

THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

THE GRAHAM COMMITTEE

**The Commonwealth Club
25 Northumberland Avenue
London, WC2N 5AP
Thursday, 14 September 2006
Tenth Public Hearing
Morning Session**

Members Present:

Sir Alistair Graham (Chairman)

Baroness Maddock
Rita Donaghy CBE
Dr Brian Woods-Scawen DL
Dame Patricia Hodgson DBE
Dr Elizabeth Vallance

Secretariat:

Dr Richard Jarvis
Peter Hawthorne

Witnesses:

Sir Howard Bernstein (Chief Executive, Manchester City Council)
Susan Orrell (City Solicitor, Manchester City Council)
Andrew Scallen (Head of Statutory Services, Manchester City Council)
Dr Michael Pinto-Duschinsky
Sam Younger (Chairman, Electoral Commission)
Pamela Gordon (Electoral Commissioner, Chair of Local Boundary Committee for England)
Peter Wardle (Chief Executive, Electoral Commission)



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1. SIR ALISTAIR GRAHAM: Good morning everybody and welcome, Sir Howard. Thank you very much for coming this morning to talk about some of the issues that we are looking at in reviewing the work of the Electoral Commission. It might be helpful first of all if your colleagues could introduce themselves.
2. SUSAN ORRELL (City Solicitor, Manchester City Council): I am Susan Orrell. I am the City Solicitor at Manchester City Council.
3. ANDREW SCALLEN (Head of Statutory Services, Manchester City Council): I am Andrew Scallen, Head of Statutory Services with Manchester.
4. SIR ALISTAIR GRAHAM: Thank you very much. As we know, you are the Chief Executive. We have had some written material from you, for which we are very grateful, and we also had the opportunity to listen to two of your executive colleagues at our last public hearing. We take it in turns to raise questions. If you are happy, we will take what you have said as read, unless there is anything you want to particularly reinforce.
5. SIR HOWARD BERNSTEIN (Chief Executive, Manchester City Council): We are very happy to do that.
6. SIR ALISTAIR GRAHAM: Then I will ask Brian Woods-Scawen to start the questioning.
7. DR BRIAN WOODS-SCAWEN DL: Good morning. Thank you again for your written submission, obviously drawing on not just experience in Manchester but more widely, which we found very valuable. Could I start with a kind of high level view of the Electoral Commission. It was set up with some fanfare with a mission around public confidence and integrity, involvement and effectiveness. What do you think it has done well? Then, if we do not spend too much time on that, more interestingly we will explore what you think they either have done less well or could do better.
8. SIR HOWARD BERNSTEIN: For many of us when the Electoral Commission was first established I think there was a real acknowledgement of the way in which such an organisation would provide credibility and independence in what was a subject area where at times the evidential base could be something of an irritant to some people reaching predetermined conclusions. For me, in addition to that credibility and objectivity, the thing that has impressed me particularly was the inclusive approach the organisation has taken to secure practical specialist input in the way in which its activities are shaped and delivered. That is pretty unique in my view in public service and I think that is one of the things they have been very, very successful at. That is not just because it has been me or my colleagues in Leeds or Sunderland, or indeed elsewhere in the country. It has been a very, very open and inclusive approach which I think has helped to create the evidential and practical base which is so important, not only in terms of actually bringing forward proposals which have public confidence but also are seen to be practical and deliverable. In those terms they have been hugely

successful.

9. The areas where I think they have to develop more is generally in the whole way in which we have the support of government to create what I would describe as a stronger performance management framework for individual returning officers and individual local authorities to achieve consistency and high quality outcomes in the way in which the electoral process is managed and delivered. I think that is a big challenge. Many of the new requirements which come into force next year will bring into even sharper focus those requirements and that is the area where collectively, working with the Commission, all of us have a role to play in supporting real improvement.
10. DR WOODS-SCAWEN: I would like to explore in more detail in a moment the issue around consistency and performance standards. What do you think it could do better, and that is not a kind of retrospective, end-of-term report but using a framework to look to the future? If you were the Chief Executive, what would you see as the key priorities, based on the experience of the first six years?
11. SIR HOWARD BERNSTEIN: Very specifically what I have just said, how you actually introduce within the organisation, and again on an inclusive basis, a much stronger performance management capacity to drive the outcomes we have talked about.
12. One area where there is a need for stronger support and action is in the whole question of promotion and awareness of elections. It was a lot better last time than the time before so there is clearly learning but ultimately it is about levels of resources and how much is to be invested in awareness and marketing programmes. This time there is something like £2.5 million available. I think that will probably equate to something like £5,000 or £6,000 in a city like Manchester. So, very clearly in that context a pretty insignificant sum.
13. Another area is around the whole question of research and development. We have to ensure that the pace of change is consistent with technological capacity. Large authorities like Manchester, because of the critical mass we bring and we have to have to do the things we do, therefore has greater levels of resilience in coping with some of the challenges which the new regulatory regime will bring forward next year. Other authorities who do not have that critical mass are going to, if not struggle then certainly think very hard about how those sorts of things are to be managed. What we actually have to get to here is a process which enables all local authorities of different shapes and sizes to get to a point where they too have the capacity and the confidence to deliver the outcomes all of us are seeking. So, it is not just about performance management, it is also about ensuring that the regulatory demands are capable of being absorbed by different local authorities throughout the country.
14. DR WOODS-SCAWEN: Can I put to you some of the challenges which we have received in evidence around the work of the Commission. As in

many acts, there is a sort of jumble of activities and indeed the Commission's own business plan has something like 17 high level targets. Has there been a clear enough focus on what is important and what is less important?

15. SIR HOWARD BERNSTEIN: That is difficult for me to judge. Certainly in the context of the engagement with the Electoral Commission I have been impressed with their focus. To be honest, having just 17 high level priorities seems to me to be something of a luxury compared with the high level priorities that characterise other organisations, particularly local government at the moment. That seems to me to be a pretty focused organisation. The issue is what I was saying earlier, it is an alignment or a convergence around prioritisation, capacity and resources. It is all very well saying you have a responsibility to actively promote awareness about local elections or elections generally if the resource base does not exist to be able to do it. I think those need to be brought into focus.
16. DR WOODS-SCAWEN: There have been other witnesses who have distinguished between the Commission's role in terms of integrity, both in funding and in electoral arrangements, and their responsibility for not simply awareness of electoral arrangements but for promoting participation. The suggestion has been made that participation is a kind of soft option. You can put a lot of activity in. You cannot be that accountable because at the end of the day it is not within your control. They have put too much effort into the participation piece and therefore not enough into the integrity piece.
17. SIR HOWARD BERNSTEIN: Again, I think we need to differentiate between the policy role on electoral matters and operational responsibility. I would always regard government as being responsible for developing policy and strategic direction in electoral matters and I think that is a function which is increasingly being discharged by the Department of Constitutional Affairs. There have been issues to do with duplication. Is there a real focus within government on these things or too many departments involved? I think that has become a lot clearer over the last few months. I think operational delivery is fundamentally the responsibility of the Electoral Commission. They can contribute to policy in terms of assembling evidence, undertaking research and making recommendations. I think that has been an area of the Commission's activities which, as I have said before, has been particularly impressive, the way in which it has sought to create the evidential base, working constructively with practitioners at the sharp end in order to be able to reach informed conclusions.
18. DR WOODS-SCAWEN: One final question at this kind of high level on the Commission. We have had witnesses who have suggested that participation is a matter for others, for government, for political parties, and not a matter primarily for the Commission. Having put in place clear, robust arrangements for participation, it is for others to promote participation and that there will be all sorts of political dimensions to that. Do you have a view about the extent to which the Commission should be engaged in actively promoting participation, as opposed to awareness of arrangements?

19. SIR HOWARD BERNSTEIN: My view about that is you can make any system work effectively so long as the marketing methodology, so long as the messages you are communicating are appropriate. I could certainly see a sort of marketing function or an awareness function sitting very comfortably with the Electoral Commission. Equally, I think it was a submission from one of the political parties, there is a proposition about setting up a foundation for democracy.
20. SIR ALISTAIR GRAHAM: Yes, that came from the Labour Party.
21. SIR HOWARD BERNSTEIN: You can see, at least in theory, some merit in that. My basic proposition is awareness of any type needs resourcing and I am not convinced that enough resourcing is being deployed to support that activity in any event. How it is managed is open to debate. My personal view is you could make certainly the Commission work in those terms.
22. SIR ALISTAIR GRAHAM: What exactly do you mean by awareness? Are you talking about awareness of the election system? Are you talking about awareness of the importance of people participating in the democratic system? Is the evidence not really if people do not see, for example, a big difference between political parties in terms of the policy choices open to them, if they do not have a lot of trust and faith in politicians, then on the whole you tend to get lower turnouts? If it looks like an election is going to be tied, that there are real policy choices to be made as a result of an election, you tend to get higher turnouts. Those are clearly the sort of issues that the Electoral Commission can have limited impact on.
23. SIR HOWARD BERNSTEIN: I accept that but equally I think there is real alignment between the development of new products and how you make the electoral process more relevant and accessible to communities and to people which has an impact on turnout as well. That is certainly our experience in Manchester.
24. SIR ALISTAIR GRAHAM: What do you mean by new products?
25. SIR HOWARD BERNSTEIN: Postal voting on demand, innovations.
26. SIR ALISTAIR GRAHAM: So, changes in the system which people need to be aware of and how they can fully take advantage of them?
27. SIR HOWARD BERNSTEIN: I believe there is a convergence between the development of electoral processes and levels of acceptability and accessibility to local people. In those terms the two have to go together, otherwise the evidential base --
28. SIR ALISTAIR GRAHAM: You could make a distinction between awareness of how the system operates and changes to the system and the broader responsibility of ensuring higher participation.

29. DR WOODS-SCAWEN: You are suggesting there is a difference, from the point of view of the Commission, between the issue of how to vote and why people should vote?
30. SIR HOWARD BERNSTEIN: Yes, exactly.
31. DR WOODS-SCAWEN: Let me move on to administration and pick up a point you made earlier. The integrity of the electoral system and the electoral arrangements are a cornerstone of our democracy. We have received a lot of evidence that across the UK the way in which electoral arrangements at national, regional and local level are organised, administered and funded is a complete hotchpotch and that where you live can highly determine the integrity of the electoral arrangements with which you take part in terms of registration and voting.
32. SIR HOWARD BERNSTEIN: It is certainly an uneven process. That is something which my colleagues and I witnessed at first hand when we undertook our regional role in the combined elections in 2004 and why I lay particular emphasis on the requirement for stronger performance management around consistency and high quality outcomes. I think that is where the big challenge for the Commission lies over the coming months.
33. DR WOODS-SCAWEN: Recognising that, certainly under the current model, the Commission is not responsible for arrangements, would you say that taking on this performance management role means that one of the critical outcomes for the Commission would be much greater consistency across the UK in electoral administration and the resources that are deployed to support that?
34. SIR HOWARD BERNSTEIN: Exactly. It is a much more complicated process today than what it was 10 or 15 years ago. There is a whole range of different stakeholders whose input is absolutely crucial to a successful outcome: Royal Mail or alternative suppliers of mail; the police, how the police interact with the local authority in increasing awareness around fraud, around the way in which the process itself has integrity is critical as well. So is the role of the electoral registration officer. I have never seen, my colleagues have never seen, our duty as just being simple administrators of a process. We put in as much time, and have done for some years, in pre-planning and articulating values about the way in which the process should be undertaken.
35. SIR ALISTAIR GRAHAM: But is it also political choice at a local level? We have heard evidence about the fact that government will make money available, for example in relation to the new Electoral Administration Act in terms of implementation. Yet that money which is paid to local authorities from the rate support grant does not always end up being used for the purpose for which it was intended because at any one time in any local authority there must be a lot of competing priorities in which one could allocate any resource that comes along. We have heard examples of where a register might be 60% of the census data in one area and over 100% in another area.

That seems an enormously wide variation that we have to deal with.

36. SIR HOWARD BERNSTEIN: I think there are very wide variations. My experience is that if government is absolutely clear in advising individual local authorities what their level of spend has been or how it has been allowed for within the local government settlement that gives great strength to individual chief executives to say, "That is how much I have to be spending". I do not think government does that very clearly, certainly where electoral matters are concerned, unlike, say, education or indeed the very recent experience around civil contingencies. The new Act brought additional responsibilities on local authorities and the government was absolutely clear on giving guidance to individual treasurers and chief executives, "This is how much you have been allowed in your authority for civil contingency and you need to spend it".
37. What is missing as well is an alignment of those obligations in electoral terms with the way in which local government generally functions and is inspected. For example, if the district auditor was invited to check that those sorts of requirements were being met then there would be an even greater degree of transparency and visibility in terms of understanding whether those obligations are being met. So there is almost a disconnect between the way in which local government is judged and the way in which local government is expected to discharge electoral functions. I think joining those up better will give greater scope.
38. SIR ALISTAIR GRAHAM: There is an issue to be addressed there?
39. SIR HOWARD BERNSTEIN: I think there is, yes.
40. DR WOODS-SCAWEN: In your written submission you have recommended the referendum model. I wonder if we could just unpack that a little and we could think therefore about the implications of the referendum model being applied to all elections in the UK.
41. SIR HOWARD BERNSTEIN: What we are talking about when we say the referendum model is not the particular type of election or the particular voting methods. It is a way in which we had a regional infrastructure which fundamentally was ourselves working with regional level police and Royal Mail and working with individual electoral registration officers. What we did was create a project plan for running an election amongst so many individual sub-regions. That worked because what we were able to do, in large measure, was work with those local authorities who needed most support, encourage those local authorities to work with others. So there was a number of discrete sub-regional arrangements which worked well, particularly in Cheshire and parts of Cumbria. We were able to have the capacity to introduce levels of intervention of different scales, shall we say, throughout the region. We found that a very helpful way of being able to support and manage the process.
42. More particularly we were able to engage police and Royal Mail so individual local authorities had postal delivery plans to agree with local station masters. Those individual delivery plans were embedded within the

organisation of Royal Mail at a regional level. A major innovation, certainly at the time, was the way in which for the first time not only was the priority of policing around elections increased but also the level of co-operation at a regional level. Greater Manchester, with the support of the other forces, took the lead regional role. There were common guidelines established around fraud protocols about conduct of elections which were widely disseminated. I think by and large we created a platform for co-operation and project management which, if developed, would offer a very strong infrastructure for the future.

43. DR WOODS-SCAWEN: It is clear from what you have said that it worked in your region for a number of reasons. You have an authority - and you alluded to it earlier - of the scale of Manchester; there was a commitment to regional working. In other regions some or all of those characteristics may not exist. There may not be an authority with the scale of Manchester in a region; there may not be the regional commitment to working in that way. If that were the right model, how would you recommend that assurance was gained that it operated in all the regions of England, leaving the devolved authorities to one side for the moment?
44. SIR HOWARD BERNSTEIN: There might always be a need for some degree of capacity building in individual parts of the country but for the most part I think with regional co-operation, or sub-regional co-operation there is a solid platform to build upon throughout the country. All of us are at different stages of development but I personally have no doubt that given the right leadership - and I think that is what we are really talking about, not only the right leadership at a national level but also the right leadership at a regional level - those sorts of processes are perfectly achievable and realistic.
45. DR WOODS-SCAWEN: If we compare that to the Northern Ireland model where there is central electoral officer - and let us take as given that is not necessarily desirable or replicable elsewhere - would there be a case for somebody from the Commission, rooted in each of the regions, to act as a kind of regional arm of the Commission and to help build the alliances, the leadership, the capacity that you have talked about?
46. SIR HOWARD BERNSTEIN: I think there are number of models that you could portray. That is certainly one of them and it is one I would find most attractive because whoever discharged that regional role would need to be able to have the full authority to act for and on behalf of the Commission. I think that is quite an important principle. So whether it is a direct commissioner appointed by the Commission, whether it is somebody like me or somebody similar elsewhere in the northwest appointed by the Commission, whoever it is has to be seen to be acting with the full authority of the Commission.
47. SIR ALISTAIR GRAHAM: Parliament has started to move a bit in this direction in the sense that under the Electoral Administration Act it has given the Commission responsibility to set performance standards.

