

DRAFT ONLY;
SECOND DRAFT

SECOND MEMORANDUM OF EVIDENCE

By

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**Submitted to the Eleventh Inquiry of the
COMMITTEE ON STANDARDS IN PUBLIC LIFE**

September 2006

1. This document has been prepared as background to my second appearance before the Committee on 14 September 2006. It follows up an earlier Memorandum of Evidence, Introductory Statement and verbal evidence given to the Committee at its first public hearing relating to its eleventh inquiry, which took place on 13 June 2006.
2. Following the hearings on 13 June, there have been intensive and productive contacts between the Electoral Commission and me. These have concerned
 - (a) the correspondence between the Commission and me before the general election of May 2005, which the Committee requested on 13 June and
 - (b) the accuracy of the electoral register.

I wish to express my appreciation to senior members of the staff of the Commission, especially to the Chief Executive, Peter Wardle, to Nicole Smith and to Douglas Stewart.

Our joint objective has been to present to the Committee a clear version of the main facts on each of these matters in order to clarify to the Committee our main points of agreement and disagreement without the need to burden the Committee with detailed technical discussions.

3. By avoiding the need for wrangling about technicalities and facts, it is hoped that the evidence to be given on 14 September can then focus on some basic issues of policy concerning the future of the Electoral Commission.
4. In summary, I stand by the main points I made in my earlier Memorandum of Evidence and feel that they have withstood considerable scrutiny. The essence of my argument was that the problems of electoral administration in the United Kingdom are severe. Therefore the Electoral Commission needs to focus on fulfilling a regulatory task. By attempting to carry out peripheral tasks of pro-democracy public relations and of policy advice on legislation, the Commission has so far done too little in the core field of regulation.

This second memorandum will attempt to take the argument further by setting out some of the implications of the key recommendation that the Electoral Commission should in the future focus on regulation.

Before setting out its proposals, the memorandum will consider two preliminary matters:

- (a) it will discuss my communications during the run-up to the general election of 2005, copies of which were requested by the Committee during its first public hearings on 13 June 2006,
- (c) it will comment on the accuracy of the electoral register, another question that has arisen from my evidence on 13 June 2006.

PRELIMINARY MATTERS.

5. **How the Electoral Commission dealt with the matter of a definition of “commercial” loans in the period leading up to the general election of 2005.** As requested by the Committee on 13 June, Douglas Stewart of the Electoral Commission and I examined our respective records of my correspondence with the Commission in the run-up to the general election of 2005. A complete set of what we agree constituted that correspondence has been forwarded to the Commission. Prominent among the matters raised in this correspondence was the matter of what constituted a “commercial” loan. The definition of “commercial” was crucial because under the terms of the Political Parties, Elections and Referendums Act, 2000 (PPERA) loans did not need to be disclosed if they qualified as “commercial”.
- (a) The fact that there were significant gaps in the system of disclosing donations to political parties became evident from the small totals declared by each of the main parties in the submissions of information they were obliged to make to the Commission on a weekly base before the general election. These weekly totals were published by the Commission according to the provisions of the PERA.
 - (b) On 21 April 2005, a major article in The Times reported that loans to parties were being used on a major scale and that such loans were not subject to disclosure under the terms of the PERA, 2000.
 - (c) On the basis of this article, I contacted the Commission and asked for clarification of what the Commission considered to be a loan which was “commercial”.
 - (d) After an interval, the Commission gave a reply that effectively refused to give a suggested definition of the meaning of “commercial”. A senior official of the Commission confirmed to me in a telephone call that it was the policy of the Commission that it should not act as a referee in real time.

There is no disagreement between the Commission and me about the essential fact shown by our correspondence in April 2005, namely that the Commission intentionally avoided giving guidance about the meaning of a “commercial” loan during the run-up to the general election of May 2005.

For the Electoral Commission and for the Committee, the broad point of policy becomes clear. So far, it has been the policy of the Electoral Commission to avoid giving “advisory opinions” on the meaning of ambiguous words in existing electoral legislation. In effect, it has said to the parties that the parties are under an obligation to satisfy themselves that they are acting within the law but that the Commission itself cannot give guidance.

In some other countries, electoral commissions are more pro-active and do offer advisory opinions.

