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Public Bill Committee

ELECTIONS BILL

Second Sitting

Wednesday 15 September 2021

(Afternoon)

CONTENTS

Examination of witnesses.

Adjourned till Thursday 16 September at half-past 11 o'clock.

No proofs can be supplied. Corrections that Members suggest for the final version of the report should be clearly marked in a copy of the report—not telephoned—and must be received in the Editor’s Room, House of Commons,

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The Committee consisted of the following Members:

Chairs: SIR EDWARD LEIGH, †CHRISTINA REES

† Anderson, Fleur (<i>Putney</i>) (Lab)	† Randall, Tom (<i>Gedling</i>) (Con)
Bell, Aaron (<i>Newcastle-under-Lyme</i>) (Con)	† Rutley, David (<i>Lord Commissioner of Her Majesty's Treasury</i>)
† Bristow, Paul (<i>Peterborough</i>) (Con)	† Shelbrooke, Alec (<i>Elmet and Rothwell</i>) (Con)
† Clarkson, Chris (<i>Heywood and Middleton</i>) (Con)	† Smith, Cat (<i>Lancaster and Fleetwood</i>) (Lab)
Furniss, Gill (<i>Sheffield, Brightside and Hillsborough</i>) (Lab)	† Smith, Chloe (<i>Minister for the Constitution and Devolution</i>)
† Gibson, Peter (<i>Darlington</i>) (Con)	† Smith, Nick (<i>Blaenau Gwent</i>) (Lab)
† Grady, Patrick (<i>Glasgow North</i>) (SNP)	Adam Mellows-Facer, Chris Stanton, <i>Committee Clerks</i>
† Hollern, Kate (<i>Blackburn</i>) (Lab)	
† Hunt, Jane (<i>Loughborough</i>) (Con)	
† Mayhew, Jerome (<i>Broadland</i>) (Con)	
† O'Hara, Brendan (<i>Argyll and Bute</i>) (SNP)	† attended the Committee

Witnesses

Professor David Howarth, Professor of Law and Public Policy, University of Cambridge, and former Electoral Commissioner

Fraser Campbell, Blackstone Chambers

Virginia McVea, Chief Electoral Officer, the Electoral Office of Northern Ireland

Ailsa Irvine, Director of Electoral Administration and Guidance, The Electoral Commission

Peter Stanyon, Chief Executive, Association of Electoral Administrators

Louise Round, spokesperson for Elections and Democratic Renewal, SOLACE

Rob Connelly, Returning Officer, Birmingham City Council

Dr Kate Dommett, Department of Politics and International Relations, University of Sheffield

Professor Justin Fisher, Director of Public Policy, Brunel University London

Darren Grimes, political commentator

Public Bill Committee

Wednesday 15 September 2021

(Afternoon)

[CHRISTINA REES *in the Chair*]

Elections Bill

Examination of Witnesses

Professor David Howarth and Fraser Campbell gave evidence.

2 pm

Q46 The Chair: I remind Members about the public health guidance and that electronic devices should be switched to silent. We will now hear oral evidence from Fraser Campbell of Blackstone Chambers and Professor David Howarth, Professor of Law and Public Policy at the University of Cambridge. Fraser Campbell is appearing in person and Professor Howarth will be on Zoom. Before calling the first Member to ask a question, I remind all Members that questions should be limited to matters within the scope of the Bill and that we must stick to the timings in the programme motion agreed by the Committee. For this session, we only have until 2.30 pm. Please will the witnesses introduce themselves for the record?

Fraser Campbell: Fraser Campbell, barrister at Blackstone Chambers.

Professor Howarth: I am David Howarth, Professor of Law and Public Policy at the University of Cambridge. I was an electoral commissioner until 2018; before that I was a Member of the House of Commons, and before that I was the leader of a council.

The Chair: Thank you. Minister, would you like to ask the first question?

Q47 The Minister for the Constitution and Devolution (Chloe Smith): As this is such a short session, I will ask one question each of our two witnesses. Mr Campbell, it is nice to see you here today; thank you for giving up your time. The Government's call for evidence on the accessibility of elections showed that one of the main barriers to voting can be the definition of "companion" in legislation. Do you agree that the expansion of the definition of who can act as a companion will be of benefit and will support more elderly voters and voters with a disability in being able to vote in person?

Fraser Campbell: Yes, absolutely. Anything that can be done to make voting easier is to be encouraged. That is why, I suspect, more Members will have questions about some of the provisions that make voting more difficult, but I will not get on to that until I am asked.

Q48 Chloe Smith: Moving on to Mr Howarth—David, if I may—you have been a Member of Parliament, so welcome back; it is nice to see you today. You are a former Liberal Democrat Member, and it is great to have your particular intersection of experience. Knowing Parliament as you do, and knowing how, at its best, it can be a place for scrutiny, debate, insight and experience,

do you think it is a positive addition to the accountability and governance of the Electoral Commission that we have a greater role for Parliament coming in? Or do you think that the work of the electoral commissioners and the Speaker's Committee on the Electoral Commission as it currently stands is sufficient?

Professor Howarth: First, may I say that it is good to be back? It is just my luck to be giving evidence during a reshuffle. All I can say is, "Chloe, good luck," and I will understand it if you will be glancing at your phone.

The accountability of the Electoral Commission is twofold. First, there is accountability to the Speaker's Committee. That is useful, but it is limited, and should be limited, to the use of resources; it is related to the estimate under which the commission is funded. Secondly, on individual decisions the commission is accountable to the courts. That is to say, if it issues a fine or some sort of order against an individual or a party, those organisations or people can appeal to the courts. I think this afternoon you will hear from someone who successfully appealed a fine that had been imposed by the commission. It might have been helpful to hear from people who have been fined and failed in their appeal, or chose not to appeal.

There are two lines of accountability, and I think the danger in the Bill is getting them mixed up. The line of accountability to the courts should not interfere with Parliament, and the line of accountability to Parliament should not interfere with the courts. Secondly, what the Bill actually does is make the commission accountable to Parliament in terms of direction or guidance issued by a Minister, and then obviously agreed to on the nod in the usual way of statutory instruments by the Commons, and they would not trouble the Lords. Nevertheless, that is not accountability to Parliament; that is accountability to the Government—

The Chair: May I interrupt? Professor Howarth, we are having trouble hearing you. Could you turn your microphone up, please?

Chloe Smith: I am really sorry, Ms Rees. I could hardly hear any of that answer.

Fraser Campbell: I wonder whether I may say a word on the Minister's question. My view on parliamentary accountability is that of course it is very important. It has to be balanced against the independence, and the perceived independence, of the commission. To the extent that the Bill wishes to introduce scope for the commission to be given a statement of principles and objectives, I think the question arises whether that will be useful and, if it is, to whom.

Based on the Minister's statement from 17 June this year, which talked about the content that that statement might have, there was an indication that it may lay down principles for the Electoral Commission in terms of impartiality, accountability, value for money, proportionality and consistency. I wonder how useful that would be, because the Electoral Commission, whatever one thinks of its performance, presumably does not think at the moment that it is proper for it to provide poor value for money or be partial, unaccountable, disproportionate or inconsistent.

The question arises, to make a difference, what difference it will make. My concern—Professor Howarth has expressed this in the press—is that there is a danger of an arm's-length

independent body being pressured by the majority in the House of Commons, and the party of Government, to prioritise things that may be perceived to benefit that party and to deprioritise other things, or even to seek to intervene and give guidance on individual cases. If that were done, there would be the potential for very real damage to the perceived independence of the commission and a sense of people who are elected—by definition, the victors of elections—to some extent regulating themselves. I think that would be the intention with the overall aim of the long-established Electoral Commission.

The Chair: Thank you. Professor Howarth, could you try repeating your answer to see whether we can hear you?

Professor Howarth: I will try. Can you hear me now?

The Chair: Yes, that is much better.

Professor Howarth: I started by wishing Chloe good luck in the reshuffle. The accountability of the Electoral Commission, as Fraser just said, is an important matter, but the commission on individual matters is accountable to the courts, not to Parliament. There is an appeal process. I think there is a witness later this afternoon who appealed successfully against a commission judgment. There are many others who have failed in their appeal or withdrawn it.

