

**Committee on Standards in Public Life  
Review of the Electoral Commission**

**Submission from the Nominating Officer of the Scottish Green Party**

**Note**

Abbreviations and conventions used in the responses below:

Committee = Committee on Standards in Public Life

EC = Electoral Commission

Parties = Political parties

parties = parties in the generic sense.

SPPP = Scottish Political Parties' Panel

**The Electoral Commission's mandate**

1. *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?*

In principle yes, but there is still not a sufficient realization of the real cost of running such an operation effectively. To some extent everyone is scared of being seen to create extra bureaucracy. Boundary Commission responsibilities are gradually being transferred to the EC but this seems to be a question of moving existing staff. Were (for instance) payment of Returning Officers (2.16 in the Committee's issues paper) to come under the EC, and there is a good case for this, further staff would be needed. The true cost of running elections has never been addressed anyway because of the peculiar way in which parliamentary elections are financed and Returning Officers appointed and paid for each election separately.

2. *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?*

Not to the mandate but hopefully to the power. One possibility could be for the EC to have a way of initiating electoral legislation in Parliament without relying on the political benevolence of the government of the day.

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

At present, yes.

4. *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?*

This is a problem area riddled with ineffectiveness. The EC *has* taken steps to promote voter awareness and produced excellent advertising, for instance, before the last Westminster election. But in areas where fair voting systems are being introduced, a much more determined effort on voter education is needed from the EC and Scottish Executive.

The government-issued voter education leaflets distributed before the first Scottish Parliament election in 1999 were technically incorrect in the explanation of the then new voting system. This probably would not happen nowadays but with the advent of Single Transferable Vote in the Scottish Local Elections due in 2007 (simultaneously with the Scottish Parliament election) there is a major need for high quality voter education material. The evidence so far is that though the *need* is well recognised neither of the bodies involved, EC or Scottish Executive, is going to be able to devote enough time and

expertise to preparing an adequate campaign. The reason is that there are several issues being dealt with simultaneously and though some important decisions (e.g. on the timing of the counts) will have to be taken in the near future voter education will receive less attention than it deserves, because of competition from the sheer need to ensure the elections are run properly.

5. *Does The Electoral Commission operate as a strategic regulator in exercising its responsibilities in relation to:*

- (a) *the registration of political parties;*
- (b) *the regulation of donations to parties; and*
- (c) *the control of campaign finance?*

Yes. It is clear that its publication of donations reports (for instance) has helped to raise public awareness if not actual understanding of Party funding issues.

### **Governance of the Electoral Commission**

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

Yes. In particular the rule requiring Commission staff to have had no political involvement in the decade preceding their appointment is a very valuable one. The importance of this cannot be over-emphasised in maintaining the trust of Parties. The existence of a genuinely neutral body is extremely significant – perhaps particularly to smaller Parties, for which the EC’s advisory role is an important resource. The down side, in a sense, is that being neither part of the civil service (and rightly so) nor a political body, the government doesn’t need to take it too seriously.

7. *Is the financing of The Electoral Commission - through a combination of income received by the Commission for services, and money provided by Parliament from the Consolidated Fund - compatible with its independent regulatory role? Is there a more appropriate way of financing the Electoral Commission?*

The ability of Parliament to squeeze the EC by, essentially, starving it of funds should politicians not like what the EC says, is a worry. But it is difficult to see what other route is available when using public money. I am not competent to comment on the income derived from registrations (which cannot be significant in terms for the cost of running the EC).

8. *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?*

Yes. But so far there has not been enough time for there to be experience of new appointments testing this significantly.

### **Accountability of the Electoral Commission**

9. *Does the Speaker’s Committee of the House of Commons constitute an appropriate accountability mechanism for The Electoral Commission?*

No. The influence of the Speaker’s Committee is disproportionate in the context of political activity as a whole. True, the Westminster Parliament is the one which set up the EC and has the power in law to alter its remit and function. But by its nature it does not represent the full range of political opinion. Westminster is now in many ways the odd one out among the various legislative levels. It is the only one *without* a fixed term and at the same time solely dependent on relative majority (“first past the post”) elections. MPs thus come from a different political culture than that current in the devolved legislatures of Wales and Scotland (partly elected by a form of proportional representation), the

European Parliament (wholly elected by proportional representation) and local government (forms of proportional representation are now used in Northern Ireland, Scotland from the next election and the also the London Assembly). An example of this is the refusal (so far) of any extension of Policy Development Grants to Parties represented in bodies other than Westminster.