It is my view that the stance of the Electoral Commission in 2005 was too passive in matters of regulation and that the Commission thereby contributed in a significant way to what has become the matter of alleged “loans for lordships” which is currently *sub judice*. I appreciate that the Commission rejects this view about its past performance.

However, turning from the past to the future, I understand that there is now discussion within the Commission about whether it needs to be more pro-active in carrying out its regulatory tasks and whether it should adopt US and Canadian models of issuing advisory opinions. I welcome this discussion. The matter is likely to be raised during the international conference on the regulation of political finance to be held by the Commission in London on 5-7 September.

6. The accuracy of the electoral register.

Though it is of vital importance to ensure that electoral rolls are accurate, the measurement of the number of errors on the electoral register is a highly technical matter. The Electoral Commission and I have had detailed discussions about the matter over the course of the summer. I am grateful to the staff of the Commission and especially to Douglas Stewart for their help. The product of our exchanges is a document produced by the Commission in late August titled “The electoral register”.

Much of the public discussion about the accuracy of the register has centred on the headline figure of roughly 7 million errors in the registers in England and Wales, which I mentioned in my earlier Memorandum of Evidence and in my verbal evidence on 13 June.

- (a) The agreed point of departure is that the research sponsored by the Commission after the Census of 2001 dealt narrowly with the number of missing names – persons entitled to vote who were not included on the register. There was no research on the number of redundant names – persons not entitled to vote whose names were included. This major gap in existing research means that any estimate of the total number of errors – missing names plus redundant names - must be somewhat speculative. This was already clear from my first Memorandum of Evidence and from my verbal evidence.
- (b) Because of the lack of reliable evidence about redundant names, and because survey evidence cannot give precise results anyway about missing names or redundant names, totals need ideally to be reported as a range of figures. For the sake of simplicity, it is common practice to report results in terms of a round number within the range of figures suggested by a survey. This was the practice of the Commission in citing the number of missing names in England and Wales in its publication Understanding Electoral Registration as “3.5

million” (rather than “3.2 to 3.65 million”). In a similar fashion, my headline figure of 7 million errors should be understood as denoting a range of possible numbers smaller and greater than this rough total.

- (c) When it comes to an estimate of the number of redundant names, there are different methods of estimation. All are necessarily indirect for the reason given in (a) above.

As explained earlier to the Committee, my method was to base my estimate on the assumption that the ratio of missing : redundant names is the same as it was at the time of the last robust survey of redundant names, which was conducted at the time of the 1981 Census. The disadvantage of this method is, of course, that 1981 is now a long time ago. This method yields a total number of errors in the registers for England and Wales in 2000-1 of about 7 million.

The estimate of redundant names in the survey conducted after the 1991 Census is, in my view, more unreliable both for technical reasons and because of what seems to have been a significant effect of the poll tax in reducing the number of redundant names at that time. If it is assumed that the redundancy level of 2000-1 was the same as it had been in 1991, then the total number of errors in 2000-1 would emerge as about 4.5 million. But the use of the 1991 situation as a basis for estimation of the number of redundant names in 2000-1 is especially dangerous because the special circumstances of the poll tax period no longer apply.

At the time of the political furore over the poll tax, electors appear to have perceived that they could escape the obligation to pay the tax if their names were missing from the electoral register. This gave an incentive to take names off of register both of those who no longer were obliged to remain on the register (redundant names) and of those who were obliged to be on the register (missing names). One might therefore have expected the number of missing names to increase and the number of redundant names to decrease – and this is what the survey carried out at the time of the 1991 Census shows. I agree with the Commission that there is no hard evidence about the poll-tax effect at the time of the 1991 Census.

Until there is solid survey-based evidence about the number of redundant names, I feel it is better to use 1981 rather than 1991 as a basis for estimation of the ratio of missing : redundant names.

- (d) We discussed two further methodologies for calculating the likely number of redundant names. However, both of these are so complex and so dependent upon unreliable assumptions that they are more suitable as a subject for a technical seminar than for a public hearing. (One of them – proposed by the Commission - is summarised in Paragraph 10 of the Commission’s paper on The electoral register”. The other is outlined by Jean Todd and Bob Butcher in Electoral

Registration in 1981, Section 2.5 “Reconciliation with population estimates.” London: Office of Population Censuses and Surveys: Social Survey Division, 1982, 9.)