It is important not to mix up the legal accountability of the commission to the courts with the accountability to the Speaker's Committee, which is basically to do with its financial responsibility. The commission operates under an estimate that does not go through the Government. The accountability on the spending side is to the Speaker's Committee. Where the Bill goes wrong, I think, is in mixing those two things up and subjecting the commission to policy guidance by the Government. The accountability that has been proposed to Parliament is on the basis of the Government's guidance to the commission and then to Parliament. That reduces the autonomy not just of the commission but of Parliament in holding the commission to account on what it wants to hold it to account on, not what the Government tell it to.

Q49 Chloe Smith: I have one follow-up question, on your time as an electoral commissioner, which as we all know is very different from the election commissioner role, on which we heard from Richard Mawrey earlier today. From your time in that role, David, could you give us examples of when you think there was effective governance and ineffective governance between the commission's proposals or plans and the SCEC?

Professor Howarth: On the whole, every year there is a useful discussion between the Speaker's Committee and the leadership of the commission on budgetary matters—issues to do with how much money would be suitable for a particular year. I should really add in parentheses that that will be far more difficult if and when the Fixed Term Parliaments Act 2011 is withdrawn, because it will not be clear whether there will be a general election in any particular year. There is a balance between the ongoing expenditure of the committee on base and the exceptional expenditure that comes about because of the number of electoral events in the year. Over the years, the fact that there were two parts of the budget has been cleared up between the committee and the commission. I think that operates well. It was starting to operate not well by the end. I think that is an example of both.

Q50 Cat Smith (Lancaster and Fleetwood) (Lab): My question for both witnesses is about the accountability of the Electoral Commission and the part of the legislation we are looking at on that issue. It is a balance between parliamentary accountability for the commission but also independence of the commission to be able to do its job. As it stands, the Speaker's Committee on the Electoral Commission has an in-built Government majority, with five Members from the governing party and three Opposition MPs—I declare an interest as a member of that committee. Do you feel that is effective and what do you think will be the impact of adding another Government MP to that committee? Do you think the Electoral Commission is currently suitably held to account by Parliamentarians?

Professor Howarth: Perhaps I should answer that more than Fraser. I do not think there should be any circumstances in which there is a Government majority on the Speaker's Committee. It was set up not to have that, but the balance in the House that determines which party gets which Chair of which Select Committee has an effect. I think the legislation has to be adjusted to ensure that the definition of who is on the Speaker's Committee is not affected by those sorts of changes. The whole idea is for there to be consensus on electoral matters across the parties. That is the main objection to having ministerial guidance in the first place—a Minister from any particular party might be seen to say something in the interest of the party. Similarly, the Speaker's Committee should never have a single-party majority. The legislation should make that clear.

Fraser Campbell: I agree with what Professor Howarth says about majorities on the committee. Members have to bear in mind the distinction between accountability and direction. It is one thing for the Electoral Commission to be accountable to Parliament, through the Speaker's Committee and potentially through other mechanisms, in terms of explaining itself and being questioned about decisions it has made or its performance. It is another thing for it to be directed to do particular things.

That is the concern that arises in terms of the statement of principles. One example of that is that it envisages the ministerial statement and directing priorities. One can easily think of examples where it might be quite improper for particular priorities to be set; for example, if there was a hypothetical party that drew disproportionate amounts of support from older people as opposed to students. One can imagine why that hypothetical party might wish to make it a priority for the Electoral Commission to assist in increasing turnout among the elderly, and on whatever grounds it came up with, deprioritise facilitating students living in multiple households to register to vote. If that was a direction given to the commission, that would not really be accountability at all but interference. It would be much better for the commission to be allowed to get on with what are very well established and understood statutory objectives, and for Parliament through whatever means to hold it to account on its performance.

Q51 Brendan O'Hara (Argyll and Bute) (SNP): My question is in two parts. On the plan to give Ministers more control of the Electoral Commission, David, were these plans ever discussed or floated when you were a commissioner between 2008 and 2018? To both of you, why do you think they have now appeared in the Bill?

Professor Howarth: To answer the first question, this would have been unthinkable in my time as an electoral commissioner, and also that was during a time when there had been a Conservative Prime Minister for the whole time. I do not think anyone would have ever imagined this was a good idea. It is an open goal for the opponents of western democracy. If you are President Xi, you might think this is the kind of thing you want—all the institutions of the state lined up behind the governing party—but not in this country. It is completely unthinkable.

As to where it has come from, it is beyond my time in office. All I can say is it looks as if it has arisen out of certain resentments in certain quarters about decisions the commission has made that people disagree with, and the Government must have been scrambling around for ways of satisfying that desire for revenge and come up with possibly the mildest version they can think of, but even this version is outrageous.

Fraser Campbell: I would not wish to make a window into the Minister's soul, but I think all Members on all sides would want to bear in mind that if they are in Government, they will one day be out of Government, and one would not want to have a position where whatever party happens to be in Government is able to take advantage of an opportunity to influence or exert pressure on the commission while the sun is shining, only to see the boot on the other foot when they are out of power.

One sees this, for example, in the United States where it is very nice for the governing party to be able to nominate justices to the Supreme Court, but it feels much less promising when they happen to be out of power. In my position, it is much better to have a properly independent process, which we have in the courts here. We do not have the same business of political nomination of judges. We would lose something of value were we to have, in any sense, a politicised, oscillating Electoral Commission, whose priorities change depending on who is setting the direction from time to time. That would not be in the long-term interests of any party.

Q52 Fleur Anderson (Putney) (Lab): The Bill seeks to address the integrity of elections. Would you say this is the biggest problem we face in our elections currently? Are there any other concerns you think the Bill should address or any other proposals or measures you think should be included? Do you have any other concerns about the Bill that you have not been able to address?

Fraser Campbell: Shall I go first this time? I am grateful it is a broad invitation. I think the integrity of elections is not an overwhelming concern in UK electoral law. There have been pockets of extremely bad practice that have been exposed and investigated, and have obtained a high profile, but generally the UK happily leads the world in this respect and should not be shy about that. There are problems though, which are along the themes of needing to encourage broader and freer participation, because that is the best prophylactic against domination by particular vested interests. The explanatory notes rightly draw attention to some dangers of foreign interference or interference by the very wealthy, but one of the things one can do to discourage or balance that out is to have as broad a plurality of participation as possible.

It worries me that certain provisions of the Bill are potentially apt to have a chilling effect on participation by small parties, or those who are not parties at all but

are legitimate pressure groups, charities, NGOs, trade unions and so on. An example of that is the power to be given under clause 23 to a Minister, albeit subject to the affirmative resolution procedure, to effectively proscribe the types of organisations that can become registered third parties. That is important because, if an organisation is not a registered third party it is subject to a much lower spending limit. The pre-legislative material that I have seen does not give any explanation as to why there needs to be a power to limit the types of organisation that can become registered third parties. I can see why there might need to be some sort of power to quickly expand the list, if it turns out someone is inadvertently excluded.

The only rationale I have seen for this provision, generally, is to clamp down on foreign interference. If that is the case, it does not provide any justification for Ministers to have the power to exclude numbers of categories from that list, which includes trade unions, charities, UK companies and unincorporated associations. It would be of benefit to the process if this Committee were to examine, with the Government, the rationale for that procedure.

There is a tension between that procedure and a general desire, which is expressed by some parties, to avoid lawyers being too involved in the political process. I can tell you, as a matter of simple law, that if a decision to exclude an organisation was made under such a power, it would be more susceptible to challenge by judicial review than if such a decision was made under primary legislation. As a matter of basic law, judges are naturally much less deferential to secondary legislation, because it has not gone through the rigmarole and process that we are engaged in today. It would be a jamboree for lawyers—in a selfish, personal sense I would welcome that—but it has not been explained and it could have a chilling effect. Even if the power was not actively used, people would be participating as registered third parties not knowing what the situation might be in the future. I think that would disincentivise the plurality of participation that can balance out foreign interference and other less welcome vested interests.

Professor Howarth: I agree with Fraser on clause 23; the delegated powers memorandum—[*Inaudible.*]

The Chair: Professor Howarth, if I can interrupt you, we are having trouble hearing you again.