10. *If it does, are there any incremental changes to its composition, mandate or procedures which would contribute to its effectiveness?*  
See below.
11. *If it does not, is there an alternative mechanism to make The Electoral Commission more accountable?*  
One route would be to broaden the Committee to include European Parliament, devolved legislature and local government interests. This perhaps brings in other problems, both in nominating or selecting such individuals, and in increasing the size of the body.
12. *Are the devolved administrations of the UK appropriately incorporated into the accountability mechanism?*  
No. For instance it is an absurdity that the EC has to be specially asked by the Scottish Executive to advise and report on local elections in Scotland. This should be automatic. There are also indications that some practical issues (a "live" one is the timing of the Scottish Parliament election count) are unreasonably influenced by Westminster.
13. *Has the Parliamentary Parties' Panel and its decentralised variants been an effective way of The Electoral Commission engaging in dialogue with political parties? Is there a more effective way of conducting this dialogue?*  
Certainly, in the context of the SPPP, yes; and the EC's plan to institute separate meetings with individual Parties will enhance that. The SPPP is an extremely valuable medium. (The issue that the Panel meetings involve Party officials rather than elected politicians raises the issue of communication within political parties rather than the functioning of the EC). As well as involving Parties, the SPPP has brought in staff from the Scottish Executive and Returning Officers which has been extremely valuable.

## **General**

14. *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 EC potentially occupies an uneasy and paradoxical position. Created by an Act of the Westminster Parliament, a body in which the government of the day is usually quite disproportionately represented, in that sense it is ultimately subservient to Parliament. But it nevertheless has to be completely independent. At present the independence is not in doubt but the weight which the government gives to the EC's views is.

Part of its function is in a sense mechanical: dealing with registrations; the collecting and scrutiny of Parties' various routine and election financial returns, for example.

However it is highly active in studying and reporting on many aspects of the political process and elections. If it has a fault it is that in some areas it has been too tentative. This is compounded by the fact that on a number of occasions quite well considered recommendations have been flatly ignored by government.

A few examples are illustrative. When the EC investigates an issue it does so thoroughly and allows Parties to have their say; it often commissions research, for instance through polling, and its conclusions are reached after absorbing quantities of relevant facts.

As part of its “foundation model” study the EC recommended that voter registration canvass should be on an individual basis, not through heads of household. By the time the report came out, the issue became “live” as a result of postal voting abuses in 2005 and there was a political need for the government to be seen to do something. The present Electoral Administration Bill followed hasty consultation by the Department for Constitutional Affairs covering some ground already examined by the EC.

When the voting age was subjected to review an interesting situation developed. The EC eventually recommended no change. A number of political Parties (mine for longer than most) and certainly many individual politicians are strongly committed to lowering the voting age to 16, not least as a way of improving voter engagement. The Commission felt its polling evidence did not support change and (as I read it) felt it should make an exclusively evidence-based decision. That was supported by the evidence but looking at the polling data in detail there was in fact support among young people for lowering the voting age to 17 if not to 16. This was an instance in which a bolder initiative than accepting that status quo might have been more appropriate if other issues of concern were taken into account. The relatively low participation rate in elections by the 18-25 age group in recent years has been of considerable concern to all those involved in politics. Lowering the age of franchise might in fact help to develop a commitment to voting from an early age.

A third example is highly topical: funding of political parties. 18 months after the EC published a detailed study of the issue (politely received but at the time essentially shelved by the Government) we are in the ludicrous situation of having the entire issue subjected to *two* fresh reviews. As with the DCA consultation on electoral administration, the Government evidently felt it had to have a review more directly under its aegis than the EC’s. One of them is a re-run by the EC itself even though its first shot was informed by extensive consultation and research. This episode is doubly illustrative. The 2004 review was done on the EC’s initiative (remember, it looks closely at all Parties’ accounts and has more insight than any other body of the costs of running political parties). But at the time its report was published, funding did not seem to be high on the political agenda and all Parties shied away from state funding, sensing little public support (as did the EC itself, based as ever on polling evidence). The loans issue changed that overnight. All of a sudden the political world had to address party funding and we have the new reviews, one directly at the behest of the Prime Minister with the EC wading in again. One of the issues being addressed is policy development grants on which the EC had made recommendations previously and the government declined to extend (see 9 above). It will be interesting if any new arguments or facts emerge through the latest reviews.

The fact that new reviews are taking place reinforces the impression that the EC’s considered recommendations do not carry much clout with government – even when some important issues have been addressed and at least some solutions outlined. This is not the fault of the EC and perhaps as time goes on it will feel able to be more emphatic in its recommendations, or it will develop such a reputation that governments will find it more difficult to ignore it.

Since its inception, the EC has certainly been extremely diligent in investigating and reporting on a wide range of election related issues (my only complaint is that the reports are printed on unnecessarily thick, high quality paper!). Many of these issues have not been properly examined before and I hope it continues this process.

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