48. SIR HOWARD BERNSTEIN: Yes, it has, which we welcome.
49. SIR ALISTAIR GRAHAM: It is a bit unclear how exactly that is going to be followed through but it does seem Parliament has perhaps suggested that there is a need to get a firmer grip on consistency of standards across the whole country.
50. SIR HOWARD BERNSTEIN: I think that is one of the clearest manifestations of the inclusive approach, that the Department of Constitutional Affairs, the Commission and electoral officers have worked together. This became a clear outcome of the 2004 combined elections in places like the northwest, not everywhere of course, but the European elections. That is something that has been followed through with a very strong evidential base.
51. DR WOODS-SCAWEN: Can we move to fraud and my colleague Diana Maddock is going to lead on this area.
52. SIR HOWARD BERNSTEIN: I might call on my colleagues to help me on this one.
53. BARONESS MADDOCK: Thank you for your submission. I think it has been quite helpful. I wanted to explore a little further with you your views on fraud. We have had quite a lot of evidence from other people that postal voting on demand has been one of the reasons why we have had an increase in electoral fraud. Firstly, do you think that is the case? Do you think electoral fraud is a huge problem? We have varying points of view in the evidence we have had. In particular, do you think this is big problem in Manchester?
54. SIR HOWARD BERNSTEIN: Let me have the first go at that and my colleagues can follow up. Electoral fraud has been overstated for some considerable time. I think it was a problem before postal voting. The innovations around postal voting has highlighted issues which, if you look at the evidential base, fraud is no bigger problem today than it was 5, 10 or 15 years ago. I think some of the issues are around culture, around the way in which different communities perceive the operation and management of elections. Some of those issues need to be treated with a degree of sensitivity.
55. I think the other issue, certainly in my experience, is that fraud if anything is probably less of a problem in Manchester today than it was five years ago. Why? I think we work harder around awareness today than we did five years. There is a much stronger working relationship between authorities like Manchester and the police than there ever was five years ago, amongst my colleagues in engaging the police. You might say, "Well, he would say that". But the priority which the police now place on fraud is much higher today than it was five years ago.
56. SIR ALISTAIR GRAHAM: Can you just explain why that close relationship with the police has developed? Was it really because you were

conscious that fraud was not being given the attention it deserved?

57. SIR HOWARD BERNSTEIN: No, I think it is public confidence, fundamentally. When I was discharging my regional responsibilities in the 2004 election, which was all out postal in the northwest, one could not help but come to a view about the level of exposure that issue was receiving in the press. I think it was an issue about how you restore public confidence in a process which led us very much to work even harder to make a step change in our own efforts and working arrangements with the police, and to be fair to them they actually responded in like manner. This ensured that the outcomes, certainly in the northwest, in terms of incidents or reported impropriety or irregularities, were no worse than you would have expected in any election anywhere over the previous five years or so.
58. SIR ALISTAIR GRAHAM: There have been a number of high profile prosecutions in Birmingham and elsewhere with some pretty scathing comments by the judiciary about some aspects of our arrangements. Do you think this has really made a pretty major knock to public confidence in the electoral system?
59. SIR HOWARD BERNSTEIN: I think it has undermined public confidence; it has certainly not helped. I would agree with that 100%. My point really is that there has been an alignment between existing voting processes and those incidents. My argument is those incidents could easily have been taking place at any time over the last 20 years.
60. SIR ALISTAIR GRAHAM: I remember to get a postal vote you had to make a case out that you travelled around the country, you could not be sure you would be available to vote at the time when you were required to vote, and therefore you had to go through quite a rigorous process to qualify to get a postal vote.
61. ANDREW SCALLEN: I think the rigorous process was not significantly different; there was a form to fill in. If you chose not to tell the truth on a form then it is the same as not telling the truth on a form now or abusing the system. If you said you were a long distance lorry driver but you were not a long distance lorry driver, that was the reason, there was no further test. You filled a form in, this was your reason, it was considered to be a good reason, and therefore it was granted. The fascinating thing about watching the development of concern about fraud is there are a number of issues. I can remember cases from 15, 20 years ago of postal vote abuse that never reached the press because the CPS decided it was not in the public interest to prosecute. There was a Cornwall case; I will not name the authority in case I get it wrong. If you replicate that across the country then I am sure that the levels of fraud may have been the same on a very much smaller postal voting base. Typically postal voting used to be 2% to 4% of the population.
62. The fascinating thing about the concerns around postal voting is the immense publicity that was driven by sectors of the press. Public confidence was dented by the publicity but actually the number of people who were

applying for postal votes has not significantly gone down. On the one hand there appears to be people concerned about the integrity of the postal voting system but there has not been a massive drop off in the number of people who apply for postal vote on demand.

63. SIR ALISTAIR GRAHAM: There was something of a headlong rush into postal voting which at different times the Electoral Commission, I think, was a bit uneasy about, although it might possibly be argued they went along with it in a way that has turned out damaging to public confidence in the system as a whole. Were we well prepared for the possibility, given we were talking about a very much larger number of postal votes, for the possibility of fraud becoming more significant and therefore having a much more severe impact on public confidence in the electoral system?
64. ANDREW SCALLEN: I think Parliament decided that we went through the process we went through and I think it was our job then to try and catch up with Parliament. It was a very tight timetable we were operating to during 2004 and we can only be led by Parliament. We could do as much as we possibly could do and, as Howard said, in his regional role he was able to develop these protocols that are now being embedded across the country.
65. SIR HOWARD BERNSTEIN: I would go further, actually. I think we spent more time worrying about fraud and the integrity of the process and probably less time worrying about the capacity of the printing industry to cope with the demands that were being placed upon it because that is where the system, to the extent it was creaking, actually started to creak. It was the logistical infrastructure underpinning the elections which ultimately caught us and which we had to work incredibly hard in the last few hours to actually overcome because of the work we had done around protocols, fraud awareness. I think that was one of the most significant successes of the process.
66. BARONESS MADDOCK: Could I just pursue that a bit further because it seems to me that one of the problems you had with the postal votes was that suddenly in many authorities you had a big increase in the number of postal votes you had to deal with. One of the issues was postal votes all being sent to one address and it must have been extremely difficult to have a system up and running to deal with that in a very short space of time. Do you think things like that were a problem?
67. SIR HOWARD BERNSTEIN: I think they were a challenge but local government folk are resilient, in my view, certainly in the northwest. Inevitably there were teething problems in the early period of returns, huge sacks of mail coming on days one and two. After we had done it once a pattern started to emerge and processes had been refined to accommodate that. Certainly where Manchester is concerned we effectively take over one of the great rooms in the town hall for the equivalent of two weeks and we have teams of people working every day for two weeks. Some days we can now pre-plan we need three sessions, other days we need one, because we now understand the profile of returns. I think the same would apply, obviously at different

scales.

68. BARONESS MADDOCK: How much do you think that is replicated across the country?
69. SIR HOWARD BERNSTEIN: It is difficult for me to judge. I guess probably on an uneven basis. I think for most authorities in the northwest that would not be a major problem. What would be a major problem is the whole question around the infrastructure underpinning the elections, the capacity of the printing industry to respond. That has been a very taxing challenge, even for an authority of the size of Manchester.
70. SIR ALISTAIR GRAHAM: How do you see the new arrangements working under the Electoral Administration Act in terms of now, to apply for a postal vote, you are going to have to produce your date of birth and a signature? When in future you get the postal votes you have the opportunity to check the signatures, the signature that you sign as part of the postal voting process and the signature you gave on your original application. If you have areas where there are high levels of postal voting, this is presumably going to present a very major challenge to the returning officer and his staff. Are people going to do a sample check of signatures and how meaningful is the check of signatures going to be? Do you think it is going to be a successful way of ensuring there is no fraud in the future?
71. SIR HOWARD BERNSTEIN: There are a number of points in that question. The first point, how will local authorities respond, and there is a challenge there because ultimately it is about securing access to a technological capacity which needs to be driven. That is something we are starting to think through in Manchester..
72. SIR ALISTAIR GRAHAM: There is not existing technology available to check signatures, is there?
73. SIR HOWARD BERNSTEIN: There is around banks. We are talking to printers at the moment where they have access to that technology and one of the things we are looking to do is to bring that in for three or four weeks prior to the local election. What that does, the scale of the challenge on a regional basis, is underpin the need for some sort of regional infrastructure because it seems to me there needs to be inter-authority co-operation in the way in which access to those facilities is secured and general support. I think performance management framework, logistical support is going to be very important in regions. Places like Manchester or Greater Manchester and Merseyside, those are things which they are used to dealing with.
74. SIR ALISTAIR GRAHAM: If you had the technology, would it be possible to check every signature or would you do a sample check?
75. SIR HOWARD BERNSTEIN: We are currently having an internal debate. I think the regulations provide for a minimum of 20% and we are currently looking at what does that mean in Manchester. My instinct is we

ought to be moving to a point where we check all of them. I do not understand why only 20%. Whether or not that is logistically possible we are currently working through but my presumption, as the chief executive, is we need to be checking all of them.

76. SIR ALISTAIR GRAHAM: If you can get the technology right you would like to check all of them?
77. SIR HOWARD BERNSTEIN: Yes.
78. SUSAN ORRELL: I know it sounds a trite point but at least this is a clear check we can make. With votes that came back in the past we were devoting resources to try to check things without this very clear base.
79. BARONESS MADDOCK: Can I take it from your answers on postal voting that actually you would not particularly want to go back to the system that was there before the 2000 Act?
80. SIR HOWARD BERNSTEIN: No, absolutely.
81. SUSAN ORRELL: The public would see that as a very retrograde step.
82. BARONESS MADDOCK: You have given us quite a lot of information about the way you have been involved in the northwest in dealing with fraud. What is the balance between the work that you and your colleagues have done with the work done by the Electoral Commission in combating fraud? What has been their role, do you think?
83. SIR HOWARD BERNSTEIN: I think their role has been to join up national agencies which has been hugely important. My ability to persuade my chief constable is largely a reflection of the sense of support he would receive from his national association that this is a priority. The Electoral Commission and the government did a remarkable job on that. I think also with Royal Mail as well. It is joining up the national stakeholders which is so important in ensuring that we can enjoy terms of engagement at a regional and then at a local level which is fundamental to success. That is the first point.
84. The second point is again creating the evidential base which helps to inform decisions and helps to inform activities which has been very important also. In those terms the Electoral Commission was massively influential in the period leading up to the 2004 elections and all the work that was done in the preparation for the regional referenda shortly afterwards.
85. BARONESS MADDOCK: I am intrigued by the role of the police because I can remember the days when there was always a policeman on a polling station and then for some reason resources must have got difficult and they all disappeared. We have come full circle now and the police have come back when actually there has been more evidence in some places of perhaps more serious fraud. Do you think this happened because police authorities

were pressed for resources and there was a very little publicity given, you mentioned the Cornwall case, to fraud in local elections and so people thought it was not happening, it was not important? Do you think the cycle has changed now?

86. SIR HOWARD BERNSTEIN: I think there is a cycle of change. A substantial amount of policing resources was allocated to some investigations, I think it was in Oldham three or four years ago. Why? Because the chief constable decided that electoral matters were now impinging upon public confidence and therefore his role and the role of his colleagues was in working with different local authorities and others in restoring public confidence. That was a very important response and one which many people welcomed.
87. SIR ALISTAIR GRAHAM: Has that work restored public confidence, in your view?
88. SIR HOWARD BERNSTEIN: I do not say it can restore public confidence but I certainly think it has improved it. As Andrew said, we can see no discernible trend whereby people are saying they are not taking advantage of postal votes on demand. That may change, we will wait and see, but we cannot see any downturn in demand. Certainly if you look at the impact on turnout, it has been very significant.
89. SIR ALISTAIR GRAHAM: It is true that turnout varies considerably across the country, does it not? It seems very high in some areas and not so high in other areas.
90. SIR HOWARD BERNSTEIN: It is certainly high in Manchester. 2004, because it was all out postal, was probably not a very good benchmark but at the 2003 elections turnout was less than 20% and it was nearer 29-30% .
91. SIR ALISTAIR GRAHAM: Is the demand concentrated in certain communities compared to others?
92. SIR HOWARD BERNSTEIN: No.
93. SIR ALISTAIR GRAHAM: Across the northwest area it is a general?
94. SIR HOWARD BERNSTEIN: Yes, I think that is fair.
95. SIR ALISTAIR GRAHAM: It is interesting that we have had these differences between some parts of the country compared to the others and I am not sure we have a very clear explanation as to why we have such differences.
96. SIR HOWARD BERNSTEIN: I do not know but one of the things I have seen is a greater willingness on the part of individual authorities to promote the availability of postal voting. It is something we have done in Manchester and other local authorities have done in Greater Manchester and I suspect it

has been done elsewhere in the northwest.

97. SIR ALISTAIR GRAHAM: Has that in any way been politically driven because some political parties have seen they might do better in electoral terms through having increased postal voting?
98. SIR HOWARD BERNSTEIN: In Manchester fundamentally the three of us come up with our proposals about how we wish to spend money and the convention is that we consult both the leader of the council and the leader of the opposition. There has never been, in my experience, any occasion when neither politician has not said, "If that is what you want to do. It seems very sensible to me. Go away and do it".
99. SIR ALISTAIR GRAHAM: So one party does not see a particular advantage over another?
100. SIR HOWARD BERNSTEIN: I think all parties, certainly in my experience, want to see increased participation. In Manchester we do see the electoral process as being aligned with community engagement and how we involve people in the way in which we make decisions, the way in which we involve people in shaping the future social and economic direction of the city. Increased participation is something that we positively welcome because it encourages people to take ownership for their own communities.
101. DR WOODS-SCAWEN: Can I move on to registration. The electoral roll is the bedrock of the administrative arrangements. We have received evidence that there are high degrees of variability in the quality of the electoral registration system for all sorts of reasons but one of them surrounds the notion of householder registration against individual registration. I suppose at first sight householder registration sits rather oddly in the 21st century. It is a kind of Victorian notion.
102. We have received evidence from all of the political parties that in principle they would be supportive of a change but some are somewhat Augustinian about this because they see some difficulties and therefore do not want to face it. Others want to do it pretty soon. We have also received evidence around quite a deeply philosophical issue underpinning this which is, is it more important for the register to be accurate or to be inclusive? In other words, is it more important that everybody should be on it, even if there are some consequential errors, or that it is accurate at the risk of excluding some, because it can be accurate even if not everybody is on it? The Commission has recommended a move to individual registration. Do you think they were wise to do that and can I ask you about the implications for your role of any such move?
103. SIR HOWARD BERNSTEIN: I think the easy bit is saying, "We are in favour in principle for individual registration". I do not think there is a great deal of difficulty in everyone signing on for that. The much more difficult bit is moving from an in principle acceptance of it to the development of a detailed and realistic plan for delivering it. It would be a logistical nightmare unless it is

properly resourced and properly planned. At the end of the day it would be an obligation that fell on local authorities and I can see all sorts of outcomes which would create even more controversies than the type that we have seen over the last couple of years. I think that is the first point: resourcing and planning is fundamental.

104. SIR ALISTAIR GRAHAM: You talk about a logistical nightmare, resources, planning, whether the resources are made available for a change of this nature. Once it is up and running, are there savings to be made in the sense that you would not necessarily have to do an annual survey?
105. SIR HOWARD BERNSTEIN: A place like Manchester has a transient population of 20% of its population. In our case, that is something like 60,000 to 70,000 people in and out of Manchester and we are not peculiar in those terms. All the big cities have that level of transient population. So there is no such thing in my view as a standstill scenario. It has to be a constant dynamic process of review and refinement.
106. SIR ALISTAIR GRAHAM: In terms of that transient population, for council tax purposes you must put a lot of effort in already in trying to keep track of them presumably?
107. SIR HOWARD BERNSTEIN: Yes, we do, but that comes to my second point really which is if this is a wholly voluntary act on the part of individuals it is going to be very difficult. There needs to be a debate and a determination around how do you incentivise people in order to be able to fill in the registration forms. The debate has not even taken place yet, or I am not sure that it has started, about how and to what extent should registration be seen as a prerequisite to access to local authority services, as one example, to other types of entitlements, whether they are benefits or whatever. Until we make some of those connections, the practicalities associated with delivering in a way which commands public confidence, individual registration is going to be extraordinarily difficult.
108. DR WOODS-SCAWEN: Given all the transitional difficulties, is there a case for grabbing this and making a decision even though there may be a transition, indeed an extended transition, or does this need to be the subject of further continual debate without decision and in the meantime we have householder registration with all the disadvantages that entails?
109. SIR HOWARD BERNSTEIN: I think we saw some of the outcomes of a decision from Parliament, "We are going to have postal voting in certain areas; we are going to do it in four weeks". We got there eventually but how far public confidence was eroded in the process as a result of that I think is an open question. That went to the heart really of the Electoral Commission's subsequent report about how quickly or how effectively we are rolling out postal voting. So, I would caution very much against grabbing the decision and making the decision tomorrow that we are going to go with this.