Professor Howarth: Oh right! I thought I had fixed that.

Chloe Smith: Could you also lift your head up so we can lip read?

Professor Howarth: The temptation when on a computer is to bend down towards the microphone. I shall try to let you lip read.

I agree that there is a problem with clause 23. The power to add groups that can campaign as third parties is obviously justifiable. The delegated powers memorandum gives no justification for the power to remove or the power to redefine. Those are powers that could be abused.

There is also a change in clause 20 that to most people looks logical, but there needs to be a replacement provision. It is the proposal to end the possibility of parties acting as third-party campaigners. The Electoral

Commission's guidance says that is the main way in which parties can act together in electoral alliances and pacts. If clause 20 remains as it is, with no replacement provision, then parties will not really be able to operate in electoral pacts or alliances. They will be limited to £700 of expenditure if promoting a national campaign of another party. There needs to be a specific provision for pacts that is fair. Obviously, those provisions would have to apply to canvassers campaigning on common ground, but this is too restrictive.

On the question of what ought to be in the Bill, there is a massive Law Commission report on all the problems identified in electoral law, which should be part of this Bill. That report is now gathering dust, as too many Law Commission reports do.

I go back to the Constitutional Affairs Committee and Justice Committees before 2010, which came to an agreement on the crucial issue in electoral reform, which is donations. Should there be a cap on donations? We got a Committee to agree on a very high cap, but also to the principle that there ought to be a cap. If you do not have a cap on donations, the whole system is open to the accusation that it is just there for rich people to buy elections. That is the most important problem in the way we allow elections to be run. We need to get the system on to a completely different basis of small donations by ordinary people.

Q53 Jerome Mayhew (Broadland) (Con): Professor, you asked where this idea of the statement of principles and the policy framework for the Electoral Commission has come from. I hope you were able to hear the evidence in this morning's sitting, particularly that from Councillor Golds, who gave damning examples of where evidence of widespread fraud was taken by him and others to the Electoral Commission and, in his words, ignored.

Professor Howarth: Let me explain. The Electoral Commission does not have a role in legal contests about individual cases of electoral fraud. It has an overall supervisory role, but its regulatory powers are aimed at parties and their national campaigns. For example, on the spending returns of individuals in parliamentary elections, the commission has a power to look at them, but no power to enforce the law. That is all done by individuals and by the police.

The commission's power has to do with the national spending limits of the national parties. If you think the commission should be doing more on that, you need to change the commission's powers so that it can. What the Bill does instead is remove the commission's power to instigate prosecutions, which makes the situation even worse.

Q54 Jerome Mayhew: On that point, is it not right that although the commission claims to have the power currently, it has never once brought forward a prosecution?

Professor Howarth: That is because the Government always opposed it and tried to stop it doing it.

Q55 Jerome Mayhew: Forgive me; if I may ask the question, I will not interrupt the answer. Given that you have never, ever used the power of prosecution, is it fair to claim that removing a power that has never been used is somehow an additional fetter to electoral law?

Professor Howarth: Yes, it is, because it is a power that exists that could have been used, and any proposal to use it makes the Government immediately decide to go back, on whatever grounds. One of the things you should have picked up from Richard Mawrey's evidence this morning is that the police are not particularly interested in enforcing electoral law and think that electoral offences are not important. If they do not think it is, the CPS will not get many cases and no one will be prosecuted, unless local authorities take it up using their power under section 222 of the Local Government Act, which they might do.

The Chair: We have just a couple of minutes left. Perhaps Patrick Grady will ask a short question and we can have a short answer.

Q56 Patrick Grady (Glasgow North) (SNP): Very briefly on the ministerial policy statement of direction, the Electoral Commission has a UK-wide remit. The Bill provides for devolved Ministers to be consulted, but not necessarily to consent. Do you have any views on the potential for the ministerial statement of direction to start to encroach on areas that might otherwise be regulated by the devolved institutions?

Fraser Campbell: I think there is a perfectly legitimate concern. We have seen in the Bill, for example, the voter ID provisions. In Northern Ireland, they have their own rules and have had for some time because it is a distinct situation with its own distinct concerns. Those differences are much less pronounced between Scotland and the rest of the UK, but, undoubtedly—this goes back to my earlier point—if the statement of principles is to be anything other than motherhood and apple pie, and if it gives rise to controversy, I imagine it will give rise to controversy between Westminster and the devolved legislatures. Involving the Electoral Commission in that sort of controversy—in other words, having it follow a statement of principles as an arm's length body that it knows is itself politically controversial, not just within one Parliament but between Parliaments—would be regrettable.

Professor Howarth: The commission has come to a very good relationship with the Scottish Parliament and the Welsh Parliament over the years—

The Chair: Order. I am afraid that brings us to the end of the time allotted for the Committee to ask questions. I thank our witnesses on behalf of the Committee.

Examination of Witnesses

Virginia McVea, Ailsa Irvine and Peter Stanyon gave evidence.

2.30 pm

Q57 The Chair: We will now hear oral evidence from Virginia McVea from the Electoral Office for Northern Ireland, Ailsa Irvine from the Electoral Commission and Peter Stanyon of the Association of Electoral Administrators. All the witnesses are on Zoom. Welcome. We have until 3.15 pm for this session. Would the witnesses please introduce themselves for the record?

Virginia McVea: Good afternoon, I am Virginia McVea, Northern Ireland's chief electoral officer.

Ailsa Irvine: Good afternoon, I am Ailsa Irvine, director of electoral administration and guidance at the Electoral Commission.

Peter Stanyon: Good afternoon, I am Peter Stanyon, chief executive of the Association of Electoral Administrators.

Q58 Cat Smith: If I could begin with you, Ms McVea. Part of the Bill concerns electors showing voter identification at polling stations. That has been a requirement in Northern Ireland for some time. We know that has changed over time: initially not requiring photo ID, then much later having a requirement to show photo ID. Do you have anything that could inform the Committee's thinking on the way in which that might be implemented in England, Scotland and Wales, and with regard to the speed, if we were to move straight to requiring quite strict photo ID? Obviously, in Northern Ireland you had a much slower transition. Could you outline any of the initial problems electors had in Northern Ireland with access to ID, and what barriers voters who did not have ID came up against?

Virginia McVea: That was obviously prior to my period in office. There are not many records in relation to that. What I can say is that there is no particular difficulty encountered in providing that photographic ID. We have around 370,000 cards and they have been available since 2003. One issue that will be encountered is the administration. Initially records show that the outsourced cost per card was over £14, and that continued. It is now provided in-house, at just over £2 a card, including postage. Part of it will be around comms and how people are able to access them.

For us, there is obviously a time taken per card. Outside election periods, we have had to extend that to a six-week turnaround. I have no record of what the turnaround period was initially in the provision of the cards, but the take-up was much higher. Probably in around 2016, we were looking at more than 20,000 cards being produced in the year. We have found that continuing to tail off.

There has not been any related difficulty in attendance at polling stations of being able to produce ID. Certainly, the data shows a change in the requirement on cards.

We do not know whether people have kept all of their cards—we know lots of cards get lost. We occasionally have visits from various nightclubs when they empty their sports bags on to the table and return the cards that have gone missing. Those need duplicates. A lot of time can be wasted in reproducing cards, but I am afraid that there are very few records that show what the initial difficulties were in engaging and in providing the ID.

Q59 Cat Smith: If I may ask Peter Stanyon to answer a question from the point of view of the electoral administrators, obviously the issuing of free voter identification cards will fall to local authorities and electoral administrators. Can you outline to the Committee some of the pressures that the people you represent in electoral offices up and down the country face on a day-to-day basis? What kind of pressures already exist? How is the requirement to produce ID cards likely to affect electoral administrators?

Peter Stanyon: The expectation is that the vast majority of those cards will need to be issued ahead of the next national electoral event—a general election, for example—

when the pressures in the electoral offices are at their greatest. Late registration statistics show that the spikes in registration come towards the end. At that stage, the same people delivering the election—certainly across England and Wales—will be the ones who also have to manage the process of issuing free voter ID cards to individuals. In Scotland, it is slightly different because that tends to be done by the valuation joint boards. There is a difference in the way that is delivered north of the border.

