

The New Politics Network's evidence to the Committee on Standards in Public Life's Review of the Electoral Commission

About Us

The New Politics Network is the leading independent think tank working on democracy and participation. We aim to connect people and politics and have three broad areas of work: active citizenship; political parties and institutional reform.

We have worked closely with the Electoral Commission on a number of areas to do with democratic engagement but particularly in relation to the funding of political parties. Our evidence is based on those areas where we have expertise and where we are proposing change.

For more information please see www.new-politics.net

Questions about the mandate of the Electoral Commission

Is the mandate set out in the Political Parties, Elections and Referendums Act 2000 conducive to the efficient and effective operation of The Electoral Commission as the regulator of elections and party political donations in the UK?

The Electoral Commission does a good job of regulating political parties on the basis of the information that it receives, but it does not proactively seek information. For example in the recent loans for peerages scandal, which was a clear breach of the spirit and possibly the letter of the PPERA regulations; the Electoral Commission only wrote to the parties to ask what loans they had taken out after it had been raised in the press. They did nothing proactive to check ensure that parties were complying with the regulations.

The New Politics Network proposes that in addition to its current mandate the Electoral Commission should have the power to investigate possible abuses of electoral law. It should also have a broader range of powers to address any breaches of the PPERA regulations.

We are concerned that the Commission's current powers in relation to political parties or individuals who break the rules are too limited and in many cases would counteract the work that the Commission is trying to do. For example currently if a political party fails to report qualifying donations to the Electoral Commission in the appropriate quarter, the Commission can publicly 'name and shame' them or recommend prosecution of the relevant party treasurer.

As in many cases this would involve prosecuting the voluntary treasurer of a local political party the Electoral Commission are understandably reticent to use this power. However as donations continue to be reported late, including by the three main parties, naming and shaming has had no discernable effect.

Recommendation:

The New Politics Network believes that the Electoral commission should be able to investigate possible non-compliance with the PPERA regulations and have a wider range of enforcement powers, including the ability to levy fines, for non-compliance.

In the light of the experience of the last five years are there any appropriate revisions to the mandate of the Commission that should be made to the Political Parties, Elections and Referendums Act 2000?

Please see the recommendations above.

In particular, is there an appropriate balance between the executive and advisory functions of the Commission?

The balance between the executive and advisory functions is appropriate, however we have some concerns about the nature of the Electoral Commission's advisory role.

If the Electoral Commission investigates a policy area it can stimulate debate and put an issue on the political agenda in a way that simply didn't happen before the Commission existed. However if this role is to be effective then the Commission has to be more willing to exert its independence on the more explicitly political issues that affect our democracy and the Government must have a statutory responsibility to respond within a reasonable time frame.

The bulk of the policy work undertaken by the Electoral Commission is on technical aspects of electoral law and practice and much of this is excellent. However on the more obviously political issues, such as the electoral system or the funding of political parties, where the Commission's recommendations could lead to there being winners and losers, the Commission tends to hold back. This point will be examined in more detail in the question on the independence of the Electoral Commission.

The Government has recently announced that it will not be responding to the Commission's report on the funding of political parties as it has been superceded by events and the inquiry being conducted by Sir Hayden Phillips. However the Government could have responded at any point in the last 2 years yet chose not to despite a number of parliamentary questions and Westminster Hall debates.

Indeed there was some confusion in Government as to whether a formal response was in fact necessary. We do not think this is acceptable. If the Government does not have to respond then, in terms of policy at least, the Electoral Commission simply becomes a well funded think tank. In order to be truly effective in influencing policy debates, the Commission must be able to ensure that the Government responds to its reports as soon as is practicable.

Recommendation:

The New Politics Network believes that the Government should have a statutory obligation to respond to policy recommendations made by the Electoral Commission. This must be a specified time frame, which allows the Government sufficient time to reply, but not to use delay as a tactic to take the issue off the agenda.

Has the appropriate balance been struck in the division of responsibilities between The Electoral Commission and other public bodies in promoting public awareness of and participation in elections and referendums?

The New Politics Network believes that the Electoral Commission has an important role to play in raising public awareness of elections and the importance of voting. This role was not effectively carried out before the creation of the Electoral Commission and it is a difficult role for the Government to perform.

However we have two particular concerns: firstly that the Commission should not duplicate work or services already provided effectively by other bodies and secondly that the Commission's promotion of politics without reference to participation in political parties can actually have a detrimental effect on engagement and turnout.