- (e) Provided that the uncertainties are stressed, it may be useful to spell out the ranges of figures about errors in the register that emerge. If one is to take the most extreme assumptions, then the number of missing names in 2000-1 (based on the survey by the Office of National Statistics sponsored by the Electoral Commission) may have been as low as 3.2 million (8% of the eligible voting age population of England and Wales); the number of redundant names (based on the bottom projection of the 1991 survey) may have been as low as 0.6 million.

By contrast, using the maximum figures for missing names in 2000-1 and for redundant names in 1981, the number of missing names in 2000-1 was over 3.6 million (9% of the eligible voting age population of England and Wales) and the number of redundant names (based on the top of the range of estimates in the 1981 survey) was over 4.1 million.

This produces estimates of total errors ranging from a low of 3.8 million to a high of 7.75 million. For reasons given in (c) above, I feel that the bottom of this range is especially improbable.

- (f) These figures are for England and Wales only and for the time a register is first drawn up. If Scotland and Northern Ireland are added, the totals are (according to my reckoning) very roughly 10% higher. The range of possible totals then becomes 4.2 million to 8.5 million, with the higher part of this range being more probable.
- (g) Moreover, it is necessary for some purposes to take account of the obsolescence of the register during the year as voters die, move and fail to register at new addresses, or as Electoral Registration Officers omit to take names of those who have moved off the existing register. Even after the introduction of rolling registration, there may (according to my approximate reckoning) be 3 million more names on the register by the last day on which a register is in force of persons who do not live at the addresses where they are registered.

In most of these cases, the those who move but remain on the register under a previous address still are technically eligible to vote from the previous address. Thus most of the obsolescence of the register does not count as additional error. However, in practice, electors who move and who are not re-registered through the process of rolling registration are much less likely to cast a ballot.

On the last day of a register, there may therefore be between 7 and 11.5 million persons in the UK who are entitled to vote but whose names are omitted or of those named on registers under addresses

where they do not live or who do live at the addresses but are ineligible.

- (h) The number of errors on electoral registers has a practical importance for a number of reasons. First, where there are redundant names, there is an increased potential for electoral fraud. It is even easier to vote in the name of someone who never existed or who has died than to vote in the name of an existing person. Second, if qualified electors are missing from the register, they are disenfranchised. Third, errors in registration make statistics of voter turnout considerably inaccurate because the turnout figures are based on the patently false presumption that the numbers registered to vote are accurate.
- (i) There is the extra matter, raised on behalf of the Commission by Kay Jenkins in her verbal evidence in Cardiff on 6 July, of whether changes in the rules have produced a significant reduction in the number of errors since the time of the study carried out by the Office of National Statistics for the Commission. What have been the effects of rolling registration and of the rule that Electoral Registration Officers may “carry forward” names on a register for only one year? In its paper on “The electoral register”, the Commission accepts that this too is a matter on which there is not yet the firm evidence that would be needed before a conclusion can be drawn. Thus, the claim made by Kay Jenkins that these rule changes were “important” is unproven.

Although the effects of these two rule changes cannot yet be measured, the Commission is fully justified in pointing to them (and to other proposals such as individual registration) as evidence of its will to improve the registration system.

- (j) Since the Committee is concerned with the broad priorities of the Commission, the matter of why the Commission omitted to sponsor research into redundant names after the 2001 Census, may be of interest. The most obvious, common-sense explanation is that the Commission’s research priorities reflected its policy priorities: it was more interested in highlighting problems of missing names on the register than in examining redundant names.

The paper by the Commission on “The electoral register” explains that the failure to commission research into redundant names was for technical rather than for policy reasons.

In my opinion, it is unnecessary to examine or to question the Commission on this point since the commitment by the Commission to carry out detailed research in the near future into the number of redundant names makes an examination of its priorities in recent years moot.

In conclusion, though the Commission has argued for somewhat lower totals of errors than mine, though it has – justifiably – urged caution about all existing estimates, the essential points are agreed by the Commission and myself. First, there is a serious problem of inaccuracy in the register involving both missing names and redundant names. Second, there is an urgent need for research into the number of redundant names.

The decision of the Commission to undertake thorough research during 2007-8 into the matter of redundant names on the register is a positive and welcome outcome..

BROADER IMPLICATIONS.

7. The main thrust of my earlier memorandum was that the Commission needs to pay more attention to what may be seen as its core task – effective regulation and less to the additional, “soft” tasks of public relations, prompting higher voter turnout and proposing new legislation.