110. DR WOODS-SCAWEN: The decision could be made in principle with an agreed transition and from what you said it needs an extended transition?
111. SIR HOWARD BERNSTEIN: It needs a significant amount of preplanning and resourcing. I think there needs to be a big debate about how you incentivise people to actually fill in their registration.
112. DR WOODS-SCAWEN: Can you put a timescale on the transition that you think would be necessary to secure integrity of the resulting register?
113. SIR HOWARD BERNSTEIN: At least two to three years, it seems to me.
114. SIR ALISTAIR GRAHAM: Some recommendation might come out of the work of this Committee, governments take time to take decisions and everything, but if you were to say, "We will work a transition process in time for the general election after next" do you think that would allow sufficient time for one to work through the difficulties that you have highlighted?
115. SIR HOWARD BERNSTEIN: Possibly but I think it is more than a planning and logistical exercise. I do think it is about the relationship between individual registration and access to services which seems to be the obvious way of incentivising people to fill in registration forms. I do not see any evidence at all of that debate actually taking place.
116. SIR ALISTAIR GRAHAM: For example, is there a council tax form that you could have a box in that people tick to say they wish to go on to the electoral register which could give you authority to proceed?
117. SIR HOWARD BERNSTEIN: I am sure there are all sorts of efficiencies which you could identify and capture in the way in which the process went. Equally, Manchester historically has taken electoral registration - not just me but my predecessor - very seriously. I guess we are one of the few local authorities where the new electoral obligations have not bitten because we have been doing that for many, many years. We would need an army of people, frankly, in the current climate to discharge to the same level of detail our obligations.
118. SIR ALISTAIR GRAHAM: How do you measure the accuracy of your current register?
119. SIR HOWARD BERNSTEIN: We do a personal canvass of every household in Manchester who has not returned a form and my people are told they have got to go out three times to each of those properties before there is a no contact. We have done that historically since about 1979.
120. SIR ALISTAIR GRAHAM: What proportion then of households do you fail to get the right response and get those people who live there on the register?

121. ANDREW SCALLEN: The number is something like 6% that we do not get responses from.
122. SIR ALISTAIR GRAHAM: How many people would that be in a Manchester context?
123. ANDREW SCALLEN: If the average electorate is going to be something like 1½ people and 6% is 18,000 properties so ...
124. SIR ALISTAIR GRAHAM: Even with those returns, how can you be sure that they are accurate, given that presumably you get information from each of the forms from the householder?
125. DR WOODS-SCAWEN: We have had evidence about the difficulties around multi-occupation, access to apartment blocks, itinerancy in less than a year, like days and weeks. All of those issues, particularly in inner cities it has been put to us, makes the argument for moving to individual registration very strong but actually militates against the accuracy of householder registration as well.
126. SIR HOWARD BERNSTEIN: There is a balance, I agree. Fundamentally, what it all underpins is the requirement for an updated database around households within a city. It is one of the reasons why the last census did not necessarily go according to plan in places like Manchester, if I am being frank. This is something which most cities, certainly in my experience, expend a lot of resources on in ensuring that their database is regularly updated and is accurate. So, there are planning applications endorsed, there is building regulation approvals, our database is constantly refined.
127. SIR ALISTAIR GRAHAM: When you get those householder registration forms back and you compile the register, are you saying you are constantly doing the check against other sources of information to determine whether it is accurate or not?
128. SIR HOWARD BERNSTEIN: No, not people; we are talking about households. We get the forms back, they have to be signed. One of the important ways you can check the accuracy of the register is through the electoral process because there is never a shortage of candidates who are banging on our doors explaining X or Y does not exist. Thankfully, those occasions have become fewer over the last few years. I am not saying there will not be some examples of that still happening but we are pretty confident in the way in which we go about things that our register is as accurate as it can be, given the limitations that are placed upon us.
129. BARONESS MADDOCK: Can I ask how many authorities you think are as thorough as you? I am absolutely certain they are not in my authority because when I knock on doors people are not on the electoral roll and I can never understand why when they are council tenants. Do you have any idea of how many people are as thorough as you? I think I have yet to live in an

authority that has been as thorough as you have described this morning.

130. SIR HOWARD BERNSTEIN: I am sure there are others who are as thorough as us. I only speak for my colleagues in Greater Manchester where we do enjoy a remarkable degree of joint working and election matters is an area of joint working. For example, some of the things we are being asked to do around census for 2011 is involving us in talking to colleagues in greater Manchester and looking at how we can align the activities around census work over the next few years with electoral registration. All my colleagues have confirmed - and this was at a meeting that took place three or four weeks ago - that all of them undertake personal canvasses of households as part of the compilation of the registration and have done for many years.

131. SIR ALISTAIR GRAHAM: The integrity of the register does seem to me a central issue in a democratic society which is why we are slightly digging away at this particular issue so we fully understand it. When a householder registration form comes back, what checks are done then?

132. ANDREW SCALLEN: There is an assumption that the return is an accurate document and someone is sending it back and telling you the truth. The register is then available for inspection by people. The public can come and inspect, parties can come and inspect and challenge people's names on the register. So there is a statutory process.

133. SIR ALISTAIR GRAHAM: How many people do that?

134. ANDREW SCALLEN: Hardly anybody. Some politicians do and Howard is quite right that at the time of an election event then there is greater attention to it but unfortunately the way the law is currently drafted it is too late to do anything about it. There is going to be a change under the new Act that allows for ongoing changes to the register and also late additions to the register. Very few people check it currently but the law does provide for that.

135. SIR ALISTAIR GRAHAM: So it is a trust-based approach at the moment?

136. ANDREW SCALLEN: Yes, as are lots of things that we all do in our daily life. I do not think this is unusual. If you then ask the question what resources would you need to do a check, and we then go back to the issue about proportionality, how many would you then choose to check to make sure it is right? What do you do? Do you simply check it through your own council records or do you send someone knocking on doors? It raises a whole range of issues of an investigative nature.

137. SIR ALISTAIR GRAHAM: I understand that but at the moment you do not do any sample check to check accuracy?

138. ANDREW SCALLEN: No.

139. SUSAN ORRELL: But if issues were raised in the election period then you would take action at that point. There is increased review of the register.
140. SIR ALISTAIR GRAHAM: Given the trust-based nature of the system, and there are opportunities for people to challenge it but you have explained a very small number actually do, the reality is we do not know how accurate our registers are really and given your authority the approach of these matters with considerable rigour.
141. SUSAN ORRELL: I do not know that that is true because you would get quite a reaction around election time because politicians do go out with the registers that you have alluded to. So, I think we would be having more of a reaction if --
142. SIR ALISTAIR GRAHAM: But in local elections, what is the turnout in Manchester, 30%?
143. SIR HOWARD BERNSTEIN: 30%.
144. SUSAN ORRELL: 29%.
145. SIR HOWARD BERNSTEIN: Just to draw a distinction as well between the rules we deploy around postal vote applications which is interesting. That has certainly been in the public consciousness where we do do sample checks. Some of my colleagues phone, "Have you really applied for a postal vote?" We also, very specifically, have rules about more than multiple applications for postal votes going to a certain address, hand delivery around houses of multiple occupation or student flats. So, we do try, as far as we can, to maintain the proprietorial aspects of the process.
146. DR WOODS-SCAWEN: Could I summarise, just to check that I have understood your position on individual registration? Would it be fair to summarise your view by saying, if there were a decision to move to individual registration, subject to project planning resources and a sufficient transmission, from your perspective it would be a practical change?
147. SIR HOWARD BERNSTEIN: And also government aligning itself around what it means by incentivisation for people to register.
148. DR WOODS-SCAWEN: Yes, you have made the point.
149. SIR HOWARD BERNSTEIN: Because I think without that it will be a huge challenge because the level of controversy, in my view that would be faced, is when there are significant reductions in the size of the register. Public confidence, never mind political confidence, would be seriously eroded in the system.
150. DR WOODS-SCAWEN: The experience in Northern Ireland was that the initial reduction was at the order of 10% and that much of that had been built up through subsequent years in terms of greater efforts. In your view, is

that a manageable reduction if that were to be replicated elsewhere?

151. SIR HOWARD BERNSTEIN: If my leader were asked that question I am sure he would answer it in a very clear way. My personal point of view is whilst there is going to be a drop, I think what we have to understand is what the levels of tolerance are and it is about getting clear in our own minds, not just the logistics about planning, which I think would be awesome in terms of a challenge, but capable of being delivered with the right timescale and getting the alignment with proper incentivisation strategies.
152. SIR ALISTAIR GRAHAM: Of course the other areas we do not have any check on is when people go to vote, do we? They sign for a ballot paper but --
153. SIR HOWARD BERNSTEIN: Well, yes, we have very strong views. I will let Andrew answer that one.
154. ANDREW SCALLEN: Signing for a ballot paper at a polling station is not remotely strong. This is a signature which is then not checked against any other record because no other records are held, unless you are the person who signed the household form then it is possible that you could track back to that person. It has been said that it could be used if the election was challenged but what you actually prove I am not sure, other than if you are the voter and someone else has forged your signature, and you say, "That is not my signature". I am not sure it proves anything other than, "No, I did not turn up to vote on the day" or "I had not voted already."
155. So, there is a very big issue there and that is only one part of the benefits of individual registration. If individual registration was in hand and you had people's signatures then if technology was there as well you would be able to check that that person who had signed actually was the person who signed their registration form.
156. SIR ALISTAIR GRAHAM: I mean, Northern Ireland moved to a system of people having to produce photographic identification. Do you think in a modern society where we have to do that to get on aeroplanes and do all sorts of things that it would be unreasonable to ask people to provide some photographic identification?
157. ANDREW SCALLEN: I think people are becoming used to providing identification of any number of different types. Northern Ireland also has an election card now, I think they call it, which is something that was designed specifically and that is now taking on a useful life of its own outside elections.
158. SIR ALISTAIR GRAHAM: Particularly for students and people like that, yes.
159. SIR HOWARD BERNSTEIN: Yes, I agree with that.

160. DR WOODS-SCAWEN: The major use, allegedly, is by young people to prove they are over 18.
161. ANDREW SCALLEN: Well, there is an incentive.
162. SIR HOWARD BERNSTEIN: Alas, I will not need one then.
163. DR WOODS-SCAWEN: May I ask one final question around, if I can call it the Sunderland South syndrome early declarations? The more checks there are around postal votes, and indeed other votes, the more difficult it is going to be to get a result declared in 20 minutes. We have also received some evidence that in some constituencies where there are very large majorities, returning officers are not averse to cutting corners, because they know what the outcome is going to be, in order to get an early declaration. Have you any evidence that that is an issue?
164. SIR HOWARD BERNSTEIN: None, to be fair. We all take our responsibilities seriously. When I was growing up in Manchester Town Hall 25 years ago there were a number of examples of how some of my seniors at the time, peers, actually behaved at elections and hopefully all those practices too have been eradicated. Our line is a very, very clear one; that is, do it right and if that takes longer than it should do then so be it. We do not want any prizes to be the first.
165. SIR ALISTAIR GRAHAM: And the reality is, in fact under the new Electoral Administration Act it is going to take longer in the future, is it not?
166. SIR HOWARD BERNSTEIN: Well, yes and no. I think the count arrangements are different in different places. We are very fortunate, we work in a magnificent building in the heart of Manchester. We can have all our constituencies, all our wards accommodated under one roof. All our systems are therefore centralised and we are able to cope. There were occasions in 2004 where we were two hours later than we would normally be but that is fine. At the end of the day there is a convention of counting immediately after the close of the poll and that is something which we want to maintain and under a centralised process we can do that.
167. SIR ALISTAIR GRAHAM: My colleague would like to ask a question.
168. RITA DONAGHY CBE: Thank you. It is coming back to the funding issue for administration. I just wanted to be clear what your view was. Some evidence was given to us that because of the variation in resourcing there was an implication that some authorities were struggling to provide quantity and quality of staff to come up to the particular benchmark that the future Electoral Commission might be demanding and they thought that one of the answers was to have central funding distributed by the Electoral Commission instead of coming through the local authority grant. Do you have a view on that?
169. SIR HOWARD BERNSTEIN: Yes, I have actually and I might be going against the grain because I am not sure I support that. Whatever the

problems of local government settlements there is at least some vague relationship between need and levels of resources. We are all very different and operating an electoral process in Manchester is not the same, I would suggest, as a comparatively small town in North Yorkshire, or indeed in Cumbria. So, therefore it is very, very important that the level of resource, broadly related to population and need, is aligned. I would worry about a process which substituted one which was led by government as part of a local government settlement with one led by the Electoral Commission, unless we were completely satisfied that the way in which resources were allocated were reflected upon a reflection of need and outcome. Very, very important and that is not to say I would rule it out but I think the answer I made to the question earlier was that I think the bigger priority is to be clearer to local authorities about the level of resource which is provided for in settlements for electoral registration, to make it more visible to wider public and others and part of the inspection regime of local government. Are those resources actually being spent on electoral arrangements within individual local authorities? I think you will see a significant improvement.

170. We only have to look at the Civil Contingencies Bill and the way in which that was managed to see how local authorities responded when government says, "We expect you to spend to your limit of SSA on education." I think 98.9% of local authorities did that. It is about the clarity of the instruction which local authorities are being asked to observe and also an alignment with the inspection regime through districts audit which annual management is capable of assimilating and discovering whether that is happening in practice. I would do that as a first priority.

171. RITA DONAGHY: So, would you support naming and shaming?

172. SIR HOWARD BERNSTEIN: Yes.

173. SIR ALISTAIR GRAHAM: Thank you very much for the very full and open way that you have answered our questions. We very much appreciate that and once again, thank you for the written evidence you have produced.

174. SIR HOWARD BERNSTEIN: Thank you very much indeed.

175. SIR ALISTAIR GRAHAM: Hello. Thank you very much, Mr Pinto-Duschinsky, for returning to give further evidence to the Committee. When you gave evidence back in June you raised a number of issues which have provoked wide-spread debate at our previous public hearings. What would be helpful for the Committee this morning is to reflect back on some of the issues that you raised and additional evidence we have received over the summer, to see if they might be effective in improving the work of the Electoral Commission. I would like to ask you a number of questions relating to the electoral register and then my colleague, Rita Donaghy, is going to ask you other questions related to other matters.

176. If we can first of all deal with issues relating to the electoral register. In your previous evidence you stated that you thought the electoral register was

inaccurate to the tune of around 7 million people. We appreciate we are not dealing with precise numbers here but broad brush figures; 3.5 million people not on the register and 3.5 million names on the register who probably should not be on the register. This figure has been challenged by a number of individuals who have given evidence. Do you still stand by the figures that you first gave?

177. DR PINTO-DUSCHINSKY: Yes. In brief, I absolutely stand by that figure as being the most responsible figure, based on the evidence we do or not have at the moment. Obviously, the Electoral Commission failed to do research into redundant names after its formation but that failure, which I am very pleased to say it has now committed itself to remedy, should not be an excuse for removing those possible names from our reckoning.
178. I want to have the right balance in my evidence today between contentious and co-operative issues with the Commission. The area of co-operation with the Commission, and one that I would like to acknowledge and especially to Doug Stewart, who is here now with whom I spent much of the summer on the telephone in meetings, is that the Commission does now recognise firstly that the problem of redundant names is a serious problem, and secondly that it commits itself next year to do the research that it did not do before on that problem. That is a satisfactory outcome of the various negotiations but, if I can just complete this, at the same time I feel that there have been various responses to my figures which have actually been quite incorrect and it is notable how riddled with errors and flaws previous evidence was, and indeed the previous evidence has now been formally withdrawn by the Commission. The previous paper that it submitted to you, which I was first shown in August was withdrawn in view of the errors it contained and in co-operation the Commission and I drew up a new submission which you now have.
179. SIR ALISTAIR GRAHAM: The Commission claimed that changes to legislation over the last few years have had a positive effect on cleansing the register. The arrangements we have for carry forward and the arrangements that exist for rolling registration after a register has been compiled are two examples of their view that there are arrangements in place for trying to ensure that the register is as up to date as possible. Do you think their approach is correct? Do you think that view that they have expressed is correct?
180. DR PINTO-DUSCHINSKY: That view was put forward by K Jenkins on 6 July to you and that was put forward on the basis of an internal document and I reviewed that internal document with the Commission. As I say, that document was riddled with errors. The Commission itself acknowledges that K Jenkins' evidence was not based in fact and if you look at its new submission, which I should say was drawn up together and I wrote quite a lot of the submission for the Commission which it then put in. It says there is no systematic evidence about the effects of the new measures on the number of errors in electoral registers on the qualifying date. So, that effectively withdraws the evidence that K Jenkins put forward to you on 6 July. Indeed, it

is quite illogical to say that the rolling register would have that effect because the figures we are dealing with of roughly 7 million errors refer to errors on the fresh register, whereas the rolling register only affects accuracy during the currency of the register and so indeed if we looked at the number of errors at the end of the year then the number of errors is actually larger than 7 million and I have said it is between about 7 and 11.5 million.

181. SIR ALISTAIR GRAHAM: Why do you think the Electoral Commission did not do the work for us to come to a sensible conclusion about these matters?