While we think that some Electoral Commission initiatives, such as the talking heads campaign, have been very effective but others such as the *About My Vote* websites seem to simply duplicate information already provided by other organisations. Indeed when we phoned the about my vote helpline with a query about whether there were any independent candidates standing in a particular constituency at the general election, we were told to look at the BBC website because their information was more up to date than the Electoral Commission's!

Our main concern, which will also be raised in the Governance section, is that in order to appear independent, the Electoral Commission promotes a model of politics without political parties. The message seems to be that while voting is very important actively engaging in politics i.e. joining a political party, canvassing, leafleting etc is not and indeed is somehow suspect.

For example in the recent Democracy Cookbook resource created to complement Citizenship Education in schools, there is a whole section on how to get more involved from starting a petition to submitting evidence to parliamentary inquiries but at no point does it suggest joining a political party. Equally while the Electoral Commission tells voters how to register it doesn't provide information or links as to how you can find out what the difference parties stand for. The Electoral Commission provides good basic information on how to vote and how our democratic system works but ignores the fact that voters have to decide who to vote for.

One of the reasons that is frequently given for not voting is that individuals don't know enough about the issues and policy programmes being offered by different parties. The Electoral Commission does nothing to fill this gap. Obviously the Electoral Commission cannot be seen to be endorsing one party or another but it can provide links to information. The Dutch Electoral Commission funds but does not run a website called vote match <http://www.votematch.net/>. Vote match outlines what the different parties stand for and what their respective policy programmes are on particular issues. This scheme works and is trusted by voters specifically because it is associated with the Electoral Commission. It ensures that the information is neutral and balanced. There are a number of websites that did similar things in the UK general election, but you would not have found this out from the Electoral Commission.

Political parties perform important roles without which representative democracy could not exist. There is at present no effective alternative model for organising representative democracy. Parties are still the only effective mechanism by which normal people can have any personal contact with the body politic, but they are now nearing critical condition in terms of their ability to perform the set of tasks we need them to. We think it is important that any awareness raising work carried out by the Electoral Commission recognises this and acknowledges the important contribution that party activists make to our democracy.

Recommendation:

The New Politics Network believes that the Electoral Commission should play a co-ordinating role in public education. They should have overall responsibility for making sure that the information is available and services are delivered but not necessarily undertake the work themselves. They should work with other bodies such as the BBC to establish what provision is already available, ensure that it is accurate and balanced but not duplicate it.

Does The Electoral Commission operate as a strategic regulator in exercising its responsibilities in relation to: (b) the regulation of donations to parties?

The PPERA regulations on donations to political parties are based on the principle that openness and transparency are essential to a healthy political system. While the Electoral Commission makes available the data on donations to political parties we are concerned that it doesn't do enough to publicise this aspect of its role or to make the data user friendly. The information can be found when you know when and where to look but there is no advance publicity that the information will be published and we do not believe that the public proactively seek it.

Also the format it is published in makes it very difficult to search and cross reference donations. For example it is not possible to find out who the top 5 donors to the 3 main parties were in the last quarter on the Electoral Commission database. The data is all there but here does not seem to have been any thought about how the public might want to use this information. We have created a fully searchable website <http://www.new-politics.com/partywatch/> based on the Electoral Commission data. We did not use any additional resources to create the site but the task was made more difficult by the format of the data. The Commission's role seems to end simply at collecting and publishing the raw data. There may well be a view that the Commission's role should be limited in this way but if so, they should make it easier for others to do this work.

Recommendation:

The Electoral Commission must operate by the standards that it enforces; it must be open and transparent. Information about the role and governance of the Electoral Commission, as well as the registers, must be easily accessible and understandable to members of the public.

Questions about the governance of The Electoral Commission

Does the independent legal status of The Electoral Commission provide it with sufficient independence from Government?

Legally the Electoral Commission is independent from Government but we would argue that in practice, particularly when making policy recommendations, it does not exercise its independence enough. This is not to say that the Electoral Commission does not disagree with or criticise the Government; it does particularly in relation to the technical aspects of electoral law.

However when researching explicitly political issues that affect our democracy, such as party funding, the Commission focuses too much on what can be achieved and what the Government might accept rather than what the best policy solutions are.

