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## Committee on Standards in Public Life - Review of Electoral Commission

### Questions about the mandate of The Electoral Commission

*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?*

We believe that the mandate of the Electoral Commission (EC) needs further clarification. There have been several clear examples which indicate that it is currently not defined clearly enough to assist the most efficient and effective functioning of the EC.

a) The EC has broadly performed its role as a regulator well but is handicapped by the way the current regime of penalties in statute could be used to penalize a largely volunteer group of local party treasurers in all parties. This penalty regime needs reforming to make it clearer and easier to operate, as relying upon publicly naming and shaming parties for breaching the Act has not had a satisfactory outcome in improving compliance and the range of penalties available to the EC would normally be too harsh punishment for a voluntary treasurer.

b) It is in its role as an advisor on electoral matters that its mandate perhaps needs the greatest change. For example on the issue of piloting all postal ballots in the last European Elections, the Government ignored the Commission's proposals for a more limited experiment (in the East Midlands and the North East) and pushed through a much larger project (including the North West and Yorkshire and the Humber) which started the sequence of events leading to large-scale public disquiet about postal voting in elections. Our view is that the Commission's advice should be followed unless the Speaker's Committee advises against following this advice and both houses reject it.

*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?*

Yes. There is a need to move the proposing of detailed changes to electoral administration away from government departments and ministers to the Electoral Commission. The current system has not been helped by the multiple changes of the responsible government department since 2001 from the Home Office, to the Department for Transport and the Regions and then to a split responsibility between the Office of the Deputy Prime Minister and Department of Constitutional Affairs. We believe that a way should be found either through the Speaker's Committee or a modified Speaker's Committee for proposals about reforming electoral administration drafted by the Electoral Commission to then be placed before Parliament for approval. This would make it clearer when the government is acting as a partisan player in these processes by requiring the government to submit amendments in the same way as the opposition parties.

Such a move would also significantly reduce the amount of duplication of consultation which occurs at the moment, where the government consults the EC, parties and others, and then the EC in turn also consults parties and others, resulting often in near-identical double requests for views.

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

Not yet. See previous answers.

*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?*

Broadly yes. The EC should lead, and involve returning officers. If the DCA wishes to do its own promotion that is of course possible, but ideally it should support the EC rather than acting independently. Political parties of course have roles to play.

*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?*

- 1- The Electoral Commission still needs better to deal with the possibility for confusion between names of political parties when registering new party names on the register. This is partly a function of the number of parties on the register. This will in part be solved by the amendments in the Electoral Administration Bill. However we believe that there could be a lighter regime for smaller parties if the Register of Political Parties was divided into two. There could be a register for parties

which contest UK wide or country wide elections and a register for those which only contest local elections. This would allow two regimes to operate sensibly and clearly with different requirements. An alternative would be to allow small parties to

make a declaration that they will not accept donations above the reporting threshold in their registration document.

- 2- Regulation of donations is broadly satisfactory. However the way the Commission displays the data to the public and the ways the public can use the data it displays could be radically improved and made more user friendly
- 3- Sometimes the requirements asked of parties don't seem to be dealt with in a joined up fashion. For example, we believe that there should be a consolidation of the audit requirements under the Act. Certainly we see no reason why the policy development grants should not be audited as part of the audit of a party's annual accounts. It would also make sense for the campaign expenditure return to be audited this way, otherwise increased costs are incurred to audit the same monies twice and possibly three times.
- 4- The campaign expenditure limits part of the legislation seems to have worked well, other than in the area of staff costs. In this area the declared expenditure has been significantly less than the levels of expenditure academics and others have estimated that parties spent at general election time. It is clear that the expenditure limits set are too high and need to be reduced. There is also a loophole in not having a combined limit for elections which include a London Mayoral election, which has a very high limit, and which could therefore influence a general or European election result in London differently to the rest of the country. We are also concerned at the ability of campaigns to offset against the national limit costs which should count against a constituency's limit – e.g. a posted letter personally addressed to an elector and naming their constituency has been counted against national expense limits by at least one other party. This should count as a constituency expense.
- 5- The issue of the reporting of public funds still suffers from confusion as well. There are inconsistencies under the Act, for example by requiring the report of start up costs grants but not policy development grants. There also seems to be doubt about whether monies from the Westminster Foundation for Democracy should be declared despite the fact that it is funded by an FCO grant. This is going to be partly solved when the Electoral Administration Bill requires the reporting of policy development grants. Given all these monies plus Short and Cranbourne money (and their equivalent in the devolved assemblies) apply to a wide range of parties, it would be better just to simplify the reporting regime. The Commission could publish a separate section of the website stating the annual amount received by each party in each of these categories.

## Questions about the governance of The Electoral Commission

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

Yes.

*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 current system seems to work well.

*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?*

The current structure is certainly better than, say, the United States Federal Electoral Commission which does not function well because it is made up entirely of party nominees. Our system is better partly because of the existence of the parliamentary parties panel which provides for a dialogue between the parties and the Commissioners.

However, we believe the extent to which the ban on previous political involvement is carried out, particularly by including all staff appointments, may not help the functioning of the Commission. We believe that there could be some Commissioners appointed from parties, although maintaining a majority of independent Commissioners and an independent Chairman. There would need to be specific consultation on this.

## Questions about the accountability of The Electoral Commission

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

For the time being this should be continued as an adequate mechanism. There may be a case for later modification or review.

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

See answer 12.

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

No.

**12.** *Are the devolved administrations of the UK appropriately incorporated into the accountability mechanism?*

We believe this could be improved by the inclusion of the Speakers of the Scottish Parliament, Welsh Assembly and Northern Ireland Assembly to the Speaker's Committee for meetings dealing with the Electoral Commission.

**13.** *Has the Parliamentary Parties' Panel and its decentralized 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?*

Yes so far. However it could be improved by having a wider agenda planned ahead for each year.

## **General question**

**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.*

1 - We believe that with the introduction of STV for Scottish local government elections in 2007 the public are now faced with a large number of different voting systems for different elections around the United Kingdom. After the 2007 elections the EC should undertake a full review of the implications of this mix of systems not least because the EC will have to run any referendum on changes that may happen as a consequence of any enquiry.

2 – The EC's powers in relation to the Boundary Review process are so far untested as the current review has not yet been completed. We look forward to seeing how the Commission will rise to the challenges this new role will present.

3. In 2009 at the latest there should be a comprehensive review of the Electoral Administration Act 2006, in particular reporting on the issue and practice of personal identifiers.

Conclusion.

Any other responses will be made in my verbal evidence.