From the further discussions conducted over the summer, I have become even more convinced that there is an inherent contradiction between the peripheral, “soft” tasks assigned to the Electoral Commission and its core function.

To give a simple example, if – as at present – it is the function of the Commission to promote public confidence in the working of the electoral arrangements in the country (whether or not such confidence is deserved), it will naturally be disinclined to conduct research and to carry out enforcement activities that are likely to undermine public confidence.

Specifically, in the area of electoral fraud, if the public is better informed about what is going on, it will almost undoubtedly become more cynical about the current standards of electoral administration.

8. It follows that the **mission statement** of the Electoral Commission needs to be changed and abbreviated. In my view, its mission should, be quite simply:

“To ensure that the rules relating to elections and political parties are efficiently and fairly administered and enforced.”

The current statement is:

“Our mission is to foster public confidence and participation in the democratic process in the UK.”

- 9 **Electoral fraud.** The existence on the electoral register of ineligible names combined with the new system of postal voting on demand lays the system open to fraud, as argued in my earlier Memorandum of Evidence. It will be

useful in this second memorandum to summarise some of the evidence about the seriousness and extent of electoral fraud.

- (a) At the 2005 annual conference of the Association of Electoral Administrators, “nearly everyone” of the over 200 administrators present raised their hands during a straw poll about whether they had heard expressions of concern about the integrity of the poll in their constituencies during the general election of 2005.
- b) It is not only the mass of electoral administrators cited in the previous paragraph but other leading figures who have sounded the alarm about actual and potential electoral fraud. The root-and-branch criticism of the existing system of postal voting on demand by that leading authority, Richard Price OBE QC, is cited below.

The views of the judge in the Blackburn case are cited in the Appendix.

The Ritchie Report produced after the disturbances in Oldham in 2001 is a vital source since it was produced by an independent committee which carried out an exceptionally detailed investigation into political conditions in the town.

- (c) Then there is much-quoted judgement in the Birmingham cases of 2005. The carefully prepared judgement of over 200 pages prepared by Richard Mawrey QC have suffered from being cited only for its memorable final words about standards in Birmingham that would disgrace a banana republic.

The report deserves to be read more fully. It shows the high barriers against bringing election petitions, thereby demolishing the argument that the absence of petitions indicates the absence of electoral fraud.

The judgement details the lack of powers of the Returning Officers, who “has no duty to investigate electoral offences and no resources to do so.” (Paragraph 139.) The judge is highly critical of the police. (See the Appendix) and details the problems of election petitions. (Paragraph 159.) He therefore takes the Government to task for the claim in Cm 6436 cited above that concerns about electoral fraud are not justified by objective evidence.

186. To say “the concerns are not justified by objective evidence” is to gloss over two major factors:

- (a) ... where there are ineffective means for bringing fraud to light, then “hard evidence” of fraud is inevitably going to be scarce;

(b) no serious investigation was ever carried out into postal vote fraud.

187. In short, there is likely to be no evidence of fraud, if you do not look for it.

The concerns expressed by judges and leading lawyers specialising in election law, cannot reasonably be brushed aside. These lawyers must sit for long periods in court listening to evidence.

- (d) The extent of electoral fraud is shown by the extent of malpractice revealed in some of the most important cases. Examples are the cases in Birmingham, Blackburn and Hackney, cited in the Appendix. These have involved hundreds and, in the Birmingham cases, thousands of votes. (See Appendix.)
- (e) There have been detailed press reports about electoral fraud in a variety of leading newspapers concerning a considerable number of different cities. The fact that reports often do not result in prosecutions does not mean that the reports are baseless. (For a summary of some press reports, see Isobel White (2006). Postal Voting and Electoral Fraud. House of Commons Library, Parliament and Constitution Centre, Standard Note SN/PC/03667, last updated 13 June. <http://www.parliament.uk/commons/lib/research/notes/snpc-03667.pdf>.)
- (f) It is worth noting the words in the House of Commons of Mrs Ann Cryer, the MP for Keighley mentioning abuses of the postal voting system in her own constituency and in Bradford. (See the Appendix.).

10. Tackling the problem of electoral fraud. The Committee on Standards in Public Life will perform a major and much-needed service to improve the quality of electoral democracy in the United Kingdom if it issues a set of clear recommendations about how the problem of electoral fraud should be addressed.

