a random order. The Conservative Group on Salford City Council claimed that some candidates in Scotland went as far as to change their names in order to get an advantage on the ballot paper. The Group suggested that in multi-member seats other methods such as the Robson Rotation system, the drawing of lots or random ballot ordering could be used.

6.11 A number of independents believed that the position on the ballot paper was significant and perceived that those nearer the top were more likely to be elected. It was emphasised by some respondents that no matter what system was decided on someone's name would always be at the bottom of the ballot paper. Piers Coleman, an election lawyer, claimed that it had always been the case that those whose names appeared higher up the ballot paper were better placed than those whose names appeared lower down. One candidate said that the position on the ballot paper was not really an issue and that electors would find the candidate's name if their pre-election campaign was well organised.

6.12 The AEA said in its response that while it did not comment on the principle of how candidates were listed on the ballot paper, any changes should take the form of a legally precise method that was secure, transparent, understandable and acceptable to the political community. In addition, it must not be able to be challenged, except on the grounds that the process was not carried out according to the law and only after the result was declared.

6.13 In respect of multi-seat constituencies some respondents were of the opinion that it would benefit voters, candidates and parties if candidates were grouped in clusters under the party name. It was suggested that this would be particularly beneficial in STV elections where there can often be up to twenty names on the ballot paper in multi-seat constituencies, with four or five candidates from the same party listed.

Discussion

6.14 There is evidence that candidates with names nearer the start of the alphabet do better in elections. Switching away from alphabetical listing could however lead to voters having problems finding candidates on the ballot paper given that they will be used to alphabetical listing. There is no strong argument to justify any particular alternative ordering method, and there are

likely to be practical problems associated with each option. However, this is something that should be considered further and we will do so as part of our future work on electoral modernisation.

6.15 In respect of party names, at the 2014 European Parliamentary elections we received complaints that some parties had deliberately chosen names that would get them to the top of the ballot paper. This is something that we are actively monitoring as part of our party registration function²⁵⁶.

Positive abstention

6.16 There is currently no option on ballot papers in the UK that allows electors to register their dissatisfaction with all the nominated candidates in a positive manner, for example by putting a cross in a box on the ballot paper labelled 'none of the above' (referred to here as 'positive abstention'). The argument has been put that the inclusion of an option of positive abstention on the ballot paper could differentiate those voters who did not support any of the candidates, from those who did not vote for other reasons.

6.17 In 2003 we examined the issue of positive abstention as part of our review of ballot paper design²⁵⁷. We considered the evidence for and against the introduction of an option on the ballot paper to allow electors to choose 'none of the above' at UK elections. Research at the time suggested that there would be support for positive abstention among some non-voters²⁵⁸ and that this could lead to increased turnout and provide a way in which political parties and candidates could judge the electorate's satisfaction with the choice on offer²⁵⁹. We stated that we were not persuaded of the merits of positive abstention but considered that the issue should not be discarded until there was further research on the possible impact on voter participation levels, which we intended to carry out²⁶⁰.

6.18 Ten years later, we re-visited this issue in the Standing for Election in the UK consultation document, particularly given growing concern about voter turnout. We therefore asked for views on whether the ballot paper should include an option for positive abstention, and what should happen if this option received a majority of votes cast.

6.19 We note that after we concluded our consultation, the Political and Constitutional Reform (PCR) Committee's ongoing Inquiry into Voter Engagement received a number of written submissions recommending that a 'none of the above' option should be included on the ballot paper, either as

²⁵⁶ Electoral Commission, *Report on the administration of the 22 May 2014 elections*, July 2014, pp. 27-28, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0010/169867/EP-and-local-elections-report-May-2014.pdf

²⁵⁷ Electoral Commission, *Ballot paper design*, pp. 33-34.

²⁵⁸ Hansard Society, *None of the Above: Non-voters and the 2001 election*, December 2001, <http://www.hansardsociety.org.uk/wp-content/uploads/2012/10/None-of-the-Above-2001.pdf>.

²⁵⁹ Electoral Commission, *Ballot paper design*, p. 33.

²⁶⁰ Electoral Commission, *Ballot paper design*, p. 34.

part of a system of compulsory voting, should this ever be introduced, or regardless of any move to compulsory voting. The PCR Committee Report noted the results of a survey by 38 Degrees, which found that being able to vote for none of the above was the popular choice (picked by over 18,000 of 84,000 respondents) among members when asked “What would make you more likely to vote in the 2015 General Election?”²⁶¹.

