

Committee on Standards in Public Life
Eleventh Inquiry- ‘The Electoral Commission’

Submission of evidence by

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1. Since its establishment under the Political Parties, Elections and Referendums Act 2000, the Electoral Commission has established itself as a highly-respected and high-profile strategic regulator in the sphere of party registration, party funding and elections. The Chairman, Sam Younger, and Chief Executive, Peter Wardle, have provided strong and coherent organisational leadership that has allowed the Electoral Commission to play a key role in upholding certain values in public life.
2. The Committee on Standards in Public Life’s quinquennial inquiry into the Electoral Commission provides a timely opportunity to reflect on the governance and accountability of the organisation as well as the balance in emphasis between certain statutory responsibilities.
3. There are four issues I would like to emphasise in this memorandum.
4. First, I would suggest that there might be some value in balancing out the work of the Electoral Commission away from a predominant focus on regulation and regulatory issues to a broader, or more balanced, strategic plan that emphasised the Commission’s duty to promote public awareness and involvement in the democratic system.
5. Second, one of the main issues demanding urgent attention in the short-term concerns the Electoral Commission’s accountability to/relationship with Parliament. The current system via the Speakers Committee is incoherent and plays down the vital role played by the Electoral Commission in contemporary British Politics.
6. The ‘gold-standard’ model that I would recommend would adopt the relationship between the Comptroller and Auditor General/National Audit Office and the Public Accounts Committee. This would involve the creation of a new Select Committee on the Electoral Commission which received and examined the reports of the Commission and launched further inquiries as and when required.
7. A second model would mirror that used by the Parliamentary Commissioner for Administration (which used to have its own dedicated select committee in the House of Commons) which reports annually to the Public Administration Select Committee. This would involve the creation of a more formalised

relationship between the Electoral Commission and the Select Committee on Constitutional Affairs (but would not, of course, prevent the Electoral Commission from providing information and witnesses to other committees).

8. The key in all these options is quite simple – a visible, coherent and transparent link with a select committee of the House of Commons. The Electoral Commission is, at present, ‘off the radar’ in parliamentary terms.
9. A final option could establish a system of joint-accountability to both Houses of Parliament through both the House of Commons’ Select Committee on Constitutional Affairs and the House of Lords’ Committee on the Constitution. Involving the Lords Committee could potentially provide a mechanism through which the independence of the Electoral Commission is protected against the Executive’s de facto extensive (but not complete) control of the House of Commons.
10. The third issue I would like to raise concerns the appointments process for Commissioners. The role and status of the Electoral Commission make it imperative that the selection and appointment of Commissioners is undertaken in a transparent and open manner beyond the control (formal or informal) of elected politicians or civil servants. Clearly it is unsatisfactory for a ministerial department to administrate the selection process, and Mr Speaker may understandably lack the resources and skills to undertake a wide-ranging open recruitment drive.
11. One solution to this problem lies in the role and capacity of the independent NHS Appointments Commission. This organisation undertakes the whole advertisement, sifting, interviewing and appointment process for a wide range of NHS and professional self-regulatory bodies. Its jurisdiction has increased to encompass a growing range of independent regulatory bodies in recent years and from October 2006 the NHS Appointments Commission will become an executive Non-Departmental Public Body in order for it to be able to offer its recruitment services across the whole of the public sector and not just to health bodies. Mr Speaker could therefore engage the services of the Appointments Commission (the NHS prefix having been removed from October) to conduct the recruitment process and provide a short-list of suitable candidates.
12. Finally, the Committee on Standards in Public Life’s inquiry into the Electoral Commission cannot be undertaken in isolation. There is a broader and arguably more important issue to be examined in relation to the increasing number of constitutional watchdogs that now exist within the architecture of the British State. Alongside the Electoral Commission, I am thinking specifically about the Office of the Commissioner for Public Appointments, the House of Lords Appointments Commission, NHS Appointments Commission and the Judicial Appointments Commission to name just a few.
13. Each of these bodies acts as a strategic regulator but they have different governance and accountability frameworks. There is no coherent rationale or principled underpinning for these bodies and the existence of glaring anomalies are a topic of increasing disquiet. Why, for example, is the Electoral Commission an independent parliamentary body but the Office of the Public Appointments Commission formally a non-departmental public body of the

Cabinet Office? How can the latter be independent, and more importantly be *perceived* as independent, of government when it is financed by and reports to a ministerial department?

14. The Public Administration Select Committee (PASC) is currently examining the topic of constitutional regulators and watchdogs and I would hope that the Committee on Standards in Public Life's inquiry into the Electoral Commission can complement and dovetail with PASC's broader inquiry.

Dr Matthew Flinders

2 March 2006