I do not feel ready to give a firm set of recommendations about how the problem needs to be tackled.. Here are some preliminary ideas:

- (a) The issue of electoral fraud should be high on the Committee's own agenda.
- (b) It should be considered whether the Electoral commission should take over responsibilities currently exercised by the Department for Constitutional Affairs.

- (c) The issue of electoral fraud is of sufficient gravity to merit a high-level inquiry (perhaps a full-scale inquiry by the Committee on Standards in Public Life itself). This inquiry should have the capacity to conduct research as well as to obtain testimony.
- (d) The high-level inquiry should pass judgement on whether current legislation encourages electoral fraud. Postal voting on demand and individual registration are among the legislative measures which need to be reviewed again irrespective of the recent debates in both Houses of Parliament during the passage of the Electoral Administration Bill. In addition, there should be an examination of the powers and responsibilities of Returning Officers in light of the structures about their lack of powers set out in the Mawrey judgement.
- (e) If certain responsibilities currently exercised by the DCA are passed to the Electoral Commission, the Commission should develop a pro-active set of programmes to carry out these responsibilities.
- (f) Although the process of investigation into criminal contraventions of election law should remain with the police, there arguably should be special units, possibly based at the Electoral Commission, with the task of making preliminary inquiries into contravention of election laws. Such special units, staffed partly by experienced former Electoral Registration Officers, could be effective without possessing police powers.

For example, they could make detailed checks on names on electoral registers in chosen areas, streets and addresses. They could make spot checks on the validity of signatures of witnesses to postal voting forms. In the area of political financing, they could make detailed checks on expense returns of a random sample of local government and parliamentary candidates.

11. If the Electoral Commission is to focus more on executive, regulatory functions rather than on matters of policy, there may be a case for altering the remits of the Commissioners (especially the chair) and the Chief Executive. Clearly, in its founding years, the Commission has needed a strong, full-time chair, a position occupied with distinction by Sam Younger. After the eventual retirement of the chair, it may be advisable for his successor to be part time and for the position of the Chief Executive to be further strengthened.
12. The Electoral Commission needs to assure the Committee that its regulatory services staff are now organised in a way that ensures they are able to take a pro-active role in investigation and enforcement and that they are not bogged down in routine administration. The commitment to pro-active enforcement needs to be embodied in concrete performance targets.

13. Regulation of political financing. In Britain, as in many other countries, there is a temptation to resolve every problem by proposing changes in the law. In fact, what is usually required is less new legislation and a greater effort to enforce existing laws. I have put forward this viewpoint in more detail in a submission to the Constitutional Affairs Committee of the House of Commons. This submission is available to members of the Committee and is, or shortly will be, a public document. I am due to speak on the same subject at the international conference on regulation of political party financing, to be held by the Electoral Commission on 5-7 September.

It is unnecessary to repeat in full the arguments here. In brief, this is another area concerning which the Commission has in the past neglected the task of regulation and has instead interfered inappropriately in the area of policy-making.

If the mission statement of the electoral Commission is altered as recommended in Paragraph 9 and if the Commission is reorganised to reflect a new focus on regulation, then the defects of the Commission concerning the regulation of political financing can become a matter of history.

APPENDIX

ELECTORAL FRAUD:

This Appendix gives a sampling of cases, reports and judgements. The objective is to demonstrate that the problem is serious, widespread and requires further, systematic investigation.

CASES AND REPORTS

1. BIRMINGHAM

Judgement of Richard Mawrey QC (sitting as a High Court Judge)

138. ... in real terms the policing of electoral fraud is minimal, to the point of being almost non-existent.

139. The Returning Officer has no duty to investigate electoral offences and no resources to do so.

147. ... there is a marked reluctance on the part of the police to involve themselves in electoral matters.