6.20 The PCR Committee recommended that the Government report to the House on how a system of compulsory voting might operate in practice as part of a wider public debate. The PCR Committee also stated that allowing people to vote ‘none of the above’ could be a possible feature of a compulsory voting system, but that introducing positive abstention could be considered in any case.

Views from respondents

6.21 Views were split roughly equally on whether ‘none of the above’ should be included as an option on the ballot paper. Political parties were overwhelmingly opposed to it, with some saying that abstention was already an option since someone could choose not to vote or to spoil the paper. They said that it would serve no useful purpose. Elected representatives and individual candidates were split in their views, with some supporting a ‘none of the above’ option as it would enable voters to send a message to candidates, and some opposed on the basis that there was no need for this option as currently a paper can be intentionally spoiled. Most electoral administrators supported a ‘none of the above’ option, saying that it would appeal to some voters. Some expressed concern that there could be several re-runs of the election if ‘none of the above’ got the most votes. A few respondents said that a ‘none of the above’ option should only be introduced if voting was made compulsory.

Discussion

6.22 Respondents to our consultation were divided on whether ‘none of the above’ should be included on ballot papers. We note the arguments that a ‘none of the above’ option could increase turnout, since it would enable voters to register formally that they did not want to support any of the candidates. It might also provide further information on the reasons for non-voting. However, our view is that there should not be a ‘none of the above’ option on ballot papers. This is because we consider that the purpose of an election is to elect one of the nominated candidates to elected office. An election is about making a choice between the nominated candidates and expressly allowing for positive abstention defeats that purpose and discourages voters from engaging with the candidates on offer. In addition, information about turnout already serves to demonstrate levels of engagement in the electoral process. However, there may be a stronger argument in favour of a ‘none of the above’ option if compulsory voting was introduced.

²⁶¹ Political and Constitutional Reform Committee, *Voter Engagement in the UK*, Fourth Report of Session 2014-15, House of Commons, London: The Stationary Office Limited, 14 November 2014, <http://www.publications.parliament.uk/pa/cm201415/cmselect/cmpolcon/232/232.pdf>

Photographs of candidates on ballot papers

6.23 Some countries including South Africa and Ireland use colour photographs of candidates on ballot papers. When we last considered this issue in 2003 we concluded that further research should be undertaken into the likely benefits and disadvantages of photographs on ballot papers²⁶². We also recommended that legislation be introduced to enable the piloting of photographs in order to assist in undertaking such research²⁶³. Although the Electoral Administration Act 2006²⁶⁴ and the Local Electoral Administration and Registration Services (Scotland) Act 2006²⁶⁵ allowed for the piloting of photographs on ballot papers at local elections, no such pilots have taken place.

6.24 In the consultation we sought views and evidence on whether there was a case for introducing colour photographs of candidates on ballot papers and if the provision of photographs would be beneficial for voters. We also asked if respondents could identify any specific problems with using photographs on ballot papers.

Views from respondents

6.25 Almost all respondents to the consultation paper had a view about having colour photographs on ballot papers. Some were in favour but the majority were against photographs. The Conservative Party did not believe there were any advantages to having photographs on ballot papers while the Labour Party said the case for them had to be balanced against the problems likely to be encountered in reproducing good, clear images in a small space on the ballot paper. The Liberal Democrats saw no need for photographs and said there was no demand for them. Plaid Cymru was not in favour and the Green Party in England and Wales did not think there was a decisive argument in favour. Sinn Féin said that photographs could help voters distinguish between candidates who had the same or broadly similar names and could be of assistance in cases where a voter had difficulty in reading.

6.26 A number of candidates felt that introducing photographs would allow voters to be influenced by attractiveness, age, gender and ethnicity. A view was expressed that there was no need for photographs on ballot papers given they were already contained on candidate mailings. Some independent candidates thought that photographs would help distinguish them on the ballot paper. Other respondents said that photographs could be effective on ballot papers provided passport type photographs were used and there were strict regulations about what was acceptable quality.

6.27 The AEA said it was not aware of any strong evidence in support of photographs. It emphasised that disputes could arise over photographs and clear guidance would be required around what was acceptable and this would

²⁶² Electoral Commission, *Ballot paper design*, p. 23.

²⁶³ Electoral Commission, *Ballot paper design*, p. 23.

²⁶⁴ Sections 32 to 34.

²⁶⁵ Section 25.

have to be set out clearly in legislation. It also expressed the view that the cost of elections would increase as there would be higher printing and production costs associated with ballot papers having to be printed in full colour and on better quality paper.