182. DR PINTO-DUSCHINSKY: I think that now the Commission has engaged, after my evidence, in addressing this issue. You would have to ask the Commission about this, but my impression is that they were embarrassed by having a figure that drew public attention to the degree of the problem; that they would have preferred the public attention not to come to it and that is why they did not like the idea of a headline figure because a headline figure explained to the public the dimensions of the problem, even though we admit that all headline figures are subject to some error. I think they also wanted to ensure that they were not criticised for ignoring the register whereas they felt that they had worked a lot on the register in so far as they had wanted individual registration and that had been rejected by the Department for Constitutional Affairs and I think they are feeling, and I am completely with them on this, that having tried to get a more accurate register through a change in the law which had been rejected by the Department for Constitutional Affairs, they felt that it was a bit much that they should be blamed for not attending to the issue in general and I would stress that in putting forward figures I think those figures are estimates. They are not, as Glyn Mathias, the Commissioner, said allegations or accusations. They are honest estimates by an academic who wants to get to the truth.

183. SIR ALISTAIR GRAHAM: If there is a problem with how accurate and clean the electoral register is, what steps would you be in favour of to ensuring that we get a more accurate register?

184. DR PINTO-DUSCHINSKY: The first step is to take the matter seriously and that means recognising that redundant names is just as important a problem as missing names, because if you have people on the register who should not be, the dead and the non-existent, plus a system of postal voting that is, as I said to you in June, a lethal cocktail that leads to electoral fraud. The first thing I would do is to take note of both sides.

185. I would hope that under the present regime where the Electoral Commission does not have full control on this that it would nevertheless use its research powers to do sample checks of particular streets and particular areas to highlight where those problems are. We have seen now that in a local council in Hackney there was an investigation into the register in Hackney which showed how very flawed the register was in Hackney. You can do that by going around houses and seeing. So, I would hope that their research would be concentrated on that rather than on the kind of fluffy

research, the opinion research, that has come out of its research department in the past and I think there is agreement within the Commission about that refocusing.

186. I think there needs to be a reform of the regulatory services division so that it becomes far more aggressive and I would like to talk about that in later questions, if you want. I think the DCA has to recognise that it does have the powers under 52.1 of the Representation of the People Act to issue directives to electoral registration officers who are not doing their job and indeed it is remarkable that the DCA and indeed the Electoral Commission earlier denied the very existence of such a provision in the law whereas they do have the right and the duty to intervene to make sure that registration is conducted to an effective standard. I hope that is the beginning of an answer to you.

187. SIR ALISTAIR GRAHAM: So, you would be very anxious to see the accuracy of the registers as a central focus of the work of the Commission in future. We would like to explore with you issues relating to electoral fraud and I will ask my colleague to begin the questions.

188. RITA DONAGHY: Thank you very much. Good morning. A general question if I may first of all. In earlier evidence we discussed the issue about whether the current system was basically established on trust. Would you accept that days of having a system like that are now over?

189. DR PINTO-DUSCHINSKY: Well, the system is not based legally on trust. We have penalties and we have penalties for lack of registration and for false registration. I think the system is based on complacency and a lack of enforcement. The powers have been there but when I heard previous colleagues saying that registration was voluntary, it is not, it is compulsory. The fact that they should say it is voluntary is a sign of their attitude to it and not of the law.

190. RITA DONAGHY: Thank you. You said earlier that you have made an honest estimate of the figure of 7 million. How big a problem do you think electoral fraud is, bearing in mind that you do not know the answer, but what would your honest estimate be of electoral fraud?

191. DR PINTO-DUSCHINSKY: This sounds a bit like I am hexed with "Honest Joe" on my label. I think that we are at the position of not having an estimate in statistical terms but that we have a variety of pieces of evidence and if you put those pieces of evidence together then it is absolutely clear that we are dealing with a major problem. We are not dealing with something that is; (a) rare, or (b) that is a confection of the media, that want a good story. I look at evidence at the moment in a number of different parts that add together to make a case.

192. First of all the cases that have come to light, the legal cases, some of them are a very large amount of fraud. If we take the Birmingham case, the judge in the Birmingham case, and I think I put this in my evidence to you, says that in one ward in Birmingham as many as half of the votes of the

winning candidates may have been fraudulent. Certainly over a third. That is staggering to have a single ward on that. In a second ward he says that it is unlikely that the number was under 1,000 fraudulent votes but he does not know how much over 1,000 there were. If we look at the Blackburn case we are dealing with hundreds of votes. If we look at the Hackney case we are dealing with hundreds of fraudulent votes. So, these are cases where the number of votes that are fraudulent are extremely large so that would be the first piece of evidence.

193. The second is that if one looks at, say, the experience of electoral registration officers and what they have said that a large number of them have said that these problems exist in their areas as well. When the Minister questioned them at the last annual meeting of the Association of Electoral Administrators, saying how many of them have had problems, most of them put up their hands and so we have them testifying.

194. You have other reports such as the independent report after the disturbances in Oldham which brought up evidence of irregularities there which I consider were pretty serious as well. You then have the accounts, not only of judges and it is not only the judge in the Birmingham case although I find his evidence very persuasive in detail and it is worth looking at all of that 200 page judgment and not just the headline conclusion that was quoted in the press, but you have other judges. You also have people like Mr Price, who is the editor of Parker's Election Law, who goes so far as to say that we no longer have free and fair elections because of the degree of the problem.

195. I think the summation of all of this evidence is really so great that you cannot push it under the carpet and we have enough evidence now to make it very important to have a systematic inquiry into the whole issue.

196. RITA DONAGHY: Thank you. The electoral administrators who gave evidence before us were the representatives of their particular organisations and acknowledged that there was a problem but I do not think that we got from the tenor of their evidence anything like the phrase "major problem." I am just wondering, do you think the government and/or the Electoral Commission are in denial about the extent of the fraud that you say exists?

197. DR PINTO-DUSCHINSKY: Yes.

198. RITA DONAGHY: The evidence that we received from the electoral administration administrators, as I say, they acknowledge that there were pockets of problems but we did not get anything like the flavour of what you have just indicated from the electoral administrators that you have discussed the issue with.

199. DR PINTO-DUSCHINSKY: I cannot comment on what your evidence was. Let me just quote from the website which shows the evidence given at the electoral administrators' conference in September 2005 in Redding. It says, "The Right Honourable Harriet Harman 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 raise their hand.”

200. RITA DONAGHY: Thank you. In hindsight, do you think the introduction of postal voting on demand was the main contributing factor to the significant increase in fraud?
201. DR PINTO-DUSCHINSKY: I think that there has always been more fraud than people have recognised. The blind eye has been an aspect of the British system and indeed last week when there was an international conference of electoral experts run by the Electoral Commission, both featured speakers and the most prominent people said to me afterwards how much they had been impressed by the club-like atmosphere of British public life in which you did not have procedures, you did not have challenges, you did things over a lunch at the Cinnamon Club, and I think that has prevented a real investigation and realisation of the problems. So, I think there has been a culture of denial and still is, among many authorities. Having said that, postal voting on demand very much added to the problems.
202. RITA DONAGHY: Are you implying that postal voting on demand is not a good development, or are you saying that it has failed up to now because of your view of the complacency of the system? Is this a procedure that you would welcome, providing it was administered more effectively?
203. DR PINTO-DUSCHINSKY: We are so far from the effective administration of elections that in current circumstances it is a pretty dangerous thing to introduce.
204. SIR ALISTAIR GRAHAM: What do you think about the arrangements under the Electoral Administration Act where people have to give their date of birth and signature? We heard from representatives of Manchester City Council that they were exploring whether there was technology that has been developed in the banking world for checking signatures which they would hope to use in future to check the signatures of people who have applied for postal votes in comparison with the signature they used on the postal vote?
205. DR PINTO-DUSCHINSKY: That could possibly be one factor. I would not deny that. One would also hope incidentally that when there is registration by householders that those forms would be kept with the signatures and at present they are thrown away, which is a sign of the complacency, so that in future people who forged the forms could then be brought to court. First of all, I think we would need to be shown that that system was enforced. Secondly, there are other parts of any postal voting system that are liable to abuse. One of the pieces of evidence that, say, Mrs Anne Cryer, the Member of Parliament for Keithley, has said is that in many ethnic communities, especially women who sign away their vote through postal voting are actually going to have their votes cast by men in their community and by certain political leaders are going to gather them up. So, I do not think that the signature on the postal vote is the only problem. In addition, a postal vote is a postal vote for life. It is not something that you sign for an individual election. You sign up for the future.

206. SIR ALISTAIR GRAHAM: I think the point that was being made by representatives from Manchester Council was that there was a genuine demand for increased postal voting. They had seen no evidence, having had their experience, of demand tailing off and therefore if that is the demand by large numbers of people in this country for the way they carry out voting then is it not our job to work hard to try and ensure that it can be done in a way that safeguards the integrity of the voting system?
207. DR PINTO-DUSCHINSKY: The question is, what do you mean by demand? If within many communities people are pressured and tricked in other ways to give up their vote, to have a postal vote so that political bosses can deploy that vote, then the fact that people have signed a form does not mean that they demand it. I think the system is very much open to abuse, especially in immigrant communities and especially among women and especially among people who do not speak English. If one looks at the social circumstances then we are in a dangerous situation and in particular I think it disenfranchises Asian women.
208. RITA DONAGHY: Can I just ask what you think could be done to combat electoral fraud? I am assuming that you are saying the full panoply of the existing law ought to be more enforced but do you have any particular suggestions as to how it could be avoided?
209. DR PINTO-DUSCHINSKY: I did consider this and I thought that the most responsible recommendation to give to you was that we need to move on to a fuller investigation and inquiry of it. In other words, I regard the evidence that I gave as evidence in the nature of a tripwire. Evidence that says that there is enough here to demand further and more detailed investigation of the problem at a high level and with high profile rather than an act of denial. So, my first recommendation is that.
210. I suspect that based on the work of people like Richard Price, who is the editor of Parker's Election Law, that one of the questions that would be up for that is whether postal voting itself is inherently problematic and so that certainly is something that I would like to put in. I would certainly want some of the remarks of Judge Morey where he goes into the lack of powers of electoral registration officers to check evidence of whether there are fraudulent votes coming in. He talks about the almost complete absence of power of the electoral registration officers. I think that is something that I think should be looked at.
211. The other thing that I would like to come on to is something that came up at the international conference last week. That is that in some jurisdictions abroad you have, as part of an electoral commission, a separate function which is a function of aggressive enforcement and a department that is dedicated to enforcement. The point that was made by the Chief Electoral Officer for Canada is that you are not going to get enforcement of a proper kind within an electoral commission such as his unless there is some separate person and separate department that is charged with enforcement. Therefore,

in Canada the Chief Electoral Officer, who is like a one-person electoral commission, appoints a separate commissioner for enforcement.

212. Similarly, in New York our evidence from the Campaign Finance Board of New York City was that you would not have proper enforcement unless there was a campaign finance board that was separate from the board of elections. In other words unless you have a purpose-made department that is responsible for enforcement then you are always going to have the pressure of wanting to increase public confidence, of wanting to fulfil the other aspects of the work of an electoral commission.

213. SIR ALISTAIR GRAHAM: I think we are going to have to move on. As you know we did a study visit both to America and Canada and had a very long meeting with the Chief Electoral Officer for Canada so we do have some information about the arrangements there.

214. RITA DONAGHY: In your original evidence you suggested the Commission had not been as diligent as they might have been about overt guidance to political parties on loans prior to the 2005 general election and since then I know you have been in correspondence with the Commission. Do you have any additional points that you want to make following those discussions?

215. DR PINTO-DUSCHINSKY: I would just like to say that if we look at the answer I received from the Director of Regulatory Services on 28 April 2005 at number 4. In answer to my question of what interest rates were commercial, they answered that interest rates, other than on commercial terms is treated as a control donation. The value of the donation is defined as being the difference in monetary terms of the consideration that would have had to have been paid had the loan been made on commercial terms and any actual consideration paid. In other words, they are just replying that a commercial loan is a commercial loan and we are not going to tell you anything about what a commercial loan is and indeed the Chief Executive has confirmed that it was policy of the Electoral Commission last year not to give any advisory opinions. In other words, their view was that it was not their job to interpret the law or to give guidance on the law and that this answer amounts to being a non-answer.

216. SIR ALISTAIR GRAHAM: So, in fact if there had been given a more hard-edged answer as to what precisely was a commercial loan and they had intervened at an earlier stage, do you think the Commission could have influenced the behaviour of the political parties away from the very large loans they entered into?

217. DR PINTO-DUSCHINSKY: Well, they were completely entitled under the 2000 Act to have large loans providing those loans were on commercial terms. The effect that it would have had would have been to put them on notice that had those terms been below a certain interest rate then they would not have been commercial. The problem that we now have is that if, and I say this without getting into anything that is vaguely sub judice, so that nobody is

nervous about this answer, in the future a political party or a donor were to be prosecuted for a loan that was allegedly not under commercial terms they could legitimately say, "Well, we had no guidance as to what commercial terms were" and I think indeed that would be a legitimate defence, whereas had there been guidance at the time as to what a commercial term was then I think it would have been much better on the part of the Electoral Commission and also the Electoral Commission in the UK would have been acting in the way that electoral commissions in the USA and Canada do act because they regularly give advisory opinions. Indeed at last week's international conference the outgoing director of the Campaign Finance Board of New York City deliberately brought along an advisory opinion to show us.

218. RITA DONAGHY: So, do you think that the Commission should be more proactive in giving advisory opinions?

219. DR PINTO-DUSCHINSKY: Absolutely.

220. RITA DONAGHY: What is your view about the effectiveness of the PPERA in giving the Commission the powers it requires to regulate this area of proactivity? Do you think it is adequate?

221. DR PINTO-DUSCHINSKY: I am not the best person to ask because I am not a lawyer. However, I do not think the will has been there so far. That the Electoral Commission has not seen itself as an aggressive regulator which is what some of the other counterpart bodies have been because in a sense it has been mingling in the political system and trying to establish its budgets and itself within a political framework. I think that in order to be an effective regulator, as the director of the Campaign Finance Board of New York City said, you have to be a bit disliked. You have to have missiles thrown at you and I think it has not been sufficiently separate from the informal political processes.

222. SIR ALISTAIR GRAHAM: As always, Mr Pinto-Duschinsky, you have given us considerable food for thought and we are extremely grateful for your willingness to come back and in fact to share with us the dialogue that you have been carrying out with the Electoral Commission on certain matters. I think that has been very helpful. Thank you very much.

223. We are now going to break for 15 minutes for a coffee break and then we will back.

224. DR PINTO-DUSCHINSKY: Can I make one or two final points on this? I will not keep you from your coffee for more than one minute. This is about the role of the Electoral Commission. I believe that there is an informal recognition within the Commission that it needs to concentrate more on regulation, however, I do not think this is enough. I think there needs to be a formal limitation of the role of the Electoral Commission in its mission statement and I think its mission statement ought to be absolutely clear that it should regulate fairly and that is what it is about. I have put this in my evidence.

225. Secondly, I think that we are coming to a stage of reappointment of commissioners through the Speaker of the House of Commons and I think the role of the Commission and therefore of the commissioners ought to be debated and your recommendations about that ought to be put before the Speaker before that reappointment process takes place. Thank you.
226. SIR ALISTAIR GRAHAM: Well, Sam, welcome back to another public hearing where I am very grateful and glad we have been joined not only by Peter but Pamela Gordon from the Electoral Commission. I do not think we have had the opportunity to talk to her throughout our different hearings.
227. We are really most grateful to you for returning to give further evidence to the Committee because the evidence you gave on the first day to kick us off on the process was most useful and since then we have had a great deal of evidence from a wide range of witnesses, including politicians, electoral administrators, academics and other interested parties. What we would find helpful this morning is to reflect back on some of the views that you outlined then, the suggestions we have heard, and just test whether some of the suggestions that have been put to us, in your view, are practical or sensible in improving the work of the Electoral Commission.
228. Now, the main thrust of the inquiry, of course, is on the mandate, governance and accountability of the Commission. But an underlying issue that has come across this morning, and on previous occasions, is the perceived loss of confidence in the integrity of the electoral system and that is the area I would like to start. But I understand, Sam, that you would like to make a short introductory statement before we get down to questions?
229. SAM YOUNGER (Chairman of the Electoral Commission): Yes, if I may, Chairman. Again, thank you very much for the invitation. I am delighted to have the opportunity and it might just be worth noting, just in case, that Pamela coming with us actually means that you will have seen all the Commission, but also to note particularly that Pamela has the role of chairing the Boundary Committee in the Electoral Commission and that is part of the reason why --
230. SIR ALISTAIR GRAHAM: It has been very helpful with the range of the hearings to have the opportunity to meet your colleagues.
231. SAM YOUNGER: Yes, I think they have felt the same and welcomed the opportunity. I just wanted to update you on some of our thinking because as we said in our written and, indeed, oral evidence to you earlier in the summer we ourselves, in the context of the requirements of our annually updated five year plan, have been undertaking our own review of where our priorities should be. Equally reflecting and responding to some of what members of the Speaker's Committee have been saying to us in terms of, "We would like to get you to bring us a clearer idea of where your core priorities are among this range of statutory functions that you have". Also, I think, the

strategic review has been particularly important to reflect a changing environment, especially with the Electoral Administration Act now enacted.