148. *This is not helped by the invidious position in which a police force is put when investigating electoral fraud in a local authority context. The alleged fraudsters may, after all, be members of the political authority to which the force is answerable. The noble cop who fights corruption at city Hall at risk of his career may well be a staple of Hollywood movies but he is much rarer in real life.*

159. *[Election] Petitions are very cumbersome and expensive ...*

160 *As a means of controlling electoral fraud, they are both inappropriate and ineffective ...*

161 *It is thus clear that the policing of electoral fraud by anyone is minimal...*

166. *If there are virtually no means whereby fraud can be brought to light and sanctioned, then “hard evidence” of fraud is inevitably going to be scarce. Whether, in these circumstances, it is prudent (or even honest) to regard absence of “hard evidence” as proving that the problem does not exist is, of course, another question entirely.*

419 *[Concerning the election in the Bordesley Green Ward] The best estimate I can give is that the number of ballot papers bearing bogus ... votes cannot be less than 1,500 and may well be over 2,000 ... as many as half of the votes [of the winning candidates] may have been fraudulent – certainly over one third.*

525. *It is rather more difficult to estimate the number of false ballot papers in Aston. Doing the best I can on the figures, it is unlikely that the number is under 1,000 but how much higher than 1,000 is almost impossible to tell.*

712 *There is reason to believe that corrupt practices have extensively prevailed at the election of 10th June 2004 throughout the area of Birmingham City Council.*

717. *The systems to deal with fraud are not working well. They are not working badly. The fact is that there are no systems to deal realistically with fraud and there never have been. Until there are, fraud will continue unabated.*

[In the matter of a local government election for the Bordesley Green Ward of the Birmingham City Council held on 10th June 2004 and In the matter of a local government election for the Aston Ward of the Birmingham City Council held on 10th June 2004 (April 2005)

www.hmcourts-service.gov.uk/cms/files/full_judgement_bordesley_green_aston_wards_election_10th_june_2004.pdf]

2. BLACKBURN

Vote-rigging: ex-councillor jailed

BBC News

8 April 2005

A former Labour councillor has been jailed for three and a half years for rigging postal votes. [The councillor from]... Blackburn, Lancashire, pleaded guilty to conspiring to defraud local elections in May 2002

He won a 685 majority in the elections for Bastwell ward on Blackburn Council. But his lawyer, Philip Andrews, said in mitigation that the fraudulent votes would not have affected the final result. Hussain would still have won.

Judge Peter Openshaw said Mr Andrews' argument was "extremely unattractive"...

'Stolen votes'

An investigation found 233 votes were fraudulent, and Mr Hussain had arranged for campaigners to ask voters to hand over blank voting papers, telling them: "Don't worry, we'll take care of them".

The Tories, who came second, complained that more than 75% of people had applied for postal votes.

<http://news.bbc.co.uk/1/hi/england/lancashire/4425519.stm>

3. HACKNEY

Hackney poll-fix councillors jailed

By Sandra Laville

Daily Telegraph

(Filed: 21/04/2001)

Two councillors were jailed yesterday for their part in the country's largest vote-rigging conspiracy, which ... raised enough bogus votes to change the course of the 1998 municipal elections in Hackney, east London, by robbing Labour of a stronghold ward. The men created non-existent voters, registered electors at addresses that did not exist and tricked elderly women into signing away their vote.

<http://www.telegraph.co.uk/core/Content/displayPrintable.jhtml?xml=/news/2001/04/21/nhack21.xml&site=5>

4. KEIGHLEY AND BRADFORD

Mrs Ann Cryer (Keighley) (Lab)

I am pleased ... that the full weight of the law is to be brought to bear on those people in Birmingham who have committed electoral fraud. This

might deter certain persons in my constituency who were scurrying round harvesting ballot papers last May. Those people were from all three major parties. ... I received numerous complaints from my constituents last year, and the same sort of thing also happened in two of the Bradford constituencies. As yet, no criminal proceedings have been brought against any of the people involved, and it is sad that certain people in those constituencies were not prepared to stand up and be counted in the criminal courts. [House of Commons, 5 April 2005: Column 1287]

Fraud fears as post replaces the ballot box.

By Jill Sherman and Dominic Kennedy
The Times,
12 December 2004.

Ann Cryer, Labour MP for Keighley, said that all-postal voting in her constituency had disenfranchised Asian women voters. "There were people going around with carrier bags collecting up ballot papers and taking them to a safe house where they were filled in," she said. "In a number of Asian households, the father filled all of them in for the whole family."

She said that intimidation failed to result in prosecution because people would not report families or neighbours.

<http://www.timesonline.co.uk/newspaper/0,,174-1397357,00.html>

5 OLDHAM

Oldham Independent Review: Panel report, 11 December 2001, David Ritchie, Chairman.