Discussion

6.28 The case for having photographs on ballot papers was rejected by the majority of respondents to the consultation. It seems to us that there is little appetite for a change to the law here and we agree with the majority of respondents that it does not seem appropriate to display photographs on ballot papers. We do not think that a photograph would add anything of value to the ballot paper and it would be likely to increase costs and give rise to disputes.

Submitting nomination documents

6.29 At all elections nomination papers and some other documents relating to the candidate can only be delivered to the Returning Officer in person. Some other documents can only be delivered in person or by post.

6.30 Delivery in person gives the Returning Officer or deputy the opportunity to give the papers an informal check to see whether they have been validly completed. Attendance at the offices also allows a candidate to inspect the nomination papers of other candidates at elections where there is a right of inspection during the nomination process. However, it has been suggested that the current law is outdated and does not reflect modern methods of communications; allowing delivery by methods other than personal delivery would help to make standing for election easier.

6.31 In 2003 we recommended that the use of fax and email should be permissible in the nomination process²⁶⁶. However, we added that the Returning Officer must still receive, within the 24-hour period, original documentation for purposes of authentication²⁶⁷. This recommendation has not been implemented by the Government. At all UK elections there remains a requirement for nomination papers (and some other documents) to be delivered in person.

6.32 In the consultation we sought views on whether more flexible arrangements, including fax, email, online or mobile device app, should be introduced for the receipt of nomination papers. In addition, we asked for views on whether the delivery of nomination papers should be standardised for all elections.

Views from respondents

6.33 The Conservative Party believed that further investigations into how nomination papers could be submitted and received in different formats would be advantageous. The Labour Party said that electronic submission should be

²⁶⁶ Electoral Commission, *Standing for Election*, 2003, p. 32.

²⁶⁷ Electoral Commission, *Standing for Election*, 2003, p. 32.

permitted provided appropriate security measures were put in place. The DUP was supportive of modernisation and was of the opinion that submission in person was antiquated and no longer necessary. The Green Party was also supportive of online submission of nomination papers, while Plaid Cymru said the current arrangements were satisfactory. There was a general consensus that whatever process was agreed it should be standardised for all elections in the UK.

6.34 The AEA said there was a need for the process to be modernised but any change to legislation had to be precise in terms of how papers should be submitted and whether scanned documents including electronic signatures would be acceptable. Clarification was also sought about what liability a Returning Officer would have in circumstances where documents submitted other than in person were not received on time. To address this concern it was suggested by a party representative on the Wales Assembly Parties Panel that those wishing to submit papers electronically should have to do so 48 hours in advance of the close of nominations. A number of respondents suggested that a pilot of online submission should be conducted and evaluated at a future election.

6.35 Some respondents, including the Conservative Party, an anonymous MP and several candidates were in favour of retaining the requirement for personal delivery largely because it demonstrated a degree of 'seriousness'. Others warned that electronic submission could potentially be open to fraud and there would likely be difficulties in verifying the veracity of papers submitted electronically. These included the Greater London Returning Officer, the Conservative Group on Salford City Council and a local authority lawyer.

6.36 A number of respondents maintained there were obvious strengths with candidates' hand delivering nomination papers and in turn having face to face meetings with Returning Officers. This was especially the case given that there was only a very narrow window for nominations to be accepted and problems had to be identified and rectified at the earliest possible opportunity.

Discussion and recommendations

6.37 In most cases there was support for modernising the process around submitting nomination papers. The majority of respondents favoured introducing electronic submission provided the necessary safeguards were built into the system. We agree that the law in this area is currently not appropriate in the twenty first century. It does not seem right that although someone can now register to vote online or even over the telephone, in order to become a candidate they must have their nomination paper and some other documents delivered by hand. This is an onerous requirement that could act to deter or even prevent some people from standing for election, for example where a candidate lived some distance away from the place for delivery and where there was little public transport. In order to make standing for election easier we support changing the law to make delivery by email and fax permissible, as we first did in 2003.

6.38 Since we published our consultation paper, we instructed counsel to provide advice on the law in this area, which is particularly unclear. Counsel confirmed in March 2014 that the existing law only allows for nomination papers to be delivered in person at all elections (and not by post or other electronic means). Some other documents can only be delivered in person as well but some may also be delivered by post²⁶⁸. Therefore, our recommendation is that the law should be changed to allow for postal delivery, as well as delivery by email and fax (and in person) of all documents submitted by candidates to Returning Officers during an election. This includes:

- nomination papers
- consent to nomination papers
- notices of withdrawal
- certificates of authorisation to stand on behalf of a party, and
- requests to use a party's registered emblem.