232. I just wanted to share just a little bit of our conclusions, a lot of which we can take up. Of course recognising that, indeed, some of our thinking has been informed by a lot of the evidence that has come into the Committee anyway and we very much look forward and will be very much influenced by what the Committee itself comes up with at the end of the year.

233. I think really what we are beginning to home in on is that the core of what the Commission is better placed to do is in the realm of, if you like, standards and monitoring of those standards rather than direct management in areas in which we are involved. I think that plays out in terms of a core focus on the regulation of political parties. Clearly that is a changing environment in the light of what may come out from your Committee, what may come out of the Sir Hayden Phillips' review in terms of exactly what the parameters of that are, but conscious that we need to take a strategic and, in particular, a more risk based approach than we did in the early days. So that is one major area.

234. The second is supporting improvements of standards in electoral administration. I think we would say we have made a very strong start over five years in terms of guidance to working with electoral administrators and returning officers. Clearly the Electoral Administration Act puts us in a new phase in terms of the development of performance standards. In particular, and what has been highlighted very much by the evidence in your Committee, is the importance of supporting the improvement of registration and, indeed, looking at the setting of performance standards.

235. Our aim at the moment in producing performance standards and implementing them is to start with the registration process which can be separated from the administration of electoral events, if you like, and putting in the standards there. In that context I think we would like to see, in terms of levers that we would have, a transfer to us as envisaged by the original legislation of the responsibility for the fees and charges that go to returning officers for electoral events. Indeed, we would be interested in going further from that as a lever.

236. With all of that, I think in communications terms, we feel we need to focus more strongly on specifically supporting the EROs in their new duty to maximise the register and returning officers with a new responsibility in terms of encouraging participation, and be more focused on registration above all and then the issue of how to vote, the process itself, perhaps more than some of the more sort of aspirational encouragement of broader participation that has been part of the focus up until now.

237. Finally on boundaries, after some considerable discussion with boundary committees over the years, and in the light particularly of the devolution settlement, a sense that the notion of all the bits of boundary work coming to us operationally is not necessarily what the issue is. That there

may be a lot to be said for, as it were, a more devolved operational responsibility but again, in this context of standards, the Commission having a role in setting frameworks to ensure consistency.

238. SIR ALISTAIR GRAHAM: Thank you very much for that. That is helpful and I am sure we are going to touch on some of the points that you have made as we go through. As I said before, the area I would like to start with in terms of revisiting some of the issues that we looked at the first time around, is there clearly has been some - a number of people have argued quite strongly to - perceived loss of confidence in the integrity of our electoral system.
239. In fact we have just had a discussion with a previous witness about the issue of electoral fraud, in which Dr Pinto-Duschinsky argued really we do not know the scale of fraud and it would be worthy of some further investigation. I wonder if you could tell us, Sam, why the Commission has not undertaken any research into the apparent increase in electoral fraud, given that we have had now a substantial number of high profile criminal prosecutions. Some people might argue that getting these prosecutions off the ground is not a simple straightforward matter and therefore the fact there have been a number of those in recent times suggests that that might be the tip of the iceberg.
240. SAM YOUNGER: Well, we have been very conscious of the issues of fraud really ever since we have been in the field and if you go back to 2003, which is when we made our main raft of recommendation for changes that needed to be in legislation, a move to individual registration and a number of other measures designed to combat fraud were absolutely core to that. So we have been very aware of those confidence issues. It is clear that confidence - and we have done a fair bit of research on this - has been damaged. There is a distinction between where confidence is and what the actual incidence of fraud might be. We have got a good deal of evidence of where there have been allegations of fraud. There are a number of cases that have come to court. The numbers of actual election petitions are not hugely greater in recent years than they were in the past but nevertheless there are a number.
241. SIR ALISTAIR GRAHAM: That is a pretty tough process to go through.
242. SAM YOUNGER: Well, it is a very high hurdle and that is why you cannot actually take that and why, if you did take the criterion of electoral petitions, you would not think there was a significant scale of problem. We think there is a problem and we have been very active, and will continue to be active in this. I think there are some key elements of it for us.
243. Apart from what we have been recommending in terms of measures that need to be taken to combat fraud at a legislative level, increasingly our guidance to support and training for electoral registration officers has actually focussed on what measures can be taken to tackle fraud. We have been very active - and I think it is fair to say that without us it would not have happened - in bring the police and prosecuting authorities together with electoral administrators. We have been doing that on a regular basis now since 2004.

In 2005 for the first time there was a nationwide guidance jointly between the Electoral Commission, the Association of Chief Police Officers and the returning officers.

244. SIR ALISTAIR GRAHAM: There has been a lot of activity, but would it be fair to say you have never given a considered judgement about the scale of electoral fraud in our system?
245. PETER WARDLE (Chief Executive): Perhaps if I could just come in. I think there are two issues. One of the issues that Dr Pinto-Duschinsky has been talking about is research into the level of people appearing wrongly on the electoral register. If you like that is the beginning of the process. Now, I think on that there are various estimates around. As you know, we do not entirely accept the methodology of Dr Pinto-Duschinsky that it is 3.5 million but we accept, and agree with Dr Pinto-Duschinsky, it is a significant number.
246. The reason why there was no research done on the 2000 census, as there had been in the 1980 and 1990 census, was simply that the Commission was not set up in time to prevent the office of the national statistics gathering the data in an unhelpful way. It was not possible, given the way they gathered the data in 2000, to repeat the exercise so easily. We are quite clear, with our new focus on registration, this is a piece of research that needs to be done and we will be taking it forward. It will be very much along the lines that I think you have discussed already with Dr Pinto-Duschinsky in terms of house by house, street by street checking. It is the only way to get a valid figure.
247. So, on the question of research, the reason it has not been done recently was partly technical, to do with the way the statistics were gathered. We had been planning to do some major research had Parliament voted for individual registration this year. It would have been foolish to do it until we were clear what system it was we were looking at. But we will certainly be doing research into the level of overpopulation of the register.
248. I think, as Sam says, the difficulty with actual incidents of fraud, once it is there, is that it is very hard to measure that. If you find it then you ought to be prosecuting it. One point that came out of the work we did with the police, which was very powerful in terms of what I have heard from both the police and returning officers, is the ability of the police to, in areas of particular risk - I know that you have discussed some of those areas and parts of the community in the evidence you have taken up to now - take a much higher profile in the last two years at the elections. It was true that there was a police presence in polling stations. There were clear messages going out jointly from police and returning officers about the fact that there was a focus on this and I believe there was a real deterrent effect there. That is what the police are telling us. At the same time the police have picked up more cases than ever before.
249. SIR ALISTAIR GRAHAM: Just a slight aside. You must have regular discussion with the Department of Constitutional Affairs about these matters. We saw a recent interview with the Minister responsible for elections in which

the DCA were pretty dismissive about this sort of issue of electoral fraud when really the evidence we have had before us is that clearly there has been an increase in the amount of fraud. We do not know the scale of the problem and there is probably considerable further work to be done in this area. You yourself have started doing some work. Why do you think the DCA is so dismissive of the issue of fraud?

250. SAM YOUNGER: I think you would need to ask them the question. I think you would have heard from Sir Howard Bernstein that there is this sense that the coverage there has been of fraud has made it into a larger issue than it might actually be but that is not to say it is not significant. I think it would be too easy to say because one thinks the media reporting is exaggerated or partial, therefore it is not a significant problem. Clearly there is an issue there and it is an issue that has been related, in particular, to the growth of postal voting. Hence all of the action that needs to be taken.
251. Of course, there is a legitimate balancing argument that one needs to think about in terms of what you do in terms of implementing change. That is you could improve the security by making access to the electoral process impossibly difficult. That is one way of doing it. But actually balancing those is what the game is about. A lot of the discussion, and therefore a lot of the tone around this, is a matter of exactly where you put that balance.
252. SIR ALISTAIR GRAHAM: You have just said that the very substantial increase in postal voting has probably raised the greater likelihood, if one puts it no higher than that, of fraud. We have not got the Electoral Administration Act, in which in future, I am not quite sure from what date, if you apply for a postal vote you are going to have to give your date of birth and a signature. The opportunity exists in future elections of checking the signatures, the signature that you give when you actually go through the process and the signature you give when you are applying for the postal vote. How is that system going to operate?
253. We have just heard from the Chief Executive of the Manchester City Council that they were hoping that there was technology that had been developed in the banking sector for checking signatures that might be available. They referred to the fact that if there is going to be sample checks that it should be a minimum of 20% although he seemed to have a very clear preference, if it was possible with the appropriate technology, to have 100% check. What is the Commission's approach on that?
254. SAM YOUNGER: Our view is that the principle is right, that there should be 100% checking. There is technology available already. There were pilots, for example, in the 2006 local elections, in Newham particularly, of technology that enabled this to happen and it happened very effectively. There was an issue of costs, there was an issue of capacity in terms of roll out. But there is no reason technologically why one could not get to 100% checking.

255. SIR ALISTAIR GRAHAM: So you would expect by the next election that technology will be available.
256. SAM YOUNGER: We would hope to see 100% checking in time for the next election.
257. DR WOODS-SCAWEN: The Chief Executive of Manchester City Council suggested in practical terms the scale of investment might mean that there is going to be need for greater regional collaboration on this kind of technology and that it is unlikely to be practical on a constituency by constituency basis.
258. SAM YOUNGER: I think that is a fair point. An increase in regional collaboration in a whole lot of areas is actually important.
259. DR WOODS-SCAWEN: Does that lead on to a view that the constituency building block, in terms of administration, might be, to some extent, breaking down because of the need for leadership, for co-operation, for investment on a bigger scale?
260. SAM YOUNGER: I am not sure necessarily the fundamental local authority building block needs to change but it does need to be pulled together and already I think there is evidence that there are particularly smaller district councils where the capacity to undertake the basic work is very difficult in terms of resources they can put to it. So, over time some consolidation there. But having building blocks which we think are important in terms of being locally based is important. We do feel very strongly that the embedding of the registration services and the running of elections in local authorities is something that not only goes with the historical grain but actually makes a lot of sense. But there certainly does need to be collaboration, particularly with technology and, indeed, in other areas such as links with the police.
261. SIR ALISTAIR GRAHAM: We will come on to that, how one might organise oneself to make sure one gets the consistency across the piece. Can I just finish off the postal voting issue? Given the increased possibility of fraud with a fairly massive extension of postal voting, are you entirely comfortable now with the way the postal voting has gone or do you think there might be some arguments to go back to the pre-2001 situation?
262. SAM YOUNGER: Our view would not be to go back to the pre-2001 situation because I think the evidence is that there is - and it goes back to this balance between access to the electoral process and security and integrity and they ought to go together - a significant number of people who do very much appreciate the opportunity to have a postal vote and have one on demand without necessarily giving some specific or attested reason. So we would not want to go back. The important thing for us has been to look at what extra underpinning there needs to be beyond what was there already in order to give it adequate security. The solution we put forward was full individual registration. That has not gone through although government accepts the principle of it. However, the most urgent driver, if you like, for

individual registration was the need to improve the security and postal voting and the amendment that is in place requiring signature and date of birth as a means of achieving that. I think that is the way we need to go forward, along with all these other measures which we have been describing in terms of improved vigilance on the part of electoral registration officers, improved links with the police, improved links with the prosecution service. All of these elements work together.

263. DAME PATRICIA HODGSON DBE: I think you made a powerful case first of all from the need to balance greater integrity of the franchise and access and the convenience of the postal vote and how that leads you to individual registration, and very interesting and powerful evidence about the ability to check signatures. But we heard some evidence this morning that there is a further problem within that, even if you were to be able to do that, which is what goes on within households where it is their postal vote, it is their signature but, of course, they have not actually filled the ballot paper in. Have you thought about how that might be tackled? Obviously one starts to think about continuing ease of getting the postal vote but the range of places that you can fill it and sign it being private.

264. SAM YOUNGER: It is a very real issue. One of the things we put in one of our reports on this was the acknowledgement, and there is a substantial case to be made, that there is a potential compromise in the secrecy of the individual's vote as soon as you move outside a polling station. That is whether it is postal voting or whether it is in the future internet or telephone voting. I think that is unavoidable if you are going to move outside that environment because after all a great deal of the case for postal voting is about convenience to people and if you start putting too many restrictions in and saying there are specifically places they have to go in order to fill in that postal vote under supervision then effectively you are back to a polling station. So, I think there is an issue there.

265. If there was a sense that it was a sufficient scale of issue that you should never move out of the specifically controlled environment of a polling station then that seems to me a respectable view. It is not one I share because I think the balance is in the advance of the franchisement of a maximum number of people.

266. DAME PATRICIA HODGSON: It does make one wonder whether there is not something that is a modern, much more relaxed and easily accessible range of places, does it not? It just occurred to me for the first time this morning, listening to the sequence of evidence.

267. SAM YOUNGER: We have talked a lot about individual registration in relation to the integrity of the franchise. There are some very powerful arguments to do with individual liberty and choice, actually to do with individual registration regardless of the fraud issue, security issue. It is odd that one person in a household, by filling in or not filling in the form, can franchise or disenfranchise the entire household. Until the amendments that we argued for and got in the Electoral Administration Bill came in on postal voting they could

also make the choice on behalf of everyone on the form to vote by post. Therefore making the choice to give up the secrecy of the polling station for everybody. Those sorts of things are, I think, where your thinking is. People have got to be making an individual choice that they are prepared to accept the loss of secrecy in applying to vote except in a polling station.

268. SIR ALISTAIR GRAHAM: Before we move on to the issue of electoral administration, just one issue in relation to postal votes that I would like to put to you. You welcome the measure in the Electoral Administration Act which forces those applying for postal votes to provide personal identifiers, how effective do you think that measure will be when there are no checks carried out on the electoral register as a whole? People have to give a date of birth and a signature, do they not? What is the date of birth significance going to be?

269. SAM YOUNGER: I think our view in terms of date of birth and signature, whether this is on a postal vote application or indeed whether it is on the electoral register, is actually what is a proportionate requirement to establish identity to what the risks are. It is quite interesting when you look at the issue in Northern Ireland where there has been significant concerns about fraud over many years. There the decision was taken that actually at registration, in a sense it is no different if it is about postal votes as a process, you have to provide a national insurance number as an added level of security and added assurance of identity. The judgement we made in the recommendations we made was that in terms of the scale of the issues, signature and date of birth, which is checkable, is a deterrent that can be checked and where action can be taken. It is not foolproof. I think if you are going to a really accessible electoral system it will never be foolproof. It is a question of what the right balance is.

270. SIR ALISTAIR GRAHAM: Some of this is only really going to make sense if you get to where there is some real check in terms of individuals registering to go on to the electoral register. Is that fair to say?

271. SAM YOUNGER: In our view, full individual registration is the best way forward because it catches a number of issues. In terms of the most immediate issue of not having somebody, who is not the voter who has applied for it, actually filling in a postal vote then signature and date of birth is a major step, assuming it is going to be checked, down the road of closing off that loop hole as a deterrent and as a means of detection.

272. SIR ALISTAIR GRAHAM: How will that work the checking of the date of the birth and signature in terms of making sure that the actual application is not fraudulent?

273. SAM YOUNGER: In terms of the postal vote there is no absolute means of assuring it is the original application, unless you can compare a signature with a head of household signature. When a postal vote application comes in that has to be taken and then there is a comparison of the postal vote against it. However, there is --

274. SIR ALISTAIR GRAHAM: In fact, the check is only really when people start to vote?
275. SAM YOUNGER: Yes, when people start to vote.
276. SIR ALISTAIR GRAHAM: There is no check on the initial application?
277. SAM YOUNGER: Which is part of the reason why individual registration closes off that area better. But you could extend that even further, somebody could fraudulently register, fraudulently then apply for a postal vote, fraudulently cast the postal vote. It could still be consistent but we are looking at the scale of the issue and the likelihood of that happening on any significant scale and proportionate measures to deal with it.
278. SIR ALISTAIR GRAHAM: Let us move on to electoral administration. What, I think, has struck the Committee most has been a number of people saying that there is an uneven, to put it politely, approach in terms of the effort, will, resources going into electoral administration matters at a local authority level. Even money that may have been allocated by Parliament, by the time it goes through the rates support grant if there are other more pressing priorities, might get diverted not to be used for electoral administration but to be used for childcare or whatever the pressing matter is at a local level.
279. I do not know, even from your opening, Sam, that I have quite got an understanding of what you think your role is in insuring the consistency of approach. I know that the new legislation gives you the opportunity to set performance standards but that still does not ensure an even allocation of resource or anything like that. What do you think your future role should be?
280. SAM YOUNGER: Two things I would say. One relates crucially to funding. Again, back in 2003 we did a report on the funding of electoral services and our suggestion then was that not only should major electoral events, in other words, above local level elections, be funded as they are now by specific grants that are consistent, that are ring-fenced, that go to the returning officer for use for that election. Not only should that be done on a central basis but actually the core funding for electoral registration services should go the same way. We suggested that funding could come through the Commission, although the mechanism was not necessarily the most important thing.
281. SIR ALISTAIR GRAHAM: If it comes through you would you then contract with the local authority for what services they provide in return for that funding?
282. SAM YOUNGER: Effectively that would have to be. That would have to be the case and what we would be looking at is a potential extra link. There is provision in the legislation and we would look for government to trigger that in terms of the Commission taking over responsibility for the fees and charges for election events. It is a different argument, and it gets caught up a great

deal in issues about localism and local accountability and local authorities not wishing to see a lot of their funding ring-fenced. Therefore there is a real degree of contention over whether the core registration services should equally be ring-fenced. Our view is that it would be better if they were. If they came through the Commission it would marry with the performance standard setting and monitoring because it actually links performance more to specific services.