The real pressures are that we do not know the statistics—the numbers of people coming through—and, because of the spikes in registration, we will not know that until literally the last minute. One of the concerns being expressed across the electoral community is as much about what the basic system is: what will it look like? Will it require attendance in person? Virginia mentioned posting out ID—will that be permissible in the remainder of the UK? We do not know that detail at this stage.

It will require a whole-council approach—there is no doubt about that. It will not just be the returning officer or registration officer who is involved; it will be councils, with the pressures they are already under when delivering their day-to-day services. It really comes down to trying to make sure that we do not disenfranchise—it is probably not quite the right word—individuals by simply not being able to get to them the relevant ID they require to present at the polling stations on polling day.

The other factor to take into account is how late in the day it will be permissible for an individual to apply for free voter ID from a local authority. The pilots go right up to the eve of the polls, and we have concerns about the ability to cope with what are expected to be higher numbers when interest in the election is higher because it is a UK parliamentary general election.

The Chair: Thank you. Would either of the other witnesses like to comment?

Virginia McVea: Just to say that the statistics that we have in 2019 show that the applications for ID cards will at least double. In Northern Ireland, where we have had nearly 20 years of ID card provision and so have decreased the number of people who might need access to a card, we are looking at around 1,500 or 1,600 applications per month during an election period. That is the information that I can provide in relation to how you might scale it up, bearing in mind that that is nearly at the end of a 20-year process of the provision of cards.

Ailsa Irvine: It is important to ensure that any scheme that is introduced is workable. The voter ID card will play a critical part in making sure that any scheme that is introduced is accessible for those who do not have one of the prescribed forms of ID. It absolutely needs to work, but it also needs to be considered in the realm of the whole administration of elections, including the other changes that the Bill brings forward, to ensure that there is capacity within local authorities to deliver effectively. There must be sufficient time for all this to be planned on an administrative level, with the software suppliers that local authorities depend on, and appropriate resourcing must be in place to support that.

Q60 Cat Smith: I have one final question for Ailsa Irvine. The Electoral Commission reports to and is funded by the Scottish Parliament and the Welsh Senedd,

as well as the UK Parliament. How do you think the changes in the legislation whereby the UK Parliament can set the strategic direction will impact the way in which the commission engages with the devolved nations?

Ailsa Irvine: In general terms, we have concerns about the commission relating to the strategy and policy statement and the impact that that may have on the commission's independence, going as it does beyond scrutiny and accountability, and potentially into providing guidance about how we carry out our functions on a day-to-day basis.

Specifically on our accountability to the Scottish Parliament and the Welsh Parliament, which is as important as our accountability to the UK Parliament, looking as we do in those three different directions, it is really important that there is consultation with those Parliaments. At the moment, the legislation focuses on consultation with Welsh Ministers and Scottish Ministers, but we are actually accountable to those legislatures through the Llywydd's Committee and the Scottish Parliamentary Corporate Body, so it is important to be able to ensure that they are also consulted and involved in the process in an equivalent way to the Speaker's Committee.

When those consultations take place, whether with the Speaker's Committee or with the devolved legislatures, it is really important that we are able to see what feedback is provided on any consultation on the statement, so that—assuming that the provisions go through—when it is presented to Parliament, given that it is presented as an all-or-nothing decision, there can be absolute clarity on what those who have been consulted have fed back and on their views on the operability of the statement.

Q61 Chloe Smith: Good afternoon to our three witnesses. Thank you very much for joining us. In our various ways, we know each other well from much work done over the years, so it is good to have you with us.

I will start with a couple of questions to Virginia about the concepts of turnout, fraud patterns and confidence, each of which is important in what we are looking at, particularly for voter identification. I am sure we would all agree that turnout is not a linear trend—it can be influenced by wider political factors—but can you confirm that in the first general election after photographic identification was introduced, the 2005 election, turnout in Northern Ireland was higher than in each of England, Scotland and Wales?

Virginia McVea: I am sorry, but we do not retain those records within the Electoral Office. I can certainly provide the answer to the Committee as a follow-up.

Q62 Chloe Smith: Thank you. I apologise; I meant in no way to put you on the spot. We have a note from the House of Commons Library that contains those figures, so I just wanted to give you an opportunity to expand on them.

I will turn instead to the evidence of fraud, which is perhaps the meat of the issue in some of what we are doing on voter identification. Has photo identification been effective in stopping personation, and does it function effectively as a deterrent? In other words, does it prevent the crime from being able to take place in the first instance?

Virginia McVea: Views across Northern Ireland will not be uniform in relation to the provision of photographic identification. What I can tell you, from looking at the

tendered ballots for June 2017, for example, is that 24 were issued across all of the constituencies in Northern Ireland. In 2019, there were 18. Broadly, it would be fair to say that there is a public perception that photographic ID is helpful. We all know that there is a fear of fraud. The data that I hold, and the evidence that is available to me, does not bear out any kind of systemic fraud in Northern Ireland.

We are in a position where we provide those details in relation to the tendered ballots. When our polling station reports are returned—the poll staff are able to document all kinds of things that have occurred during the day—that is not something that occurs in our reports, nor is it something we hear from our polling station inspectors, who travel around. That said, some parties will raise concerns with me, and we are always trying to provide—through data analytics on the number of people who are used as proxies, or on absent votes generally—as much evidence as we can, to be as transparent as possible, because the evidence that we have does not bear it out.

Q63 Chloe Smith: Yes, indeed. I quite understand that. Without wishing to be facetious, for the benefit of the Committee, do you agree with me that absence of evidence is not evidence of absence?

Virginia McVea: Absolutely, but our purpose is to try to inquire as far as we possibly can, so we are now able to lift that out through increased analytics opportunities. Tendered ballots are an opportunity. Feedback from polling stations, and across the board with polling station inspectors, is very helpful. Issues are raised with me; political representatives will contact me throughout polling day, for example. That is not something that is raised in every constituency in large numbers. There will tend to be higher levels of concern in certain areas among certain representatives. Either in situations where people have wanted to move on or where we have thought it necessary in relation to certain polling stations to pass information to the police, there have been no prosecutions.

Q64 Chloe Smith: Thank you so much for sharing your insights. Ailsa, the Electoral Commission's analysis across various years—I am looking at some from December 2015—concluded that voters' confidence that elections are well run is consistently higher in Northern Ireland than in Great Britain. Can you say a word about what you know about that from your records? Could you also please explain to the Committee why it is that for many years the Electoral Commission has advocated the introduction of voter identification in Great Britain?

Ailsa Irvine: We do see high levels of public confidence, not only in Northern Ireland but across the whole the UK. We saw that borne out in the elections that took place in May in Great Britain—there were high levels of public confidence in and satisfaction with the processes of voting and registering to vote. It is important to bear in mind that we are starting from a high base of public confidence. Having said that, we know that concerns about electoral fraud are in the mind of the public. From our public opinion survey work, we have found that two thirds of electors said that they would be more confident in the process if they were required to show a form of photo ID at the polling station. So that is relevant and a consideration for some voters.

Essentially, we recognise that, in the polling station process, no safeguards are in place to check anybody's identity before they are issued with a ballot paper. That stands out quite strongly from other parts of the process. If you are applying to register to vote, your identity is verified beforehand, and if you are casting a postal vote, your identity is verified through that process. It does mean that there is a vulnerability in the polling station process with no check on the identity of voters—as has been found.

Q65 Chloe Smith: Thank you very much.

Peter, thank you very much for joining us. On a different topic, may I pick your brains on supporting voters with disabilities at the polling station? We have a measure in the Bill that will widen the existing law, which includes a highly specific requirement for support for voters who are blind or partially sighted, into support for any disability. What are your thoughts on that, and how would you expect your members to respond to it?

Peter Stanyon: We welcome less prescription. One of the biggest challenges presented in polling stations at the moment is the prescription brought in by the tactile voting device. It works in itself, and there is nothing wrong with it, but it is the one thing available to work with under the legislative framework. The widening of the ability to use alternative methods has to be welcomed, as long as there are base standards that the returning officer is expected to follow. That is not to remove the TVD from polling stations, but to add in additional potential mechanisms that will be of assistance to individual voters.