6.39 We note the practical points raised by electoral administrators about the need for changes to legislation to be precise in terms of how papers are submitted, and about liability if papers are not delivered on time. Therefore, it is important that any change to the law is carefully considered to make sure that it works in practice.

6.40 In addition, we would recommend that consideration is given to whether there could be an online system for nomination run by the Returning Officer, subject to fully addressing security concerns to safeguard the integrity of the process. This would potentially make standing for election a much simpler process for candidates and given the ever-increasing range of activities carried out online, would be likely to reflect their expectations. However, this should not be the only means for being nominated as not all have access to the internet.

6.41 It will be important for a range of practical issues to be taken into account, including dealing with any security implications arising from the change, before any changes to the law are brought forward. Consultation with Returning Officers and electoral administrators on the details of any changes will be particularly important.

- We recommend that the law is changed to allow nomination papers, consents to nomination, withdrawal notices, certificates of party authorisation and emblem requests to be submitted by post, email and fax for all elections in the UK, in addition to hand delivery. This would update this area of law, making standing for election more accessible.
- We recommend that consideration is given to allowing nominations to be submitted via an online system.

²⁶⁸ We published this advice (dated March 2014) on the communication of election documents on our website:

http://www.electoralcommission.org.uk/_data/assets/pdf_file/0005/166379/Delivery-of-Nomination-Papers-Counsel-Advice-FINAL.pdf

Objections to nominations and determining the validity of nominations

6.42 At UK Parliamentary elections the following persons are able to attend the proceedings for the delivery of nomination papers and may inspect those papers and also raise objections to their validity:

- A candidate who is validly nominated
- The election agent of a candidate who is validly nominated, or
- The proposer or seconder of any candidate who is validly nominated²⁶⁹.

6.43 A candidate may also choose one other person to attend at the delivery of their nomination and afterwards but that person does not have the right to inspect or object to the validity of any nomination paper²⁷⁰.

6.44 Objections do not have to be made in writing. They can only be made between 10am and 5pm on the final day for the delivery of nomination papers²⁷¹. No objection can be made in the afternoon except to a nomination paper that has been delivered on that day and in the case of such a nomination paper no objection can be on grounds of the sufficiency or nature of the particulars of the candidate unless made at or immediately after the time of the delivery of the nomination paper²⁷². There is one exception and that is where a Returning Officer considers that a candidate may be disqualified under the RPA 1981 (a serving prisoner). In such circumstances a draft statement of persons nominated is published and the deadline for objection on that ground is 4pm on the day after the close of nominations²⁷³.

6.45 A nomination paper will be held to be invalid by the Returning Officer where the particulars of the candidate or the subscribers are not as required by law, where the paper is not subscribed as required by law or where a candidate is disqualified under the RPA 1981²⁷⁴. Therefore, except where a candidate is disqualified under the RPA 1981, the Returning Officer has no power to hold a nomination paper to be invalid where it appears that the candidate is not qualified, or is disqualified, for standing for election. Where a Returning Officer decides that a nomination paper is invalid, the candidate will no longer stand nominated for election²⁷⁵. The Returning Officer's decision that a nomination paper is valid or invalid cannot be challenged during the election. However, the validity of the nomination or whether the candidate was qualified or disqualified could be challenged in the courts after the election²⁷⁶.

²⁶⁹ Rule 11, UK Parliamentary Elections Rules.

²⁷⁰ Rule 11(4), UK Parliamentary Elections Rules.

²⁷¹ Rule 1, UK Parliamentary Elections Rules.

²⁷² Rule 1, UK Parliamentary Elections Rules.

²⁷³ Rule 15, UK Parliamentary Elections Rules.

²⁷⁴ Rule 12(2), UK Parliamentary Elections Rules. 'Particulars' refers to the person's details on the paper e.g. the name and (in the case of subscribers) electoral number.

²⁷⁵ Rule 12(1), UK Parliamentary Elections Rules.

²⁷⁶ Rule 12(5) and (6).

6.46 Similar rules apply for elections to the devolved legislatures in Scotland, Wales and Northern Ireland and to the office of PCC.