283. SIR ALISTAIR GRAHAM: If we were to recommend that this should happen in the future, this puts you in a very central role as far as electoral administration is concerned. Given the scale of the task that you would be taking responsibility for, do you think that there might be a role to really make this work effectively for the Commission to have regional electoral officers who could both oversee the electoral registration process, possibly on a regional basis in a cost effective way, organise some of the technology for signature checking and all of these things on postal voting, and have some overall responsibility for overseeing elections? Could you see that happening?

284. SAM YOUNGER: I would just like to preface that by saying that I think our focus over the coming months needs to be on doing what we are required to do under the Electoral Administration Act. However, looking further ahead, we are conscious, and we alluded to it earlier on, that there is real value in an ability to support and, in some cases, lead on a regional basis in an increasingly complex environment. We have already moved down that road.

285. There is one framework that already exists which is the regional returning officers who are appointed for European Parliament elections because, in a sense, there has to be a regional level responsibility. It is also provided for in the Act that set us up in relation to referendums, where I have the role as Chief Counting Officer in the referendum and that gives me a power of direction over counting officers. When we were planning the regional referendums in three northern regions, in the end it was only one, we recognised that we could not do this effectively with a chief counting officer simply having a relationship to individual counting officers on the ground. There needed to be a regional level to make it manageable.

286. SIR ALISTAIR GRAHAM: The fundamental point, Sam, is that if the funding was to go through you, and one can see arguments clearly in favour of that, given the inconsistency of approach that takes place at the moment it would become a major core responsibility for electoral administration. You would be into a major contract management role and I am just trying to get a bit of a feel to make that role effective, what sort of structures might you want in place and are regional electoral officers perhaps a key part of such a structure?

287. SAM YOUNGER: Certainly from all our experience so far we would say that, yes, that is a vital part of the structure and, indeed, even without any further specific powers other than what we are required to do in the Electoral Administration Act, we recognise that we need to establish more of a regional presence and more of a regional link in England, even with our current

responsibilities. Clearly we have got a regional link insofar as we have offices in Scotland, Wales and Northern Ireland. But to replicate that across England rather than actually trying to operate everything in England essentially through a central office in London. The exact model I think would be and it would make sense, it would be unrealistic to look at it on anything other than a model that matched what is currently the for European Parliament regions because those are the parameters that we had worked with. But certainly that is the way I think it would need to go.

288. PETER WARDLE: I think as Sam said in his opening words, we are quite clear that alongside the regulation of political party finance getting more consistent, better run elections in this country those are our two core reasons for being here. Without those there would not be a lot of point in having an Electoral Commission. We need to step into a position and step up our leadership role in relation to elections. We have a new power to set performance standards. We think that is potentially a very significant power if it is done well. One thing that is not so much noticed about the Act, we also have a power to collect information about the funding that is actually being deployed on electoral services. That is very useful. It is not a standard power but it is very useful in terms of us building the case for the link between proper resources and good performance. So, while we will not make the case overnight I would expect that over a couple of years we would quite quickly be able to see the link between those authorities which are under resourced or not using their resources as effectively as others and their performance. Now, that is quite a potent cocktail of activity which starts to make a real difference.

289. PAMELA GORDON (Electoral Commissioner and Chair of the Local Boundary Commission for England): If I might just add to that. Local authorities have grown very used to being sensitive to and responding to criticisms from the Audit Commission under the comprehensive performance assessment, therefore putting extra resources into services that have been criticised. We see a parallel there. We will actually have quite a lot of influence if we have cause to say there is inconsistency or poor standards, particularly if that is related to low resources.

290. RITA DONAGHY: Could I follow up on this issue, Sir Alistair, if I may? All the evidence that has come in about any possible change to individual registration suggests a step change in resource issues at a time when public expenditure is going to be going down rather than up. Whether the Commission have the responsibility for allocating it or the responsibility for monitoring expenditure, what sort of sanctions if you felt there were not sufficient resources being applied to individual registration would you be prepared to apply. Could you bring the whole process to a grinding halt, for instance, if the staging of the resources were not considered adequate?

291. SAM YOUNGER: As it stands that is a very real issue. One of the things that is not there with performance standards is setting those standards, monitoring, as Peter says, the power of --

292. SIR ALISTAIR GRAHAM: But you do not have a direct power of intervention except through the inspectorate regime that Pamela referred to.
293. SAM YOUNGER: Indeed, it is fair to say that in preliminary discussion about performance standards with senior returning officers, we already have a group of regionally based returning officers that we bring together regularly to have these discussions.
294. SIR ALISTAIR GRAHAM: Whereas if you had the contract management responsibility you would have a more direct intervention role presumably?
295. SAM YOUNGER: Clearly if there was a resource link that would be the case. It does not necessarily answer the wider point of the quantum of public funding available but in terms of the deployment of it then there would be a logic there in terms of how those contracts were --
296. SIR ALISTAIR GRAHAM: I understand the powers you have got for performance management standards and all the rest of it but that is a rather indirect opportunity to influence, even though it may be a powerful cocktail in the way that you suggested, but as I understand it your preference would be to have direct control over the funding, there will always be an argument about the total quantum, and to contract management with local authorities as to what work and how this work should be done?
297. SAM YOUNGER: Clearly the financial lever is the one that is missing at the moment. As I say, we have the prospect, and it is already provided for in legislation of the event funding coming from us, which puts us into a position with more influence. We have always argued that the wider registration services as well should also come through the same route.
298. SIR ALISTAIR GRAHAM: Peter referred that really the two core functions would be obviously the regulatory function in relation to political parties and better run elections. Does that better run elections include taking responsibility for an electoral register that is both accurate and comprehensive?
299. PETER WARDLE: It certainly includes a better run electoral register and a register which is complete and accurate. At the moment we do not have a power to run the register. We have the same powers we have just discussed in relation to the way elections are carried out in terms of performance standards and monitoring resources, we will have the same powers with the register but we do not own the register at the moment.
300. SIR ALISTAIR GRAHAM: I understand that but you could argue that an accurate and comprehensive register is at the heart of our democratic system, is it not?
301. PETER WARDLE: Absolutely and the key priority would be --

302. SIR ALISTAIR GRAHAM: It would be daft to talk about better run elections without seeing that you need the underpinning ...
303. PETER WARDLE: One of the most noticeable things I think people will see is the Commission taking a stronger leadership role, certainly the earliest thing they will see, is a renewed focus on the registration process.
304. SIR ALISTAIR GRAHAM: What people might see as a refocus of your priorities or identifying your core priorities, does that require a statutory change, do you think?
305. PETER WARDLE: At the moment our thinking is within existing statute as updated most recently in the Act. I think the conversation we are having is touching on the cocktail I have described that we have available to us under the statute at the moment. Clearly it will be possible to identify the less performing local authorities. It would be possible to identify those local authorities who are performing pretty well but actually generically probably need some more help, which the Commission might then be able to provide. I suspect we also identify local authorities who are at serious risk, either in relation to their registration service or their management of elections.
306. Now, the question then is what are the sanctions we apply. There is nothing whatsoever statutorily to stop us going along to the chief executive of the local authority saying, "You know and I know that we have some risk here, we have some problems here. Here, in the name of the Electoral Commission, is our advice on what you need to do about it". It is not an insignificant thing to do and we can do that without statutory power. I think the question is do we move beyond all of this in future to either the sort of contract management money in relation for performance you were describing, or to a power of direction as Sam has described we have in relation to referendums. Or, ultimately, to a completely different system where everybody running elections and registration in this country is an employee of the Electoral Commission. It is a national body.
307. Our view is that we are not yet in a position to say that we need further sanctions or which would be the most appropriate further sanctions. It is quite possible that if the powers we have got at the moment prove not to give us success in driving up consistency, performance, the accuracy and completeness of the register, the accessibility and good management of elections with what we have got we may have to come back and say, "We need more". I am not sure that we know exactly what it is that we will need yet because we are starting on that process rather than finishing it.
308. SIR ALISTAIR GRAHAM: But you have got the opportunity, as we are carrying out this review of your mandate, to try and persuade us about your preferred solution. I was just trying to clarify if, in fact, having control of the funding for electoral administration would you be your preferred model? Two very powerful chief executives argued would be a very logical and sensible thing to do in evidence last week and the Chief Executive of Manchester City

Council did not rule it out but he was rather less enthusiastic I have to say on that particular issue.

309. PETER WARDLE: I think of the three possible sanction scenarios I described, I think the last, the complete move to the Electoral Commission running everything, is a very big step and I do not think it is one that we would look for at all at the moment. The obvious ones to consider are either the power of direction or a closer link between funding and performance. Either of those would certainly give more teeth to our leadership role.
310. BARONESS MADDOCK: Could I just ask a question before we get off the registration side? Do you have any data about how local authorities update the register at the moment? We had a very powerful presentation of how thorough Manchester are this morning. My own experience is that this is not the case everywhere. For example, do you know how many people just do it by post and how many do it by individually calling at households?
311. SAM YOUNGER: This is precisely where performance standards and, as Peter said, the ability to require information comes in because up until now it has been patchy. Indeed it has been patchy because we have no powers. As strange as it might seem we come up with figures for the amount of postal voting but we have not got, and have never had, absolutely full returns from every authority of how many postal voters they have got, for example, because it is on a voluntary basis. That kind of information is what we would expect to have, and indeed that would be reflected in the sort of reporting we would want to have against performance standards. One of the real tricks is going to be, and it is not going to be easy, we need to be very aware that the trend in local government is to reduce the number of indicators, reduce the bureaucracy of it. We have got to make sure that we have got a small set of indicators that are actually useful in order to be able to identify and actually be a lever to improve performance?
312. DAME PATRICIA HODGSON: As you have heard we have been very struck by the evidence of different levels of resourcing and you really confirm that in different areas. I was very interested in what you said about the models that are either a contractual based model or a directional based model. Can I ask about the contracting model first? Lots of attractions about it because you can specify what is required but then I ask myself the practicalities of that because there is never enough money to do things perfectly in this world. The practicalities are that the Electoral Commission will then be making its own judgement about compromises. Who then is the regulator as it were, who then starts to talk about underlying principles of integrity, who surveys the field? So that is the first question.
313. I am sorry to confuse different areas of questioning but it was just that I have only just had this thought about people who perfectly honourably, as it were, signed their postal ballot but they have not actually filled it in. I wonder whether there are things we ought to think about, or you ought to respond on, because it is not a loss of a franchise if either you individually or your family or your ward or whatever is found guilty of this you do not lose the right to vote of

course but you lose the right to a postal vote going forward which would be quite a disincentive. So, sorry there are two unrelated questions.

314. SAM YOUNGER: Just briefly on the second, having done the thinking we have done so far, I think there are other measures that are always going to be worth considering. That may be one of them. There are other models in the future. I was very struck at a conference of European election bodies a couple of weeks ago to find that on an electronic voting pilot in Estonia they were in a position where people are allowed to cast their votes via the internet but if they had been put under pressure they could just go to a polling station on the final day and countermand that vote. It was an interesting model that I had not seen before. So there are a number of things that are worth looking at for the future.

315. On the contracting, I think the question you raise is actually precisely why we have been wary about saying anything too definite because we do see ourselves in the best role we can play, where we can add most value, is in being a centre of frameworks and standards and try, to some extent, to hold to account for meeting those standards. Therefore, to put us too much in the role of judge, jury and appeal court does have some concerns. That is not to say that it would not be much better in terms of identifying and being able to make the equations actually to have core funding coming through us, particularly in terms of registration from a central point so that you know there is at least a consistent quantum of money that is available for this. Rather than the position at the moment where there is no ring-fencing at all.

316. SIR ALISTAIR GRAHAM: That is very helpful. We must move on. Boundaries. We wondered what you view was of the idea of the parliamentary and local government boundary commissions in each of the four home countries remaining separate but sharing a common secretariat, given you said that you do not want to take overall responsibility for the various boundary commissions. Do you think this is a route one should be going down?

317. PAMELA GORDON: This is moving into an area where we think some legislative change is called for. We do think that things have moved on very considerably since the PPERA Act. The devolved settlement arrangements, particularly in Scotland and Wales have bedded in and the situation that we have now with local government in Scotland and Wales, being the remaining devolved matters, are unlikely in the foreseeable future to want the Commission to take those roles over. They already have effective working arrangements. They have separate commissions as you know but with joint secretariats. They carry out parliamentary work with their own parliamentary commissions.

318. We have received a lot of evidence recently when we were reviewing our own electoral review process for the government in England about the desirability of linking together more effectively parliamentary and local government boundary work in their respective countries. Therefore, we are now persuaded that there is a lot of sense in thinking of arrangements in England, in Scotland, in Wales, in Northern Ireland. However, we do believe

that there is a continuing role for the Electoral Commission, very consistent with the strategic role that we have been talking about in regulation and electoral administration, for setting a strategic framework. There is, for example, unanimity among all the commissions that there is a need for an overhaul of the rules of parliamentary boundaries. That is the something that the Commission is expecting to carry out if the terms of PPERA had been implemented. It is something they could still carry out. They could then set a flexible framework because obviously one has to be responsive to situations in different parts of the country, contrast the Isle of Wight and the western islands, and you have to have a scheme that is not rigid so far as population figures are concerned. But you could set a framework, and indeed you could monitor that framework so that it was implemented. So I think there is a role there that the Commission could continue to fill.

319. It does leave the question of England. Because at the moment the Local Government Boundary Committee for England is part of the Electoral Commission, a separate parliamentary boundary commission, all agreed the work on boundaries ought to be brought together. Logic would suggest, therefore, that something more comparable to what happens in Scotland and Wales might be appropriate. Not going into details of whether it can be done with a joint secretariat and one or two commissioners, they are matters that would have to be considered. But the operational work on that would not fit so well into the future structure that we are talking about for the Electoral Commission, and also would get away from the danger that we do see, if it is confirmed that arrangements in Scotland and Wales were to continue as they are, of having a rather disproportionate emphasis on English local government boundaries within the Commission. So we see a definite change possible there which would meet a number of these requirements.

320. SIR ALISTAIR GRAHAM: That is very helpful. Thank you very much for that explanation. Can I move on to the issue of party funding which is obviously the other area that you see very much as a core activity. Is it still your view that you are constrained by PPERA from taking a proactive approach to regulating party funding?

321. PETER WARDLE: I think there are problems with PPERA. There are changes we can and will make ourselves within the framework and we have started to make those changes. As I discussed with you last time we appeared before the Committee, in the early years, the first two or three years of the Commission's existence and the first two or three years of the new framework's existence, there was a fairly steep learning curve for all involved. It is certainly the case that the requirements for the first time required political parties which had been voluntary associations of private citizens effectively to all do something in a consistent way as required by legislation. That included appointing officers within the parties with particular functions and particular risks attached to that appointment.

322. I think it is fair to say that the Commission and the parties in the early years were on a mutual learning curve and the focus was on getting people to a level of understanding and compliance. It is equally the case that in more

recent years the Commission has quite firmly taken the view that the parties, certainly the established parties, have had long enough now to get to grips with the requirements of the legislation and that we should be more proactive in our role. A good example of how that has happened over the last couple of years is we have drawn much more attention to failures on the part of the parties to comply to disclose fully their sources of funding. I am not talking there about the loans issue but about other issues. Most recently we drew attention to the fact that our analysis showed full year returns of donations did not match the quarterly returns of donations that the parties has put in. We drew attention to that and said, "This is not good enough".

323. We are already moving that way and, as Sam said in his opening words, there is further for us to go within the existing framework in terms of focusing on the riskiest elements of the riskiest parties, looking at compliance records, looking at scale, looking at the structure of parties which can itself make it more or less easy for them to comply and targeting our resources much more consciously to the higher risk areas. All of that we can do within the existing framework.