You may have seen the evidence I gave to PACAC last week. We are making the point that this is the sort of area in which people in the third sector with experience will be able to advise returning officers of the best solutions to allow individuals to vote independently in the polling station, whether they have visual impairment or are there as a regular voter. The key point of the whole process is to give them that ability, and if that means that they are able to use something that is suitable to them—that the returning officer is aware of and that does not break secrecy or introduce risk to the process—we would fully support that. It is about having that ability to provide the flexibility for local circumstances. That said, there does need to be a minimum base standard that any voter walking into a polling station will be able to expect, if they require that level of assistance.

Q66 Chloe Smith: Thank you, Peter; that is so helpful. Might the standard that you refer to reasonably be something that would be provided in guidance and training?

Peter Stanyon: I think so. It is the sort of thing that may come into such things as performance standards, which the commission oversees. It will come down to what sorts of things returning officers should be considering, and ensuring that staff in the polling stations are au fait with the options available to them. That will come with a number of strands to it, rather than being the very tight prescription that we have at the moment, which can fail as a result of its not being used correctly.

Q67 Peter Gibson (Darlington) (Con): Good afternoon. My first question is to Virginia. What advice would you offer the Electoral Commission with regard to the

implementation of voter ID and how to communicate it to the public, based on your experiences in Northern Ireland?

Virginia McVea: Most of the comments from Northern Ireland will have to be heavily caveated. All present will be aware that the context in which this change was brought about in Northern Ireland was very different from that in which the discussions are taking place here. That must always be borne in mind. There are some practical difficulties, which colleagues have mentioned, in terms of being ready for this. There is the initial cost. Funding was provided, as I understand it, for the Electoral Office of Northern Ireland, but the costs were considerable at a point in the early stages where, for example, the cost of card production was well over £100,000 back in 2004.

There is the cost factor, and there is also the time factor. We may have been able to reduce the cost down now to just over £2 per card, including the postage, but the time factor becomes relevant, and the fact that the photographic ID can be used for other things. People will approach us not for voting purposes, and outside election periods. For example, in January 2019 we had 517 and then 537 applications. The fact that ID cards serve other purposes for members of the public has to be borne in mind in relation to the administrative impact and the time that is taken in terms of staffing—ensuring that your process is watertight, essentially—so that there cannot be further issues in relation to fears among the public about the process itself.

There have been huge efforts in Northern Ireland to ensure that the administration works, but cost and time are big factors. We do not, unfortunately, have records. I have picked the brains of those who have gone before in relation to the difficulties experienced. The passage of time can dim some memories, but it is my understanding that it was not an easy process without its challenges and challengers. However, it is now largely accepted. It has to be borne in mind that we are talking about an almost 20-year process. We do not get conflict in polling stations or challenges in relation to the provision of ID. We do not have a lot of problems in polling stations with people bringing the wrong ID. It happens occasionally, but it is generally not a problem. The bigger teething issues will be, as Peter says, to ensure that the authorities are prepared for it, and have proper processes, sufficient funding and some expectation of the demand that is projected.

Q68 Peter Gibson: Do you record any data in respect of voters intending to vote with the incorrect ID or no ID, who are effectively turned away from the polling station?

Virginia McVea: No, we do not. As you might imagine, in terms of queues it would probably take too long. We have had those kinds of discussions. Where you will get it anecdotally is in polling station logs and review processes, post election, with polling staff and polling station inspectors. It is not a common occurrence or a particular difficulty, but you also have to bear in mind that the parties are also very familiar with this process, so there is a lot of messaging that goes out beyond my standard messages on radio and local television. Just prior to polling day, the parties themselves do all they can to make sure people do not forget. As I say, it is a long process—over 20 years.

Q69 Peter Gibson: Thank you, Virginia. Ailsa, on the evaluation of the ID trials and pilots that took place, was it your finding that the majority of voters were able to vote without any issues?

Ailsa Irvine: Yes, that was our finding. We found that the majority of people took their ID with them when they went to vote, and of those who did not, or did not have it with them initially, most returned to vote.

That said, there is a significant public awareness task when the scheme is rolled out. That cannot be overstated. Even in the pilot areas, significant activity was undertaken by the individual local authorities and the parties locally to raise awareness and make sure voters understood what to do. That is something that would need to be replicated on a national level to make sure that it is supported when ID is introduced in Great Britain as a whole.

Indeed, at the commission we are already thinking about what our role would be in supporting that public awareness to make sure there is the broad awareness among everybody who needs to bring ID with them. There are specific types of awareness beneath that. We are working very closely with partners from across the third sector to make sure those who are less likely to have the required forms of ID know what they need to do to be able to go and cast their vote.

Q70 Peter Gibson: Thank you. We have heard from a number of witnesses today that the offence of personation is not a significant problem. Could I ask you to speculate a little? Do you believe it is underreported because the victim of the crime—the person whose vote has been stolen—is unlikely to be aware of it if they are not attending the polling station themselves? Could you comment on the view expressed by Lord Pickles in his report, where he says that it is harder to take out a library book from many local authorities than to be handed a ballot paper at the polling station?

Ailsa Irvine: It is difficult to speculate. We always want to be led by the evidence, which is why we collect data from police forces across the UK, which are responsible for recording and investigating allegations of personation. We see from that that there are relatively low levels of reported electoral fraud. Virginia mentioned earlier the point about tendered ballot papers. If we were seeing lots of people turning up to vote whose name had already been marked off, we would see that coming through in high levels of tendered ballot papers being issued in polling stations, which we have not seen.

It is a challenge. I am not saying it is easy, with personation as an identity crime, for that to be followed through, but any speculation about the level of that would be difficult, and that is not something that I would want to get into. As I said earlier, there is a vulnerability in the process, which we have recognised and highlighted over a number of years, if there is not any requirement to provide any form of ID.

Q71 Peter Gibson: May I ask you one further question on that? Obviously, following an election, a marked register is available to political parties, so they are able to identify voters who regularly attend the polling station and vote, and which elections they voted in. If it were available to a fraudster who intended to carry out the offence of personation, and they were able to use the identity at the polling station of a voter who does not regularly cast their ballot, would the offence of personation in that instance be available as evidence?

Ailsa Irvine: It would be difficult to see. Obviously, access to the marked register is controlled. It is only available for inspection in certain circumstances, and the use of it is only available in certain circumstances, so it is not widely available. It would be very difficult to know in any of these instances. It would be very much dependent of the individual facts of each case.

Peter Gibson: Thank you.

Q72 Jerome Mayhew: Ms Irvine, if I may carry on questioning you, you are obviously aware that the Electoral Commission has recommended the use of photographic ID, and you are in very good company. We heard earlier this morning from Lord Pickles who, as you will know, produced a report three or four years ago in which he listed a number of organisations that have come out in favour of photographic ID for our election system. That list includes the Association of Electoral Administrators, SOLACE and the National Police Chiefs Council domestically, but also international recommendations from the Organisation for Security and Co-operation in Europe's Office for Democratic Institutions and Human Rights. There is a groundswell of advice coming the Government's way to introduce photographic ID to protect our electoral system from vulnerability to fraud. Can you expound for us the impact that vulnerability has on our democracy and the way people experience it?

Ailsa Irvine: We have highlighted that vulnerability for a number of years. As I said earlier, we see high levels of public confidence in our electoral process as a whole. That said, there are a proportion of voters for whom this is a concern and who would be more confident if a requirement was introduced. There is some evidence to suggest that some people would become more confident if that was introduced.

However, the one thing we said in our evaluation of the pilot schemes was that, in introducing any scheme, as well as ensuring it has an impact on increasing security, we ensure that its introduction does not have an impact on the accessibility of the voting process and that it is workable in practice. While there is a vulnerability and it makes logical sense for it to be looked at, it must be looked at in a way that not only protects security, but continues to ensure the ability of everybody to cast their vote.

Q73 Jerome Mayhew: That is a very good point, and it brings me neatly on to Virginia McVea, if I am allowed one further question. You have a lot of experience of the practical application of photo ID in Northern Ireland; I heard your evidence a moment ago that, now it is bedded in, the run rate is about 1,500 card applications a month—is that right?