6.47 There is no objection procedure for local government elections in England, Scotland and Wales; candidates and the public can only scrutinise the papers after the close of nominations²⁷⁷. However, for local elections in Northern Ireland the law permits a validly nominated candidate and their proposer, seconder or election agent to attend and make objections²⁷⁸.

6.48 In the consultation document we sought views on whether the objections procedures should be revised and replaced with a more consistent and transparent scheme and how such a scheme would work in practice. We also wanted to establish if the current timeframes set for objections were sufficient to meet the needs of candidates and electoral administrators alike.

Views from respondents

6.49 The majority of respondents were of the opinion that the objections regime should be simplified and clarified and that there should be a single consistent system for all elections in the UK. A number of respondents considered the system lacked transparency and was difficult to understand. A small number believed the objections process was of little practical value and was opaque for party officials. The Conservative Party said it did not believe there was need to extend the objections process and that to do so would likely lead to politically motivated objections that could disrupt the electoral process.

6.50 A number of candidates said that the 'nit-picking' around matching every detail on the nomination paper with the register should be clarified. For example, the absence of a middle name or 'Jacqui' instead of 'Jacqueline' should not be sufficient to void a nomination paper.

6.51 On a wider point the Liberal Democrats said it was unfair that the only way to challenge a nomination was by taking an election petition which could be expensive and difficult.

6.52 Electoral administrators were in agreement that the system should be modernised. However, they emphasised the principle that the Returning Officer had an administrative role only and that an election could not be stopped but had to be challenged after the poll. They also highlighted the fact that the objections process was constrained by the statutory timetable and that they needed more time to deal with objections. One electoral administrator emphasised that most objections were trivial and very few resulted in an election petition. Another suggested that almost every objection was outside the jurisdiction of the Returning Officer. As a result it was best to keep the objections window narrow and used only for serious objections. Some respondents were of the view that objections should only be accepted in writing.

²⁷⁷ Rule 11, Local Elections (Principal Areas) Rules (England and Wales) and rule 11, Scottish Local Government Elections Rules.

²⁷⁸ Rule 9, Local Election Rules (Northern Ireland) (Schedule 5, Electoral Law Act (Northern Ireland) 1962).

Discussion and recommendations

6.53 Most responses on this topic expressed support for simplifying the rules around objections to nominations and agreed there should be greater transparency and openness around the system. We agree that there is a need to simplify these provisions to make the process more easily understandable.

6.54 We also support the argument that there should, as far as possible, be a standard consistent objection system for all elections. This should include consideration of amending the law to allow for objections in elections where there is currently no objections procedure. Providing for objections at all elections would increase transparency and we consider that there is a public interest in the nominations process being open to both inspection and objection. Such consideration would need to have regard to the practical implications of allowing for objections at all elections; for example, managing objections for combined elections could prove to be onerous for Returning Officers and difficult to achieve within the current timetable. Any differences in the process that remain between elections should only be the result of conscious policy changes by the relevant legislature and the rules in all cases should be clearly set out.

6.55 In addition, we do not think it is appropriate that the right to inspect and object is reserved to a small group of persons associated with a validly nominated candidate. Voters have a clear interest in knowing who has been nominated and being able to raise objections. We would welcome consideration of whether the categories of persons entitled to attend nominations to inspect and object should be broadened. As above, any such changes will require careful consideration to ensure that they work in practice.

6.56 Some respondents were keen that Returning Officers should be able to reject a nomination if a candidate is not qualified or is disqualified. This would help ensure that candidates who are not eligible to stand do not appear on the ballot paper. This would however change the long-standing existing position that Returning Officers do not consider matters relating to the eligibility of candidates (except under the RPA 1981) and would mean them getting involved in a potentially politically sensitive role.

6.57 Our view is that consideration should be given to changing the law so that objections can be made on the grounds that a candidate is either not qualified or disqualified from standing for election under any legislation and also so that the Returning Officer is required to hold a nomination paper to be invalid where the Returning Officer finds that a candidate is not qualified or is disqualified. It appears to us to be an unsatisfactory situation that an obviously ineligible candidate should be allowed to stand for election and be able to serve out their full term of office unless someone was willing and able to challenge the eligibility of the elected person in the courts.

6.58 The inability to prevent ineligible candidates appearing on the ballot paper could call into question the integrity of the election. This has the potential to undermine trust in elections. Also, the possibility of an ineligible person serving their full term of office could also be damaging for confidence in that elected office.