Party funding is a particularly complex and contentious policy area but despite a 2 year investigation the Commission's report failed to move the issue on. The investigation provided the room for debate but when the political parties proved unwilling the Electoral Commission backed away from the argument. There is little point in being independent if policy recommendations are tailored to the political climate. If the Electoral Commission is to have a policy making role and we believe it should, then it has to be more willing to challenge Government and political parties in general on the more political issues.

Recommendation:

The Electoral Commission needs to develop a culture of independence from Government and to be more willing to assert this when making policy recommendations.

Are the restrictions on who can be an Electoral Commissioner appropriate in the light of the responsibilities of Commissioners under the Political Parties, Elections and Referendums Act 2000?

No we do not believe they are appropriate. We find it slightly bizarre that the group of people who actually have experience of the way political parties work and how regulations operate, i.e. active party members, are deliberately excluded from working for the Electoral Commission or becoming a Commissioner. It is equivalent to the Football Association refusing to employ anyone who had ever played football.

We believe that the exclusion of party activists and staff from all levels of the Electoral Commission, is a form of anti politics. It once again sends the message that while voting is important and worthwhile any form of direct engagement with a political party is suspect. A healthy democracy needs active political parties offering competing policy programmes and political parties need members to go out and engage the electorate. Yet if you want to have a career in democracy issues and be appointed to a wide range of local, regional or national boards and inquiries the last thing you should do is actively participate in democracy.

We respect the need for the Electoral Commission to retain its independence and indeed have argued above for it to be more assertively independent. However there are experts in this field that the Electoral Commission cannot use and this risks making it ineffective.

We believe that the Electoral Commission should be able to appoint people who have held roles within political parties or been elected representatives as long as they resign that position and cease to be active within the party once they have been appointed.

One of the strengths of the Electoral Commission has been balancing the interests of smaller and emerging parties with the larger established parties. We would not want to jeopardise this and would certainly not want to see a situation as happens in the USA where the main parties dominate the Commission and use its power to exclude smaller parties. Therefore we would suggest that the majority of Commissioners should not come from a political party background but that active participation in party politics should not bar a candidate from becoming a Commissioner. We believe that the European Commission provides a good example of how this can work in practice.

Recommendation:

The New Politics Network believes that the 10 year rule should be abolished for both staff and Commissioners. Although those with party political experience should be allowed and encouraged to be Commissioners they should not be a majority and must resign all political posts and campaigning work once appointed to the Electoral Commission.

Questions about the accountability of the Electoral Commission

Does the Speaker's Committee of the House of Commons constitute an appropriate accountability mechanism for The Electoral Commission?

We believe that it is right that the Electoral Commission is accountable directly to Parliament rather than the Executive and therefore we believe that the Speakers Committee is the appropriate accountability mechanism. However we do believe that improvements can be made and we outline our proposals in the answers to the subsequent questions.

If it does, are there any incremental changes to its composition, mandate or procedures which would contribute to its effectiveness?

There needs to be more information made available. The Electoral Commission website explains the role of the Speakers Committee and who the members are but does not provide details of when they meet, transcripts or minutes of meetings or links to where this information can be found. If accountability is to be effective then it has to be open and transparent.

If it does not, is there an alternative mechanism to make The Electoral Commission more accountable?

While we believe that the Electoral Commission should primarily be accountable to Parliament we believe that it is important for all public institutions, and particularly those concerned with democracy and participation, to engage with the public. The Electoral Commission already does this to a certain extent in their policy consultations but this does not actually encourage participation. We propose that the Electoral Commission should establish a Citizens Panel or Council, which could examine policy areas in a deliberative manner and feed into discussions.

A comparable example is the Citizens Council used by NICE to bring the views of the public to NICE decision-making about guidance on the promotion of good health and the prevention and treatment of ill health. For more information please see <http://www.nice.org.uk/page.aspx?o=citizenscouncil>

The Committee would find it valuable to receive evidence about the development and operation of policy areas within the remit of The Electoral Commission that highlight issues regarding the Commission's mandate, governance and accountability.

The New Politics Network believes it is important for the Electoral Commission to engage with the issue of electoral systems as well as voting and democracy in general. While we appreciate the concern about commenting on an area which the Commission would then be involved in regulating, we believe they have been too timid in this respect. We propose that the statutory reports the Electoral Commission produces after each election should include a section on the operation of the electoral system. This would be particularly valuable as there are a number of different electoral systems now in operation in the UK for different elections.