Virginia McVea: That is usually during election periods. Outside an election period—

Jerome Mayhew: So it peaks?

Virginia McVea: Yes.

Q74 Jerome Mayhew: That is a very good indicator for us to extrapolate from the population of Northern Ireland being 1.86 million. We will all be busy with our calculators later.

[*Jerome Mayhew*]

The other advice you gave was that for the overwhelming of people there is not a problem—this is not an issue in Northern Ireland voting now, albeit after 20 years. Does that suggest that effective steps have been taken in the Northern Irish political process to raise awareness sufficiently to remove the concerns that some politicians expressed last week in the general debate, that many voters would be disenfranchised because they would turn up at a polling booth and they would not have the right ID? Is that a false fear once the system is bedded down?

Virginia McVea: We would have to time-travel back to the early 2000s to get a proper feel for the electorate's response, but if there is sufficient communication and if there is availability of the ID card, much of which will be down to the capacity of the administrators, it is something that people are now accepting of. We have challenges to the office in relation to access to absent votes and discussions around that, but we do not have discussions about photographic ID with any of the parties. Ensuring that those smart passes can be used in polling stations is helpful, so yes, there is a general acceptance.

When you are doing your sums, being mathematically challenged myself on occasion, be careful: we work to the eligible electorate, which may possibly be around 1.45 million, rather than the 1.8 million, which would make the sums even harder dealing with the small figures from Northern Ireland.

Jerome Mayhew: Thank you very much.

The Chair: I have Paul Bristow, Chris Clarkson, Nick Smith and Fleur Anderson remaining to ask questions, and we have until 3.15 pm, so can we be kind to each other? Thank you.

Q75 Paul Bristow (Peterborough) (Con): Thank you, Ms Rees. I will only ask the one question, to Peter Stanyon. We have heard evidence today from Gillian Beasley, the chief executive of Peterborough City Council, who does a fantastic job of making sure that our elections in Peterborough are done freely and fairly. She outlined some of the things that she has undertaken in Peterborough, such as CCTV, and the professionalism of her team and her staff. We have also seen how well some of the pilots have gone with voter ID. I have every confidence in the AEA and election administrators across the country to get this right. Do you have that confidence, too?

Peter Stanyon: I would echo the words that Gillian said this morning. At the end of the day, Peterborough has some challenges, and they face up to them superbly well. Whatever is expected of administrators, they will once again step up to that mark, but we should not underestimate the challenges that are being levelled not just by voter ID, but by the other elements of the Bill that make it harder and harder—more challenging—for elections to be delivered. I do not think you will find one electoral administrator who does not want to enfranchise people, who does not want them to cast their ballots or who does not want to provide that free and fair election. That is what it is all about; it is just

becoming harder and harder to do so. There are resource and training implications, but the really good practice that local authorities such as Peterborough are able to demonstrate is really helpful and is shared across the whole electoral community.

Paul Bristow: That is very reassuring to know. Thank you very much.

The Chair: I call Chris Clarkson.

Chris Clarkson (Heywood and Middleton) (Con): The question that I wanted to ask has been asked.

The Chair: Thank you. I call Nick Smith.

Q76 Nick Smith (Blaenau Gwent) (Lab): This question is to Ailsa Irvine of the Electoral Commission. Imprints and identification of publisher are important safeguards in our system. I have been a party agent previously, and we are well aware of the importance of fair comment and our libel laws. However, are digital imprints sufficient to improve transparency and prevent interference or misinformation, particularly from overseas?

Ailsa Irvine: Requiring digital campaign materials to include an imprint is something that we have been calling for for a number of years—it has been widely called for for a number of years—and it should go a long way towards providing voters with some information and clarity about who is paying to target them with campaign information. Given the massive boom in the number of people campaigning online, it is something that we know has concerned voters, and voters are telling us that currently they do not feel that they have confidence about where that information is coming from.

This requirement will go some way towards that, although the detailed provisions that are in the Bill at the moment will have some workability challenges around them—for example, by not requiring any unpaid campaign material from those that are unregistered to include an imprint. Although the Bill will bring more people into the category that will require them to register as a campaigner, there is still potential for unregistered campaigners to spend significant amounts of money on creating material and then disseminate it organically, and that would not be required to have an imprint. There is still a bit of a risk and a challenge around the provisions as drafted.

The inclusion of an address in the imprint is an absolutely critical factor, and that will help to demonstrate where a campaigner is based, and whether they are in the UK or otherwise. Again, if there is any activity taking place from outside the UK, although it would be transparent in these instances from the commission's perspective, and we would have a role in regulating this in relation to non-party campaigners, our remit stops at the UK's borders. We would not be able to go beyond that.

We have just got experience from the recent elections in Scotland where digital imprints were introduced for the first time. What we saw was that we have a community of campaigners who generally want to comply with the law. We did see good levels of compliance there, with people putting an imprint in place. When we became aware of any instances where that was not the case, we

took steps to call up the campaigners to try to bring them in line with compliance. We saw that this was something that can make a real difference to voters.

The Chair: Virginia and Peter, would you like to add anything to that? No. I call Fleur Anderson.

Q77 Fleur Anderson: Can I ask Peter Stanyon about the practicalities of issuing a voter ID card on the day? I think we all know of local elections where it is literally a handful of votes—I was involved in one ward where there were five votes between three candidates—so we know that it is really important that every single person who is eligible to vote can vote on the day. I think Virginia said that there is a six-week waiting list for ID cards in Northern Ireland. Can that be compressed to the day? What, practically, will happen when people turn up and they have just not got around to it? As you have all talked about, we saw that spike just before the elections, as with the pilot when ID cards were only issued up to the eve of the poll, rather than on the day. Will it be practical to get ID cards out to everyone on the day, so that everyone who can vote is able to do so?

Peter Stanyon: It is almost an impossible question, because you will not know the level of expectation until the day. If it was one person coming into the office to be issued with a card, then yes, that could be done. However, if it was 1,500 people on the day, then that is a different ball game. The reality is that if there were provisions to allow that on the day, we would need to know that very early in advance. We would need to get the structures in place and accept that there would be a cost. Resourcing would have to run almost independently of the election, because the election takes over the day itself.

Going back to my earlier comment, we all want to make sure that everybody is able to cast their ballot when entitled to do so, and to make that as easy as possible. However, even within the current electoral timetable, there are deadlines throughout the day: 5 o'clock for lost or undelivered postal votes; 9 o'clock on the day for changes to the registers. It is not right up to the last minute—there are already accepted deadlines.

Whether it is possible would depend on what is expected, which mechanisms are in place and the expectations on the individuals. Do they need to come to the office? Is it done on a regional basis? Whatever the resources, if that were the system, we would have to make sure that it was financed, resourced and actually deliverable, so that we do not have No. 15 through the door being turned down simply because they could not process that card at that time.

Virginia McVea: Could I clarify the timeline for the Committee?

Fleur Anderson: Please do.

Virginia McVea: The six-week turnaround period is what we use administratively outside of an election period. We do not have any complaints in relation to ID cards not being turned around within election periods, but that is only the case because of the significantly increased resources which ensure the cards are turned around very rapidly.

Q78 Fleur Anderson: How many additional staff do you have?

Virginia McVea: During an election period, we could have around 70 additional staff. We have a core staff of 30. So you can see why, when there is no electoral purpose, we need that six-week turnaround. Most cards do not take that long, but we give ourselves that space. In an emergency, such as the death of a loved one, when someone needs to travel and has no other photographic ID, we will turn the card around in 24 hours. The standard is to allow ourselves six weeks, and it is the significant scaling-up of staff during electoral periods that allows us to turn around the ID cards so quickly.

Q79 Patrick Grady: This issue came up in an earlier question by one of our Labour colleagues, but I would like to ask Virginia to say a little more about the practical process of applying for the electoral ID card in Northern Ireland, and in particular what identification is needed to be issued with the voter ID card.

Virginia McVea: Many of the applications are done in person. We do ID clinics, where we take an image of the individual, and then they fill out an application form so that we can verify their data across the data sets in Northern Ireland. We work using date of birth, national insurance number and so on.