6.59 In addition, it seems undesirable that an election should proceed despite there being a candidate standing in it who was clearly ineligible to do so, when there is a risk that the election will have to be re-run in the event of that candidate winning and where there was subsequently a legal challenge. This would be a costly exercise and would leave voters in uncertainty as to their elected representative until the challenge was determined.

6.60 These issues are summarised by the Election Commissioner in his judgment in the Brent election petition case²⁷⁹. The Election Commissioner (Richard Mawrey QC) stated that:

the proposition that a Returning Officer is obliged by law to accept a nomination he knows to relate to a person who is not qualified to stand and to permit that person to go forward to the poll would strike the average citizen and voter as ludicrous and unacceptable. The unfortunate consequences of this rule are dramatically illustrated by the Bristol South election case which is discussed below where the absence of the right for a Returning Officer to refuse the nomination of a patently (indeed admittedly) disqualified candidate led to a costly election followed by a costly lawsuit²⁸⁰.

6.61 While this case is strong, we accept that the principle that the Returning Officer has no role in determining whether a candidate is qualified or disqualified (except under the RPA 1981) is well-established²⁸¹ and any change to this would be a fundamental change to electoral law and the role of the Returning Officer. There would be a need to ensure that the change to the law produced a system that worked in practice and did not produce inconsistency in how it was applied by Returning Officers. The change would also be likely to have implications for other aspects of the administration of the election that would need to be addressed. Any proposals for change would therefore require careful consideration and consultation with the electoral community, especially with Returning Officers. For example, there would be issues to explore about whether this could open Returning Officers to pressure to exercise their power for political reasons, even though their role is set out in statute and is independent of local authorities.

6.62 There are a number of other difficulties that would need to be overcome if the law was to be changed. A Returning Officer would not reasonably be expected to know someone was ineligible and does not have the time or resources to conduct any sort of investigation into the matter²⁸². An election is run to a tight and strict timetable and inquiring into eligibility could place pressures on Returning Officers' time and lead to uncertainty and dispute during the election process.

²⁷⁹ *Harrison v Gupta* 2007 M/314/06 (paragraphs 57 to 62).

²⁸⁰ Richard Mawrey QC in *Harrison v Gupta*, paragraph 61.

²⁸¹ *Pritchard v the Mayor of Bangor* (1888) 13 App Cas 241 and *R v Election Court ex parte Sheppard* [1975] 1 WLR 1319.

²⁸² Richard Mawrey QC in *Harrison v Gupta*, paragraph 61.

6.63 Our preliminary view is that it would not be appropriate for the Returning Officer to conduct investigations during an election to determine eligibility but that there may be merit in the Returning Officer being able to hold a nomination invalid where an objection is raised relating to the eligibility of a candidate and where on consideration the Returning Officer decides that the candidate is ineligible. There is precedent for this approach as objections can already be made, and nomination papers can be held to be invalid, where a candidate is disqualified under the RPA 1981. However, the disqualification of serving prisoners under the RPA 1981 may be easier to establish than in other cases. For example, as explained earlier in this report, the local government qualifications are in some places unclear and the disqualification relating to employment at the local authority is sometimes not easy to apply²⁸³. This would put the Returning Officer in the difficult position of having to determine a candidate's eligibility within a short period where the eligibility is not clear. One way to help to address this would be to simplify the law relating to qualifications and disqualifications (as we recommend earlier in this report) so that it will be easier for Returning Officers to decide whether someone could stand for election, although some complexity will always remain.

6.64 There would therefore need to be consideration given to what standard of proof would need to be met before a Returning Officer decided that a nomination paper should be held invalid on this ground. It may be that if there is any significant doubt, the correct approach would be to allow the candidate to stand for election and leave the question to be determined after the election if there was a challenge. This would help to ensure that an eligible candidate is not wrongly excluded from the ballot paper. Examples where, if the law is changed, it would appear to be appropriate to decide that a candidate's nomination is invalid could be where someone at a local election provides on their consent to nomination form an address as their place of residence or work and states that this is the only qualification that they satisfy. If the Returning Officer knew that the address was outside the relevant area, we consider that the law should require the Returning Officer to decide that the nomination is invalid, preventing the person from standing for election.

6.65 Holding a nomination paper to be invalid is a significant step that denies a candidate from being able to exercise their democratic right to stand for election and deprives the voter of the opportunity to vote for that candidate. It should therefore only be possible to do so on these grounds in exceptional circumstances where there is little or no doubt in the Returning Officer's mind that the person is ineligible. Any decision to exclude someone from the ballot paper should be capable of being challenged but given the constraints on time during the election our initial view would be that this challenge should only happen after the election.