Electoral Irregularities

11.38 One issue which surprised the Panel was the discovery that in recent years there had been a number of irregularities in the electoral process in Oldham, focused on certain inner city wards. The worst example appears to have been in the May 2000 local elections which resulted in a Police investigation and a number of prosecutions. The issue has been raised with us as a source of tension and concern in the Borough. ...

11.39 We have seen the letter sent by the Chief Superintendent of Police to the Council's Chief Executive following the Police investigation and in this he dealt with a number of issues on which there was insufficient evidence for prosecution but which nevertheless compromised the holding of a fair election. From this letter and from the successful prosecutions which did take place, and from other comments made to us the key issues seem to be as follows:

Registration Process

- a) *Virtually no checks are made on the validity of information submitted on electoral registration forms – Form As. Indeed, the Council’s performance target, set by the government is to achieve 95% coverage of eligible residents on the register, so there is a disincentive to challenge suspect entries ..*
- b) *There do appear to be a number of suspect entries, e.g. multiple registrations at particular addresses owned by landlords which have later been found to be empty properties. The Police say that they have not been able to get to the root of this partly because the Council do not retain the Form As once they have been processed.*
- c) *Some registrations have been in the name of dead people. Although the Council delete from the register the names of people who die in [sic] year, following notification by the Registrar of Births, Marriages and Deaths, they do not have the resources to check that people already dead may have been included on the register in the first place.*

Voting

- d) *There has been considerable abuse of the proxy voting system with a number of people finding, on arrival at the Polling Station, that their votes had already been cast by people who had fraudulently obtained proxy votes in their name.*
- e) *Some people have been registered to vote at more than one address and voted in respect of each address. This evidence comes from a detailed analysis of votes by a Labour Party member who gave evidence to us.*
- f) *Personation of voters has also been a serious problem. In one case the Clerk of a Polling Station saw the same man vote three times but did not challenge himm ... A number of cases were discovered in which men had voted in the names of “Bibi” and “Begum” which are always female.*
- g) *Polling clerks have found it difficult to prevent men from entering the polling booths when their wives were voting.*

www.oldhamir.org.uk/OIR%20Report.pdf

OPINIONS OF EXPERTS, JUDGES, ELECTORAL ADMINISTRATORS AND A MEMBER OF PARLIAMENT

Association of Electoral Administrators National Conference, 8 September 2005, Reading

Attended by over 200 delegates

Rt. Hon Harriet Harman, QC MP ...

asked for a straw poll – a show of hands from anyone that had heard expressions of concern about the integrity of the poll in their own constituencies.

Nearly everyone raised their hand

John Owen, Elections Officer from Birmingham City Council

remarked about the need to make postal voting safer in 2006. Following the Birmingham case he had been contacted by a large number of Electoral Administrators saying, “There but for the grace of God go I.” ...

Debate on “Free and fair elections – reality or myth?”.

Richard Price OBE QC, Editor of Parker’s Law and Conduct of Elections

... said that he never thought he would be asked to debate free and fair elections in the UK. Before the Representation of the People Act 2000 a question would have been inconceivable. The previous system was safe and the envy of the democratic world. Electoral fraud was very rare because as [sic] it did not provide an easy way to steal votes ...

Postal voting [on demand] shattered democracy ... [and] destroyed the secret ballot. Birmingham was a wake up call ... What took place in Birmingham could happen elsewhere.

The chances of getting caught are minimal and policing of electoral fraud is almost non existent. The Returning Officer has no duty or power to investigate electoral offences and no resources to do so. In practice, the role of police in monitoring elections is marginal..

The argument that fraud only occurred in two wards in Birmingham and perhaps a few elsewhere is fallacious. Fraud started to occur as soon as the legislation [concerning postal voting on demand] came into force.

*The only way to answer the question as to whether the current system can provide an effective way of achieving free and fair elections is NO.
[Underlining added.]*

http://www.aea-elections.co.uk/annualseminars/downloads/reading_2005_report.pdf.

BIRMINGHAM

[**Richard Mawrey QC**, judgement, Paragraph 72.]

... cheating the system would scarcely require the talents of Professor Moriarty ... “the system invites fraud”.

www.hmcourts-service.gov.uk/cms/files/full_judgement_bordesley_green_aston_wards_election_10th_june_2004.pdf

BLACKBURN

BBC News
8 April 2005

[Judge Peter Openshaw] said the current postal voting system was "wide open to fraud"...

<http://news.bbc.co.uk/1/hi/england/lancashire/4425519.stm>