Q80 Patrick Grady: So you do not need a photo ID in order to get your photo ID?

Virginia McVea: You do not need a photo ID, no. We have so many situations—this will happen to any administrator—where people use this ID for other purposes, such as accessing banking facilities and travel, because they simply do not have another form of photographic ID. Administrators have to be ready for that as well.

The Chair: If there are no further questions from Members, I thank the witnesses for their evidence. We will move on to the next panel.

Examination of Witnesses

Louise Round and Rob Connelly gave evidence.

3.15 pm

Q81 The Chair: We will now hear oral evidence from Louise Round of SOLACE and Rob Connelly from Birmingham City Council. We have until 4 pm, so would the witnesses please introduce themselves for the record?

Louise Round: Good afternoon, everybody. My name is Louise Round, and I am the spokesperson for the Society of Local Authority Chief Executives, which speaks on behalf of returning officers. I am also the chief legal officer for Merton London Borough Council.

Rob Connelly: I am Rob Connelly. Thank you for inviting me. I am the returning officer for Birmingham City Council, and through my background as a lawyer I have dealt with Birmingham's election challenges and petitions since 2004—hence the reason I ended up as the returning officer.

The Chair: Minister, would you like to ask the first question?

Q82 Chloe Smith: I am happy to go first. Good afternoon and welcome to both our witnesses. It is great to have you with us; thank you for giving up your time in all the ways that you do, including a sliver of that this afternoon.

[Chloe Smith]

Rob, if I may start with you, this question goes on from the conversation we have just been having, which I think you were listening to, about the ins and outs of voter identification. As you mentioned in your introduction, regrettably in Birmingham there is that history of having had a major fraud event. I am interested, first, in your reflections on leading a council out of and onwards from that, because it cannot have been easy to do that, and how you might go about trying to give confidence to the city's citizens that they can trust in their elections.

If you need a moment to draw your breath, I will give you my second question as well, which is to invite you to provide some insights into the work you have been doing with other leaders of councils to look at what might be needed to implement voter identification—for example, training of polling staff, particular support that might be needed at polling stations and the many detailed questions that I know you have begun to give thought to.

Rob Connelly: I will take the first question to start off. As you say, Birmingham hit a low in 2004 with the various fraud cases that were going on, which resulted in a number of election results being set aside. I joined the elections office in 2009 in the capacity of a deputy returning officer, but even after five years we were still struggling to move away from those issues. I think it was not until 2018, when we had our last all-out elections, that I felt we were able to put the ghost of 2004 to bed for the final time.

When I joined in 2009, the biggest issue for me was not so much fraud itself, but the perception of fraud that remained. When allegations of fraud came up, they would be investigated; we were very lucky that West Midlands police took it seriously and had their own specialist unit that helped us with that. We would obtain evidence in polling stations and, if allegations came up about personation, for example, we would challenge it by asking, "What is your evidence?"

I remember something that put it into context for me. I asked a senior politician at the time what evidence he had of personation, and his response was, "I haven't actually got any, but I just know it goes on." That was not very helpful for me or West Midlands police in challenging it, so we decided to be quite "aggressive" in challenging people back: "Why do you think that? The data from our polling stations, which we get from our staff at the frontline, would actually paint a very different picture. There are very few allegations in that particular area of personation."

We would start to understand why people could not vote—maybe because they were marked as a postal voter. What happened there? Again, we have started to establish slowly over time, certainly for our elected members, that we could be trusted, and it is about restoring that integrity. I think this is part of that road trip.

Q83 Chloe Smith: As a follow-up, if my memory serves me correctly the judgment in the Birmingham case—we had Richard Mawrey with us this morning—included quite a few scorching comments that you do have to look for such things. It is not enough to look away and claim that it is not plausible that it could be taking place, and therefore never be prepared to look

for such evidence. In fact, he said you would have to be ostrich-like to not want to look for the evidence and make it better, as clearly you were seeking to do.

Rob Connelly: Absolutely. We cannot rest on our laurels simply because we do not know about it—that does not mean it cannot happen. Again, it comes back to that working partnership with West Midlands police, but also with all the political parties at a local level, because we often have post-election reviews with them. I go to my oversight committee, any issues are raised with me there and then, and we will take those away. If they have concerns and if we can improve things, we will work with them to implement those changes.

Q84 Chloe Smith: Yes, indeed. You are doing that to give residents confidence. Do you get a measure of that back from residents?

Rob Connelly: I suppose the way we get that is from the number of complaints about the process and, bearing in mind our electorate, we get very few. A lot of complaints come via members or MPs. We assure them about the processes, and we can have confidence that we have done everything we are supposed to do. I think that process does take time.

We have also been subject to a couple of reviews by the Commonwealth Parliamentary Association, where they have looked at it completely afresh and picked up a couple of issues, which we then dealt with. One of the biggest issues they came up with was, as an example, people in some communities go in and huddle together in the polling booth. We picked up on that very quickly and we sorted out giving instructions to all our staff on how to deal with it. We put up extra notices in polling stations saying only one person is allowed in at a time.

I also appointed some independent observers, such as former police officers and council employees, to go around independently—I would not know where they were going—to give me a warts-and-all impression of what it was like in our polling stations. I have nearly 500, so it is very difficult for me to know the ins and outs of every single one. That is why we put in extra resources—totally independent of me. The report is done and I then share that with my political groups, so they have it uncensored and we can work together to make those improvements.

Q85 Chloe Smith: Thank you. Would you be able to turn to my second question?

Rob Connelly: When we learned about IDs potentially coming in, we set up a working group based on a number of authorities, mainly core cities. One of our concerns with the pilots was that they did not reflect a large urban area, such as Birmingham, Manchester or Liverpool. We had some very basic concerns about how it would work. I caught the tail end of the evidence of the previous session. We have the same issues: how can we do this? It has been calculated that about 2% of people have not got ID. That is the equivalent of 15,000 people in my electorate.

If they all come in during the election period, how can I make sure that no one will be disenfranchised? That is quite a big task, and that is the same across the board. We are working closely with Cabinet Office officials. We have the opportunity to put those questions to them and help them understand some of the issues

we have at the coalface. That is sort of progressing. We are not just looking at voter ID. We are looking at all elements of the Bill. We have to be careful because it is not just about voter ID, but the impact of the whole Bill together and the impact that will have on administrators and our ability to deliver the election. There is an awful lot there, and it will impact us at a very particular time in the election process.

I have additional concerns from a Birmingham perspective, because potentially the first time this is introduced could be at a parliamentary election in 2024, as we will not have elections in 2023. That in itself would be a major concern for many. I do not think I am alone in that; there may well be other areas that will have that concern.

We meet monthly with the Cabinet Office. We take an element of the Bill, dissect it and feed back, and we are starting to get that information out. We have now started expanding. We have more authorities coming on board, who are very different from Birmingham and are more rural. How will they cope? We have asked the AEA and the Electoral Commission to start looking at it, so we have a joined-up look at how we can do this and give feedback to all administrators, to make sure they understand the implications and they can start planning now.

Chloe Smith: May I ask one more question to Louise and then I will hand on to other colleagues?

The Chair: Of course.

Q86 Chloe Smith: Louise, thank you so much for joining us and welcome to the Committee.

Acknowledging the breadth of what your members will be involved in, and I imagine you will be able to tell us a bit about how in many cases that spans from the registration process all the way through to delivery of polling day and much more, there is often discussion that says, "Well, let's just get this done in our elections, let's get that done. Let's add a scheme here, add a scheme there." I acknowledge that that can add up to a lot of asks on you and your teams, and those of your members.

With respect to overseas electors in this Bill, could you give us an insight into what has to be done at present to support the participation of overseas electors? What more do you think members will be doing to support a larger group of overseas electors being involved? Might you also make a comment about the number of days that you end up doing that during the election itself?

Louise Round: I would probably be right in saying that overseas electors is one of the areas that takes the most resource and the most ongoing year-round resource for most election teams. In many teams, there will be one person who is more or less dedicated to contacting overseas electors and reminding them to renew their registration. The proposal in the Bill to extend the period of time for which they can be registered without having to renew is welcome, in terms of reducing that burden.