6.66 It is important that any change to the law is carefully considered to ensure uncertainty and dispute is not caused unnecessarily during the

²⁸³ We recommend earlier in this report that some disqualifications should only apply where someone has been elected, rather than when the candidate is nominated.

election process. Consultation with Returning Officers will be particularly important before any change is made, especially on how it would fit within the election timetable.

- We recommend that the legislation should be amended to clarify and simplify the process of objecting to nominations for all elections in the UK. This includes ensuring that the system is easy to understand. This reform will help to increase the transparency of the standing for election process.
- We recommend that consideration is given to allowing objections to nominations on the grounds that a candidate is not qualified or is disqualified and, if satisfied that that is the case, requiring a Returning Officer to hold a nomination paper to be invalid. This would help to ensure the integrity of the process.

Appendix A

Summary of recommendations

Qualifications and disqualifications

- We recommend that the relevant Governments should clarify and update the law relating to the qualifications for local government elections including those relating to being a local government elector for the area, occupying as owner or tenant, principal or only place of work being in the area, and residence in the area (or within three miles at parish or community elections).
- We recognise that the qualification about continuing to be a local government elector for the area of the authority is different from the other three qualifications, since it must be satisfied throughout the whole of a councillor's term of office. This qualification does not apply in Scotland or Northern Ireland. We also note that enforcing this qualification is not practical since there is no requirement for nomination papers to be held (and where they are held it is not normally beyond one year). We therefore recommend that the Government considers whether this qualification is still appropriate.
- We recommend that the law in England, Wales and Northern Ireland is changed to make a clear distinction between offices or employment which would prevent someone standing for election, and those which would prevent someone from holding office if elected. A suggested framework of questions is put forward in this report to help establish whether a particular postholder could stand, but it would be up to the relevant Governments to determine how these should apply when reviewing the law. This reduction in restrictions on potential candidates would enable wider choice for voters.
- We recommend that the law is changed so that voters, voting in person in polling stations (and where practical those voting by post), are informed that a candidate had either been disqualified or no longer wants to be considered for election but has not withdrawn their candidature within the time allowed. This will ensure that the voter can make a more informed choice.

Subscribers and deposits

- We recommend removing the requirement to pay a deposit at all elections, as we do not consider that there should be a financial barrier to standing for election.
- We recommend that subscribers should be retained to maintain trust that elections are being contested by serious candidates and avoid ballot papers that are unwieldy for voters and difficult to administer. The number of subscribers should be reviewed for each election to ensure it is proportionate to the post for which the candidate is standing.

Candidate benefits

- We recommend that the law should be changed to ensure that electors are sent printed information about candidates standing for election as PCCs in their police area. This should take the form of a booklet with addresses from each candidate sent by the relevant Police Authority Returning Officer to every household in the police authority area. This was done on a trial basis for the PCC by-election in West Midlands in August 2014. The Home Office will be evaluating the effectiveness of this trial.
- We recommend that the legislation around free candidate mailings be amended to allow candidates at combined elections to use a single election communication covering both elections if that is their choice, but only where there is a right to a free mailing in respect of the elections referred to in the mailing.
- We recommend that the legislation is changed to enable independent candidates to have party election broadcasts (PEBs) where this is feasible (in practice this is only at London Mayoral elections at present). The criteria that regulators and broadcasters use to award broadcasts should, for those elections where this is relevant, identify what levels of past and current support an independent candidate would need to receive a broadcast.
- Broadcasters should keep under review technological developments that may make the provision of regional PEBs in England a more viable option in the future to ensure better access to voters by those that can demonstrate significant electoral support in a particular area.
- We continue to recommend that the law is changed to allow all candidates to get earlier access to the register for electoral purposes.
- We recommend that Returning Officers should ensure that the information they make available to potential candidates includes information on their entitlements, including what facilities are available and the likely cost of hiring them.

Procedural issues

- We recommend that the law is changed to allow nomination papers, consents to nomination, withdrawal notices, certificates of party authorisation and emblem requests to be submitted by post, email and fax for all elections in the UK, in addition to hand delivery. This would update this area of law, making standing for election more accessible.
- We recommend that consideration is given to allowing nominations to be submitted via an online system.
- We recommend that the legislation should be amended to clarify and simplify the process of objecting to nominations for all elections in the UK. This includes ensuring that the system is easy to understand. This reform will help to increase the transparency of the standing for election process.
- We recommend that consideration is given to allowing objections to nominations on the grounds that a candidate is not qualified or is disqualified and, if satisfied that that is the case, requiring a Returning

Officer to hold a nomination paper to be invalid. This would help to ensure the integrity of the process.