324. There are two particular areas where I think we would want to see the legislation change. One of those is in relation to the way the role of the Commission is described. The legislation basically starts from the presumption it is up to the parties to observe the law. It then describes the role of the Commission using the word "monitoring". We have a monitoring role. That is rather an odd word to describe the role of a regulator. But it then gives us, for example, the power to enter premises and take away documents, which sits rather oddly with those other two elements and it seems to me that the framework is not as well thought through as it might be. We are looking at the moment at, for example, international models and models from other UK regulators as to how the basic concepts might be better expressed in legislation so that we and the parties and the public are all clear about who does what.

325. The second area is in relation to the sanctions that are available to us. Again, as I think we discussed last time, you move very quickly from expressions of regret at the failure of the parties to comply to court action. There is nothing in between. In most other jurisdictions the equivalent body to the Electoral Commission has the power to impose administrative penalties. That might be, for example, requiring a party to sign up to certain requirements in the future to ensure future compliance. It might be financial penalties related to the amount of undeclared income or late declared income if it is not a sufficiently serious issue to go to court on. I think the question of administrative penalties is the other area that we would be looking for change in the law. With those two changes and our own thinking about how we can exercise our role better as a regulator I think we could make quite serious improvements.

326. DR ELIZABETH VALLANCE: Alistair, could I just pursue that one because it seems to me to be very important that the position you are in at the moment, from what you have said, could actually undermine the confidence

rather than do anything else. Because what you are doing is simply pointing out that things are going wrong but being in no position to actually do anything about it. Therefore this indicates a weakness in the system, if you like, which you apparently cannot do anything about. I think that people might therefore take the view that the Commission itself is extremely weak in this regard.

327. PETER WARDLE: There are certainly cases where it is quite difficult to explain why the Commission has not done something striking. Usually those are cases where it is very unlikely that the public interest test and the evidence test would be meant in such a way to enable us to go to court. The Crown Prosecution Service to go to court, not us. Other people have to look at the evidence and take a decision.
328. I would not underestimate, actually, the impact of what we do at the moment. The example I just mentioned recently where we identified some particular constituency associations which had significantly failed to report all their donations was followed by very public statements from those constituency associations acknowledging that they had done wrong, committing themselves to doing better in the future and saying the Electoral Commission were right to have pointed this out. So there are results. We are not ignored. We certainly are not ignored.
329. DR VALLANCE: But the headlines tend to be the other way. The headlines tend to be that there are distortions or whatever and the implication is that nothing is done about it.
330. PETER WARDLE: It is difficult because headlines are short term. My perception is actually in most cases the parties who we focus on do improve. We certainly pay them a lot more attention. They do put it right, they do give a better picture in future. It is difficult not to have a specific action that you point to to say, "Look what happened to them as a result of their failing to comply with the requirements".
331. SIR ALISTAIR GRAHAM: It is helpful to have your views about how you think the arrangements might be strengthened. Can I just pick one other issue up in relation to regulation of party funding. There has been some criticism that you have not issued advisory opinions on the interpretation of PPERA when that might have been useful. I think the one quote has been about how would you define a commercial loan, for example.
332. What is your view about this? Could you have done more in terms of issuing advisory opinions?
333. PETER WARDLE: I am not sure I agree it would have been useful on that particular example. As I said to you last time, I have no doubt that the parties understood what they were required to do and that they were not needing any guidance from the Electoral Commission on that point.
334. But I think the general principle with new legislation is should a regulated body be able to approach the regulator and ask for the regulator's

view on what would be a sensible approach to a particular issue that has arisen, particularly if the law is tricky on this subject or not clear, I think that is a good principle. I think we should be more prepared in future to look at those questions and to say, "Well, in our view the issue here is full transparency, that is what we are here to ensure, it seems to us the sensible thing to do is X. Please do X and we will be happy." There is always a risk that in three year's time a court tells us that our legal judgment was wrong. That is a risk I think we should take in the interests of the greater --

335. SIR ALISTAIR GRAHAM: But it is not uncommon for some regulatory bodies to issue those sorts of advisory --
336. PETER WARDLE: And it does happen internationally with other party funding regimes.
337. SIR ALISTAIR GRAHAM: Can I just touch on the issue of campaign expenditure where you have, clearly, certain responsibilities? We have had a bit of feeling, in terms of receiving evidence from the parties, that you are rather on the back foot in this issue in the sense that you carry out a sort of audit function, but the way you organise it does not easily allow for proactive approaches. In some of our regional hearings, I asked particular questions, "If you have some intelligence, which suggested that the rules were being flouted in some way, have you got the capacity at a regional level to move people in to do something about it?" It all seemed very London-centric, "Well, we would refer this to London and in due course they might do something". Is that fair?
338. PETER WARDLE: That is certainly what you were told. We listened very hard to those sessions and we think that the people making those points were right. It is very odd that, up to now, we have not exercised our regulatory function, of all our functions it is the one area where we have been much more centralist and we are quite clear now that it makes far more sense to exercise our regulatory functions in, particularly in Northern Ireland; Scotland and Wales, where there are, not only identifiable Northern Irish; Scottish and Welsh parties, but also sections of the big parties, Scottish Labour; Welsh Labour, who are effectively operating in relation to the Assembly of Scottish Parliament in those areas.
339. It is right that we should maintain our primary relationship with the parties, and our primary regulatory relationship with the parties, from our offices in Cardiff, Edinburgh and Belfast. Indeed, to the extent that we build a presence in the regions of England, as Sam touched on it in relation to getting closer to local authorities in terms of electoral administration and registration, it may well be that we can work, particularly with regional branches of the big parties, on an English regional basis.
340. I think the only exception to that general rule, I would suggest, might be that where we are going to take serious enforcement action, we might want to have a specialist unit that is perhaps London-based to ensure consistency in expertise. But certainly, I think points that were put to you were very sensible

ones and ones we have listened to and agreed with.

341. SIR ALISTAIR GRAHAM: Okay. Thank you very much. I am going to pass over to my colleague, Brian Woods-Scawen, who is going to raise more issues.
342. DR WOODS-SCAWEN: Before I go on to the specific issues, can I just be deliberately provocative as we range across what you have described? As I hear it, you have described a learning from your first years and a move away from what some might describe as some of the sort of soft stuff into quite tough stuff. As well as resources, that is arguably going to require changes in competencies, in courage and in culture. Do you think you are up for that?
343. SAM YOUNGER: Yes.
344. DR WOODS-SCAWEN: How difficult will that be? Because other organisations have found those transitions not always easy.
345. SAM YOUNGER: I do not think we should underestimate the challenge of it at every level. I mean, we have already begun, Peter may want to say a bit more about describing and defining some of the competencies that we need to add to the organisation. Certainly in terms of approach, I think in a sense a slightly different approach will be driven by what we are saying we need to focus on strategically.
346. PETER WARDLE: Perhaps just to add, you are absolutely right, I think the biggest challenge for us is - actually in terms of levels of skills and expertise, we are quite strong - I think that the big challenge is self-confidence, courage, focus and being prepared to move into a situation where, even more than at the moment, we are criticised for doing things that people do not like. I think that goes with the territory. I mean, if you are going to be criticised, then be criticised for areas where actually it is difficult to argue that you should not be operating in. I think where we have had some fair criticism is where we have been on the margins, on the periphery. I do not think anyone can really question the Electoral Commission's right and expectation that it should be operating in the two areas we talked about, three areas if you include the strategic overview of how boundaries work is done. Who else would do that?
347. DR WOODS-SCAWEN: Can I move on to specific reports on elections, which have been very thorough and I guess have taken quite a lot of resource, how useful have they been and is there any evidence that policy or administrative changes have flowed from your reports?
348. SAM YOUNGER: I think the answer to that is "yes", in some cases, clearly the key one here was the very first one we did in terms of launching the agenda of those things we needed to look at. But then a lot of that was reinforced in subsequent reports on elections. Certainly, it has been interesting, we have been doing our own review of our reporting on elections and how we go about it and what the return is on the resource put into it and we have been surprised, I think, by the degree to which stakeholders, whether

political parties; administrators; returning officers; in government, say they would not wish there to be any lesser level of detail in future. I think our feeling has been that there is a danger if you are looking at, as it were, essentially the same process time after time that you are not getting very many new areas to look at and so we need to look at how we do that and I think the strategic view we have taken is that we need to put more emphasis on reaching some observations and conclusions about key elements of elections in a shorter period after they have taken place. Greater emphasis on that by comparison with the "for the record" analysis that is going to need to be there. But of course there are options now with the web of not needing to do a lot of hard copy publication of things that the specialists can find their way to.

349. DR WOODS-SCAWEN: How do you see the elections within the devolved administrations fitting into this framework?

350. PETER WARDLE: Perhaps one of the things I was going to add is that the other thing that struck me from our review was the very high impact and value placed on our election reporting in the devolved areas of the country. In a sense, there are a lot of people who write analysis of general elections. We happen to think that we do make a useful contribution, but there are areas where, we would acknowledge for the future, perhaps we are doing the same as other people and there is no need for us to do that. It goes with the territory of our overall thinking about concentrating on what we are good at. But actually, in the devolved areas, the Electoral Commission's reports are seen as "the report on the election" and prized for that.

351. DR WOODS-SCAWEN: So you do not feel you need any further access rights in terms of devolved administrations for this purpose?

352. PETER WARDLE: In terms of...?

353. DR WOODS-SCAWEN: Entitlements, statutory or otherwise, to do this stuff, yes.

354. SAM YOUNGER: No, I do not think we necessarily do, I mean, it is interesting and striking that in the case of elections where there is no statutory right that we have to report in relation to local elections in Scotland and Wales and indeed in Northern Ireland, we have in each case been asked to include those in our consideration. Clearly much more important to do that where those elections are combined with those that we do statutorily report on. But I think experience has shown so far that we would not need any extra powers to do that.

355. I think the one area where it is important that we have the power, and that indeed is there in the context of performance standards, is the ability to require certain information. It is striking that some of our election reporting for the purpose of statutory reporting, there is information people are not necessarily required to give to us, it is only under pilot legislation that certain information has been required. So that has been a potential gap so far, but I

do not see any reason for any further measures.

356. DR WOODS-SCAWEN: Can I turn to policy advice? We received evidence that some of your emphasis on policy work in the early years was welcomed because of the complete absence of policy in the Home Office, but that DCA has built up an increasingly good competency in the policy area. Do you see this as an opportunity to redirect resource away from policy, not because it is unimportant, but because DCA will be increasingly covering that area?

357. SAM YOUNGER: I think you are absolutely right to say that there are phases in this. I think it is true to say that in the early years we were going into what was effectively a vacuum, very striking coming out of the 2001 general election when we made our first statutory report that there was this sense of a sort of floodgate being opened and a lot of people wanting to get into those policy discussions.

358. We are in a different era now. We are focusing more, or expect to focus more, on more operational issues, particularly after the Electoral Administration Act. As you say, government has built up its capacity. I would see us making a contribution to policy debates in the context of those areas where we have most expertise, rather than operating a very generalised policy role as a freestanding priority for the Commission.

359. SIR ALISTAIR GRAHAM: So it would be more or less what is learned than perhaps broaching into new policy areas?

360. SAM YOUNGER: Unless those new policy areas are related specifically to areas that are linked to performance standards or the regulation of political parties. I think that is right.

361. DR WOODS-SCAWEN: In terms of publicising electoral arrangements, over your life, both in Northern Ireland and in the other administrations, you have done quite a lot on publicising particular changes and actually much of it has been positively commented on. How important will this be going forward and how valuable is it as a magnet for your resources in a period when you are taking on bigger challenges and the resources will not necessarily be linear in terms of the challenges you take on?

362. PETER WARDLE: That sort of work will remain, I think, very key to what we do. As Sam said, when he introduced our thinking, we are clear that the work we do to encourage accurate and complete registers will remain important. And the work we do to inform people about voting will remain important.

363. It is not just about changes, incidentally, one thing we know is that there is a generation of electors who have never actually been to a polling station and are now in their early thirties. One of the things they worry about, "What is this polling station?" It is a slightly unfamiliar environment. We are even

beginning to think about explaining to people what plain vanilla voting is like, let alone changes to electoral systems.

364. But on that, just to take an example, we were in Edinburgh earlier this week, talking to a range of people involved who were thinking a lot about the 2007 elections there, when the voters will be confronted with two different proportional representation ballot papers, two different elections, and there is concern about, "How is the ballot paper organised?" "Can we explain it to people?" That is an important role for us. People look for impartial independent authoritative advice on how to exercise their democratic right. That will always be important.
365. Just picking up the registration point, I think - and this relates to your question about resources as well - what we know now, because of the research we did in our report on understanding registration, there is a lot more detail about those sections of the community who are most likely not to be on a register or to fall off the register, and that will certainly influence the way we design our public awareness campaigns in the future. Funnily enough, they will probably be cheaper, but more effective, because we know that actually 90% of the people on the register will probably still be on the register next year and therefore it does not necessarily point you to a mass TV advertising campaign.
366. We do know that young people, for example, are less likely to be on the register. That points you to things like advertising on bus shelters and so on. So, actually, the mix will be very different but we hope will be much more effective in achieving the overall goal.
367. The other point, of course, is that we would be doing less, and consciously less, of the more general democratic engagement work that we have done some of in the past, recognising that while we think we have been good at it, there are other people in this area and it is not our top priority.
368. DR WOODS-SCAWEN: I would like to come back to that. Just to conclude on publicising arrangements, what evidence have you about the effectiveness of your spend over the last six years in that area?
369. PETER WARDLE: We have, just taking Northern Ireland for example, I think some very strong evidence of the impact we have had. That whole area of our work inevitably, because it is one of the bigger areas of our spend, has been reviewed twice now by the National Audit Office for the Speaker's Committee, and on both occasions I think their conclusions have been that we actually have used the money very effectively and can point to evidence of that. We can certainly point you to those reports for the detailed analysis in them.
370. DR WOODS-SCAWEN: Can I then turn to the democratic engagement part of this. Some might say it is pretty curious that a regulator who is properly working on systems, which are efficient and have integrity, should also have a

responsibility to persuade people to use those systems in a voluntary society.

371. SAM YOUNGER: I think there is a potential tension. Our focus has been really on where we can be most effective and I think we have concluded that we can be most effective supporting very specific areas, which are really about information. Information about how to go about registering, whether general or very focussed on individual constituencies, or how to go about voting. I think Peter has given the example, I think we have a very major piece of work to do alongside the Scottish Executive for next May's elections in particular because of the changes in system.

372. I think what we have been conscious of is, quite apart from the question of whether it is necessarily appropriate or whether it is pulling the organisation in too many different directions, that actually we have less value to add, as an organisation ourselves, in that more general area and, arguably, you could say, "Should there be an effort on this that goes beyond simply being about voting?" That is as far as our remit goes, but actually engagement and participation are about something much wider. There are many other ways of expressing participation, of which voting is one. And we are not necessarily best placed to do that, and when you add to that the question of, "What can you do and how can you then judge whether you have been effective?" I think one of the things we have really struggled with, without answer, is how we can possibly be able to identify our effectiveness in that area. Because in the end, turnout, which is the main measure, is driven principally by things other than what the Electoral Commission might do, and above all, whether there are parties and candidates people want to vote for or against.

373. DR WOODS-SCAWEN: Do you see others, political parties, Labour Party has suggested a Foundation, others taking up this area?

374. SAM YOUNGER: I would like, I mean, there are many people who are involved in this and who do see it as core to their tasks and I would like to see that, I thought the suggestion of a Foundation For Democracy is an interesting one to look at, particularly in the context of there being something that is a drive for citizen engagement, which goes beyond purely voting, and talks about other areas as well and does not, as it were, be in the business of singling out voting and politics as a somehow quite different area of citizenship and citizen engagement from anywhere else. And there are organisations active in this field, such as the Citizenship Foundation and others.

375. DR WOODS-SCAWEN: One final question from me. Dr Pinto-Duschinsky suggested this morning that your mission statement needed change, and on reading it, it seems to describe the world that you come from, rather than the world you are going to. Will this be a piece of work that will be consequential on your strategic changes?

376. SAM YOUNGER: Yes, I mean, I think it is fair to say we do the work on what we think the strategic direction needs to be and the mission statement follows.

377. DR WOODS-SCAWEN: My colleague, Elizabeth Vallance, will take on.

378. DR VALLANCE: Yes, hello. Can I just turn briefly to governance and your governance arrangements and your views on these? We have had quite a lot of evidence about, as you know, the Speaker's Committee framework of reporting, where it has been suggested to us that you are a bit between a rock and a hard place in the sense that you have tried to insist on objectivity, on political objectivity, on being above the political fray, as it were, but that political independence may mean that you are too pure and that entire purity in this context means that you do not actually have the political nous to deal with what is going on. I put it crudely, but these are the kind of issues that have arisen. That the Commission lacks political expertise because it does not have some kind of political representation there.

379. Now, obviously, the other side of the coin is that it is essential for you to be perceived to be politically independent and certainly not Party political. How do you see that balance?