Appendix B

List of respondents

During our review we wrote to a number of organisations and individuals inviting them to submit their views on standing for election.

We also alerted members of the public to our review through our website www.electoralcommission.org.uk and explained how they could contribute to the review.

We are grateful to all those who responded to our consultation paper on Standing for election in the UK.

The following individuals and organisations submitted evidence or gave their views to us during our review, either through written correspondence or in meetings.

Local Councillors

- Anonymous Councillor – 4
- Cllr Alan Anderson, Conservatives, Kings Langley, Dacorum Borough Council
- Cllr Clarence Barrett
- Cllr Colin Rosenstiel
- Cllr David Brickhill
- Cllr Graham Turner
- Cllr Jennifer Macdonald, Independent parish councillor
- Cllr Joan McTigue, Independent Councillor, North East England
- Cllr V Tewari
- Ald Peter Tyzack, Retired Councillor
- Cllr Prue Bay, Liberal Democrats, Wokingham Borough Council

Candidates

- Anonymous Candidates – 5
- Denis Stevens, Candidate
- Dhruv Patel Candidate
- Ian Bond, Candidate
- James Doyle, Candidate and Agent
- John Cartwright
- Julie Robinson, potential Candidate
- Lee Breckon – Candidate
- Mark Pack, Independent Candidate
- Martyn Underhill, Candidate
- Mavis Churchill, Candidate
- Peter Lucas, Candidate
- Rupert Moss-Eccardt, Candidate
- Stephen Bett, Candidate

- Steven Lugg, Candidate

Political parties

- Alan Mabbutt OBE, Head of Local Government and Party Nominating Officer, Conservative Party
- Conservative Group, Salford City Council
- David Allworthy, Head of Compliance and Constitutional Support, Liberal Democrats
- Francie Molloy (Sinn Féin) MP for Mid Ulster
- Gareth Ross Brown, Research Officer, Green Party in Northern Ireland
- John Bridges, Campaigns & Development Manager, Association of Liberal Democrat Councillors
- Jon Burden, Liberal Democrat Agent for Hammersmith & Fulham
- Margaret Lynch, Compliance Manager, Labour Party
- Rhuanedd Richards, Plaid Cymru
- Sam Coates, Elections Coordinator, The Green Party of England and Wales
- Timothy Cairns, Democratic Unionist Party

Local authorities*

- Abbots Langley Parish Council
- Amber Valley Borough Council
- Anonymous electoral administrator
- Blaenau Gwent County Borough Council
- Blyth Town Council
- Cambridge City Council
- Carmarthenshire County Council
- Greater London Authority
- Hatfield Town Council
- Kent Association of Local Councils
- Kettering Borough Council
- Mansfield District Council
- Meopham Parish Council
- New Forest District Council
- New Romney Town Council
- Normanton Town Council
- Oxfordshire Association of Councils
- Oxfordshire of Local Councils
- Returning Officer/Electoral Administrator – Two unspecified areas
- Ringwood Town Council
- Ripponden Parish Council
- Seascale Parish Council
- South Ayrshire Council
- Southfleet Parish Council
- Stelling Minnis Parish Council
- Teston Parish Council
- The Bedfordshire Association of Town & Parish Councils
- Thorne-Moorends Town Council

- Warwick District Council
- Wilsden Parish council

* This category includes responses submitted on behalf of local authorities, together with responses from electoral officials appointed by local authorities, including Electoral Registration Officers, Returning Officers, Electoral Services Managers and their staff.

National Assembly for Wales

- Presiding Officer, National Assembly for Wales

Others

- Eve Samson, Clerk of the Committee on Standards and Privileges
- BBC Trust
- ITV
- J P W Coleman, Election Lawyer
- Loughton Residents Association
- Professor Jocelyn Evans, University of Leeds – researcher in the field of electoral behaviour
- Simon Young, Local authority lawyer
- The Association of Electoral Administrators (Scotland and Northern Ireland Branch) and SOLAR – joint response
- The Association of Electoral Administrators
- The Association of Electoral Administrators – Southern Branch
- The Cumbria Association of Local Councils
- The Electoral Office for Northern Ireland
- The Police and Crime Commissioner for Lincolnshire.
- Welsh Language Commissioner

We received 5 responses from members of the public.