380. PAMELA GORDON: If I may take that question, if I could say that my term of office ends in January, so I hope I will be seen as disinterested in answering this. We actually believe that the independence of the Commission, and the public perception of its independence, is absolutely key and we do believe that if there were political appointees to the Commission, that perception would be undermined. Maybe it is regrettable, maybe it is a reflection of a deeper scepticism of our politicians, but it is there. We think to be able to demonstrate that independence is important.

381. But it goes beyond that. The Commission is not a purely advisory body. Many advisory bodies do have a political balance around their representation. We actually have to make decisions on a number of very sensitive issues. I believe that if there were political appointees, when we were looking at some very serious regulatory issue with regard to the party to which they belonged, they could be in quite an invidious position. So long as boundary work on local government remains with the Commission, this was a matter that the Secretary of State gave up, we believe, because there had been sometimes accusations of a jerry-mandering, much more obviously, some pressure from political colleagues, as an example of where, having people who have not a political background, could be seen as threatening the independence.

382. I should just say at this moment that we do recognise that the Commission would benefit, from experience within its staff, of people who had worked for political parties. That ban that is statutorily laid down at the moment, the ten year rule, we think is totally unnecessary and actually inhibits us from getting practical advice. So, from the staff point of view, we think it is a completely different issue. As I am saying, from the Commissioner point of view, we think it would be perceived, and would cause difficulties.

383. And there is also a question of workload. We are not like a lot of non-executive directors. I think it is fair to say that my colleagues and I, on

average and it does vary, are spending 2½ to 3 days a week on Commission business. When we were doing the Local Government reviews in the north of England I was more than full time. There is a very hands-on role for the Commissioners because of the need for a lot of meetings with political parties, with a whole range of stakeholders, which I think would be quite difficult for active politicians, certainly, to be engaged on.

384. The naivety question, I have to say, our experience suggests that when that criticism is thrown at us, it comes from a political source, who are not happy about a line we are taking on a particular thing. That is inevitable. I do not believe that as a body we are politically naïve. We have among our ranks, including myself, former local government chief executives, albeit at a local level, have worked very closely with politicians and understand some of their ways, not the same as being a politician, but certainly not naïve about a political context. And, indeed, an experienced political journalist, who has also engaged with political parties. So, we would very much urge the maintenance of the independence of the Commissioners. We do believe there is a considerable relaxation possible on the prohibition on staff.

385. SIR ALISTAIR GRAHAM: Can I just follow a couple of points up in relation to that? If, in fact, you put some constraint on who the political parties could nominate, because I think we probably had stronger views on this particular issue than we have had on all of the rest, so there clearly is some strongly held views out there about this issue of Commissioners, but it might be possible - I am not arguing for it - but it might be possible, for example, to put certain constraints, people who some years ago had some particular expertise and interest in these areas being put forward for consideration as Commissioners. Do we need, given the strength of feeling clearly that the Commissioners are expressing on this, to be as absolute as you have suggested?

386. And the other point that seems to be relevant to all of this, one of the key tasks that you are probably going to have some time, we do not know exactly when, is to move from householder registration system to individual registration system, and that would be part of the core activities that you have been talking about and we have been asking you questions about. And we do know from evidence we have had that there is a great deal of fear out there, particularly Members of Parliament in inner city areas, who are very fearful about what the impact of individual registration might, in terms of the size of and accuracy of the register in their particular areas, but particularly the comprehensiveness of it. If you are going to have difficult tasks like that, in which one would need to work out, carefully, a transition period, would it not help if you had some Commissioners who, not too long ago, had some direct political experience that could help you chart your way through such a difficult transition?

387. PAMELA GORDON: If I could just start on that one and then ask Sam to come in on how other ways of trying to relate to political stakeholders. First of all, if there were to be politically appointed Commissioners, there is a balance then about how old their experience would be and therefore how

useful in this particular context. There is also a particular problem, I think, about the numbers that would be involved. One might start off by talking about the three main political parties in the UK. A fourth position, perhaps, to represent minority parties, or indeed, what about Scotland and Wales and Northern Ireland? How do you deal with that? If you try and have positions for more political parties then obviously you are thinking of a very large Commission and one of the virtues we have found is operating with a small compact Commission and we would certainly urge that. So, with all the other things that I have said, given that we do not have facility to have minority reports, for example, we would stick very much with the line that I am saying. But there are other approaches, which Sam will --

388. SAM YOUNGER: I just want to say, when one looks at what the nature of the problem really is, as Pamela has said, we would not subscribe to the notion that there is anything particularly politically naïve or lacking in political nous about the Commissioners. We would say that having some experience of operating within political parties at a lot of staff levels would be a good thing. Equally, we would recognise that the one bit, which is a separate thing from political naivety or political nous, is actually the one thing we do not have, is the experience of operating as either elected politicians or actively within parties. Therefore, we need to have access to that expertise and experience, and that we recognise. But our own view is that it is more appropriate to do that in advisory frameworks, leaving the executive decision-making of the Commission outside any of that.

389. SIR ALISTAIR GRAHAM: Would it be sensible to strengthen those, if one went down that road, would it be sensible to strengthen some of those advisory, to make it, if there were statutory changes being made, would in fact some statutory advisory committee in which a statutory duty was put on you to consult. I am thinking of maybe, for example, a move to individual registration, which would have a big impact on the parties.

390. SAM YOUNGER: Yes. I would see no objection to that. After all, there is already, within the existing statutes, the requirement to have a Parliamentary Parties Panel, and indeed, we have replicated that, albeit without needing to do so statutorily, in Scotland, Wales and Northern Ireland. That has proved very useful. I think, to some extent, the intention of those who saw that in the first instance, balanced against the argument of not having people with elected politicians and political experience as Commissioners, was the sense that the Parliamentary Parties Panel would provide something like that. As it has turned out, extremely usefully, it has been, as it were, the Party professionals, the headquarters' staff, rather than the experienced politicians. So, I think we do recognise that we have had a gap in terms of the elected politicians.

391. There are various ways in which we have tried to plug that gap. Most recently, and I think probably this is overdue, and I hope it will work, this is without prejudice as to what might happen in the future, either statutorily or otherwise, but have established a small reference group of three members of the House of Lords, three members of House of Commons, from each of the

three main parties. The interesting thing there being, they have all agreed to be an informal reference group and in particular are not to depend on, as it were, formal meetings once a quarter, but to be a sort of email consultation sounding board. I think the only danger of which is, to them, of there being more traffic than they can cope with. But I think we just have to be careful about how we do that.

392. SIR ALISTAIR GRAHAM: It is not an obviously transparent arrangement, is it? It is like more private and informal?

393. SAM YOUNGER: It is informal; there is nothing private about it. It is a toe in the water. But I do not, you know, it is something we would wish to extend and amplify because of not wanting to see Commissioners, as it were, as political appointments, for the reasons Pamela has stated, but recognising that there is what has been a gap in our considerations so far that --

394. SIR ALISTAIR GRAHAM: But on the fundamental issue, you do not see any compromise, you think you should continue with the arrangement where it is not possible to have political appointees to the Commission?

395. SAM YOUNGER: That is our view.

396. DR VALLANCE: And indeed, I would have thought that it is hinted at, but I do not think you have actually said it overtly, that one of the strongest reasons for that is that you would wish to remain as, in effect, a unitary board. You do not want to be there as representatives of anything or anybody.

397. SAM YOUNGER: That is absolutely right, and I think, for us, one of the things I would say is I think, of course, you can find people with significant political experience, more than capable of operating impartially, plenty of them who can do it. But I think there are very real issues of public perception in this and there are other ways of addressing that.

398. DR VALLANCE: There are other ways of doing this, yes, absolutely. Can I just come back to the ten year rule, which you are saying you are not wedded to keeping that in any sense. Would you just scrap it altogether? Would you say it really does not matter whether people have just come straight from some kind of political involvement or engagement?

399. SAM YOUNGER: Our current thinking would be that that is appropriate for Commissioners and perhaps the most senior staff, but could be scrapped in other cases.

400. DR VALLANCE: Okay. And for Commissioners or senior staff, do you have a sense of what would be appropriate?

401. SAM YOUNGER: We have not taken a policy view on whether it should remain ten or whether it should be five --

402. SIR ALISTAIR GRAHAM: Even ten years for senior staff now? We understand your position as far as the Commission is concerned, but for example, if, I do not know, you had post as senior director of regulation, for example, I am not saying you have or should, but just something like that, you do have to have a very effective senior regulator, you may want somebody with not too distant experience.
403. PETER WARDLE: I think the question we need to ask ourselves, the issue, I think as Pamela referred to, it is partly the public confidence issue, it is partly the issue of who takes the decisions. At senior levels, I take decisions on regulatory issues. I have delegated authority from the Commissioners to take a number of decisions in those areas. Other more serious decisions would not be taken until the Commissioners had considered it. Even where Commissioners are considering, I have, and I think would be perceived to have, a fair amount of influence on that decision. And I think at the very senior levels of staff, certainly not more than half a dozen people probably at most, I think that is a factor you need to think about.
404. SIR ALISTAIR GRAHAM: So, you think five or ten years or would you like to stick to the ten years for those people?
405. PETER WARDLE: Our discussions up to now, for Commissioners and the most influential staff, our discussions up to now have tended to assume that the ten year rule is probably right.
406. SAM YOUNGER: But it is also fair to say that --
407. PETER WARDLE: Any reduction of that does raise the confidence questions.
408. SAM YOUNGER: It is fair to say, though, we have focused more on the principle of it rather than on the exact number of years.
409. PETER WARDLE: Perhaps I could just add on that point, there are some international comparisons here, which we have been thinking about, which perhaps are worth mentioning. One is on the point of independent Commissions. I mean, the notable exception of the Federal Electoral Commission in the US, which is strictly balanced on Party lines, I think most regulators of political finance frameworks, or the ones that are acknowledged as the most effective, do tend to be independent. We heard last week that the Council of Europe's latest guidelines on these things say that the ideal situation is to have an independent regulator in a political finance structure.
410. The other point on the advisory committee of politicians is that it is fair to say that the idea is one that we have developed from what the Chief Electoral Officer in Canada does. Again, an independent regulator, but who has set up a clear advisory panel of politicians to feed in that perspective. So I think there is some international experience here, which is helping us to think about it.

411. SAM YOUNGER: Perhaps, just that one point, what you were saying about this group we have at the moment being not necessarily transparent and that possibly if you were going to have that, to have it on a statutory basis. I think what would be welcomed from us is to have those people who are on it selected, not by us, which is simply a sort of pragmatic way of getting the ball rolling, but actually in a more formal sense the people delegated from others. I think that would be something. Now, whether that requires a statutory change, I mean, it does not necessarily need it.
412. SIR ALISTAIR GRAHAM: That is helpful.
413. DR VALLANCE: I think Donna would like to --
414. BARONESS MADDOCK: Yes. I would like to come in on that point. It seems to me that it would be very helpful to have - I do not know if you agree with this - to have a transparent advisory body that has politicians on it, because whether we like it or not, I know, because in a sense I am partly on the other side of the fence, that there is a view that you have been naïve and that we need to get over that because it is important that politicians in Parliament do have faith in what you do, otherwise they are not going to vote you any money, apart from anything else. And so I think it is important, not only for the public to have confidence in you, but for those who are practising politicians to have confidence in you, and there has been a lack, I think, in this area. We need to find a way to make sure that does not continue.
415. SAM YOUNGER: Yes. I entirely endorse that and, as I say, I think interestingly, in terms of having some kind of advisory committee, it was something I raised with the Speaker's Committee some years ago, rather in the hope that it is something that might have been taken up there, separately from the Speaker's Committee, which has a specific financial accountability issue. So, this small group I have established now is really to fill a gap, without prejudice to doing something that is actually on a much firmer basis for that, of the kind that you point to.
416. SIR ALISTAIR GRAHAM: I think there was just one final area that we wanted to clarify with you, because this is an area that we will be giving some thought to, is the accountability framework.
417. DR VALLANCE: I was going to come on to that, actually, Alistair. Yes. Just before we go on to that, just very briefly, I think it has been enormously helpful to deal with the governance in that amount of detail, but there is just one other issue, which is looking at Commissioners. We have had a lot of very positive responses from people in Scotland and Ireland about the fact that there are Commissioners who are Commissioners, in effect, with an interest in that area but they are not Irish Commissioners or Scottish Commissioners. Does that seem to be, to you, the way to do this, the way to have a proper representation - whether "representation" is the word - of the devolved administrations?

418. SAM YOUNGER: I think we would all say that what the most important thing to all of us has been that every Commissioner has an equal status on all issues in the sense that they come to the Commission in order to take an interest and make decisions across the full range of the Commission's activities. That said, it would be inconceivable that we would not be looking for a balance of Commissioners to represent various areas. Now, at the moment, we only have five Commissioners, we should have six. So there is a limited way in which you can do that, but it would be inconceivable to me that we would not have a Commissioner plugged into Scotland, plugged into Wales. We are looking, when we do our next recruitment, to have one also plugged into Northern Ireland, because it has been in the absence that in the initial tranche of Commissioners, there being anybody based in Northern Ireland, we have looked to one of the other Commissioners to take a special interest and he has done very well, but it is not a substitute for having somebody who is really engaged there.

419. And we also need to think in terms, particularly if we move down a regional route, of thinking about how we might reflect regions within England. So there is an awful lot of balancing work to be done. But the core of it, I think, is that you need to have a corporate body where you feel everybody both can and is accepted as having an equal voice across the board.

420. DR VALLANCE: Thank you for that. Just to move on then, to the accountability framework, which in effect is not a part of, but not a million miles from, governance. The current arrangement is obviously where you have accountability via the Speaker's Committee, I think is a slightly two-edged sword again, in the sense that people accept that the Speaker's Committee is very highly regarded as objective, as non-Party political and so on, but the uncertainty, I think, is around the issue of transparency. Does it actually have the transparency that allows this accountability to be clear, particularly since the Speaker's Committee does not meet in public, there is nothing on the Web and so on. How would you deal with that particular criticism? Do you think that it would be an idea to try and have the Committee meet in public, albeit not chaired by the Speaker?

421. SAM YOUNGER: I have noted, and was pleased to see that, I think, Peter Viggers, in evidence to you last week, was suggesting that the Speaker's Committee would be looking at ways to improve that transparency. From our point of view, not only would we not have any problem with that, we would very much welcome it and the more transparency, from our point of view, the better. And it is really partly because that was one element of meeting the point Baroness Maddock was making, about confidence within Parliament. I think part of it, I mean it is not the biggest part of it, but a part of it is this feeling from a number of Members of Parliament that what the Speaker's Committee does is behind closed doors and we do not necessarily know it all.

422. I think the fundamental mechanism of the Speaker's Committee focussed on the financial accountability of the Commission for the use of public resources is the right one, and not something bigger that also gets into

the areas of policy and whether the views the Commission is taking are the right ones. And I think it is fair to say that there is a framework now that has developed of quite tight accountability in reality.

423. As somebody said in the debate in the Commons in early July, "The Commission is an organisation with only £25 million of public spending, has been crawled over in scrutiny terms really quite considerably". There is an NAO value for money report every year provided for in the Statute, quite apart from the audit of accounts. I do not think that is where the problem is.
424. What we would welcome, and again, it is in the context of what you were raising in terms of the way we are seen in Parliament and among politicians, is the broader areas of engaging with Parliament. We would very much welcome, we already have a strong relationship with, and a frequency of appearances in front of, the Constitutional Affairs Select Committee. However, regular meetings where maybe our annual report would be interrogated. Easier now that more of the issues for which we have accountability come under the context of the DCA as opposed to in the early days when they were split among a number of committees.
425. We were also delighted to see, and I think it is something that very much came out of the initial hearings at your Committee, that there was, for the first time in early July, a full Parliamentary debate on the work of the Commission. Very healthy, actually a very valuable debate. So, I would like to see, in terms of the content of what the Commission does, a significant extension of the means that Parliament has to engage with that. Fundamental accountability works quite well, but transparency would be very much a plus.
426. DR VALLANCE: Okay. But you would not want to actually change the method of accountability, say, to what has been suggested to us by some people, a new Select Committee, a Joint Committee of Lords and Commons, or whatever? You do not think that is necessary, you think that by extension of the existing arrangements you can get a proper accountability?
427. SAM YOUNGER: I think there is an improvement of the existing arrangements could produce every bit as good result as another way of doing it.
428. SIR ALISTAIR GRAHAM: We have had, as you said, the evidence from the Speaker's Committee. I also had the opportunity of having a meeting with the Speaker as well, so I sincerely hope that we might be able to find some way through that particular area.
429. Well, I would very much like to thank you for coming along and giving us the opportunity to hear your latest thinking on some of these issues. I think it has been enormously valuable and of course we will be working hard now to try and ensure that we produce a report before the end of the year. Thank you very much for coming for a second time.

430. SAM YOUNGER: Thank you very much for the opportunity, and just to say that I think we may, in the absence of having given you a formal opening statement, just send you a summary of some of our key thoughts subsequently, coming out of that.