As with all these things and a common phrase that you will hear us using, most registration events are driven by elections. We can do lots and lots of reminding, and we would, but it always tends to be the case that as

soon as an election is announced, particularly a general election, suddenly people remember to renew their registration. It is a full-time, ongoing programme that takes an awful lot of time and energy.

During the run up to the election, when suddenly there is a whole load more work to do, it obviously diverts people who are also dealing with all the other many aspects of the election. The time by which people can register makes that particularly challenging, added to which you have the issue of postal votes. Naturally, the further away someone lives, the longer it takes for their postal vote to go out to them and the longer it takes to get back. There is an awful lot of trying to make sure that voters are enfranchised and have a vote, but also dealing with fall out and complaints when it gets to election day and their postal vote has not been received.

Yes, it is a huge amount of work and the proposal to extend the number of people who can be registered as overseas voters will obviously create even more work, but the idea that you can be registered for a bit longer now is welcome. I could not say how many days and I probably could not put a price on it either, but it is a lot and it will depend on how many overseas electors any particular registration officer has.

Q87 Chloe Smith: Picking up on a recent debate in Parliament, Louise, would I be right in thinking that you would not like to see the electoral timetable reduced from 25 working days?

Louise Round: I think that would make what is already a very difficult task nigh on impossible.

Q88 Chloe Smith: Thank you very much for your insight. Is there any more that you would like to say about the particular processes that will be required to support overseas electors in demonstrating their connection to the constituency they are registering in?

Louise Round: As with all these things, some of the detail will come out in secondary legislation. At the moment, it is really tricky because registers are not nationally open. If someone has to show that they have not been on a register apart from in the constituency in which the particular registration office is operating, there is no way really of registration officers checking that, so in a sense it is taken on trust. There is no way for them to check the register even of a neighbouring constituency, let alone one at the other end of the country.

The obligation to be satisfied that someone has a local connection is obviously really time consuming, and it depends how well prepared the person wishing to register is and what evidence they can adduce. At the end of the day, the registration officer has to be satisfied. There is wording in one of the clauses around whether, had they applied a long time ago, they would have at that point been able to demonstrate a local connection, which all begins to get a little existential, almost, and very theoretical. We are not trained detectives, so there is a balance, as in all registration activity, between not wanting to make the requirements so tight that no one can ever be registered and ensuring that we are not registering people who are not entitled to be registered and might be constituency hopping, as it were, to find the most convenient place to register for a particular election depending on what is going on there.

Q89 Brendan O'Hara: Thank you very much for joining us. This morning, Richard Mawrey talked about the widescale postal vote fraud in Birmingham. What have you done to tackle that? What in the Bill helps you to further tackle that wide-scale postal vote fraud, and is anything missing from the Bill that would help you were it to be added?

Rob Connelly: I am not sure that something is missing from the Bill. What always surprises me is the number of postal votes that we get handed in on the day. We are talking perhaps 3,000 to 4,000 at a parliamentary election. We also recorded, as part of what happened, how many people brought the postal votes and in what numbers, and we often asked for names and addresses. There is no legal obligation to tell us, but in case there was a follow-up we tried to address that problem.

After the problems we had in Birmingham, the law was changed to deal with some of the issues that arose. To be honest, I am not aware that we have had major wide-scale problems in Birmingham, but it is not something that we can be overly confident can never happen again; it may do. We just have to be extra vigilant. That is where the joint working comes into play.

Restricting the number of postal votes that you can bring into a polling station may help, but we need to understand in a bit more detail the reasons behind it, because one of my concerns with the Bill is that you might be restricted to bringing in two postal votes into a polling station, but what is stopping you going to another polling station in the constituency and handing in another two? I also worry that by limiting it to such a small number we are potentially disenfranchising the honest person as opposed to your determined fraudster. A bit of work could be done around that.

Q90 Brendan O'Hara: Would it be safe to say that your biggest headache would be around postal voting, and being able to police how postal votes are managed and handled?

Rob Connelly: No, because with postal voting at the moment—I always put that qualification in—we have not had any issues. This is where we work closely with political parties, because we share information on how many we are getting back by ward and by constituency, so that they can spot any potential areas. We have always had a system in place that, if we have more than six new postal applications from a particular household, that would be flagged up and we would have a closer look. We have always put in measures to raise red flags. Individual registration and having to supply, for newer registers, national insurance numbers and dates of birth is helpful. We have the IT equipment whereby we do the signature checking, which is, again, very helpful. IT has moved on a lot since 2004.

Q91 Brendan O'Hara: Finally, how widespread have you found personation at polling booths since you joined the council in the early 2000s?

Rob Connelly: It is not a major issue that has been raised with me by either electors or political parties. We did keep some stats in polling stations as part of how to restore confidence in Birmingham. We would record, when someone came in, why they could not vote—for example, it could be that they come in and their surname is already marked off on the register. We have to do a number of years of research into that, looking, checking the numbers.

The two biggest reasons are, first, it was a simple error on the part of the poll clerk—often, it was a big family and they have just put the mark against the wrong person—and, sometimes, they came in but were marked as a postal voter. Again, it was a simple case of forgetting that they had applied for a postal vote. When we got that information back, we undertook that we would look at those cases, to establish whether there was any possible personation or other types of fraud. However, as I say, we have not picked that up and it has not come through to me from any source that personation has been a major problem. We cannot say that it has never happened or does not happen, because we do not know, but I am fairly confident that if it were widespread at a local level, it would have been picked up by party activists who would report it to us and to West Midlands police.

The Chair: Louise, do you have anything to add to that?

Louise Round: Just to echo what Rob said: the incidents of personation in all the years that I have been doing this have been zero—at least, that we have known about. There is a question about whether the cost and extra administrative burden of voter ID is strictly speaking necessary. As Rob said, it does not mean that it does not happen; we just do not know whether it has ever happened.

Q92 Cat Smith: Louise, in your earlier remarks, you were talking about overseas electors and how administering the applications and registrations for voting takes up the most time of electoral officers. With the removal of time limits—the 15-year limit on that connection—how much more resources would you expect local authorities to have to make available to service overseas electors? Also, you said that when overseas electors registered, there was an element of having to take it on trust. Do you believe that potentially opens it up to electoral fraud by overseas voters?

Louise Round: In relation to the additional work created by removing the time limit, it is hard to say at this stage. It will depend on take-up. We do not have—or I certainly do not have—any access to any information about how many people who have moved abroad but have not been on the register might now suddenly decide that they want to be. It is a bit of a “How long is a piece of string?” question. What local authority election teams will not be in the business of is gearing up to a just-in-case position. They will have to wait and see, prudently, what extra work comes their way.

On fraud, I do not think that is so much the issue as it is that if somebody has fallen off the register, as it were, then reapplied to be an overseas elector, they cannot have been on the register in a different place from the one they are now applying to. That is the bit where we cannot necessarily check that they have not been, but it does not mean that they are not entitled to be an elector in this country: it might just be that the place they are trying to be an elector in might not strictly speaking be the place they ought to be an elector in.

Q93 Cat Smith: I have a couple of questions for Rob. In your opening remarks, you mentioned how you had managed to put the “ghost of 2004” behind you in Birmingham. Does that mean the existing legislation on the statute books has clearly been sufficient for your council to turn that around?

Rob Connelly: Sorry, I couldn't quite hear the question. Will you repeat it, please?

Q94 Cat Smith: In your opening remarks, you said that you had moved on, in that this was no longer the problem that it was in 2004. Does that indicate that the current legislation is sufficient to combat the problems that you faced in Birmingham?

Rob Connelly: I would come back to the point that we can never rest on our laurels. There is always room for improvement. If we think something would improve the perception of the integrity of our system, I am all for it. As I said, the biggest problem for me was not about fraud itself; it was about the perception and how we dealt with that. For me, people have to have confidence in the system, otherwise how can they have confidence in their elected officials? That has always been the starting point.

That is why we have always gone over and above our statutory obligation. I know we had no alternative, but we found it beneficial. If we do more, we restore that integrity and confidence. I have read in recent reports that there is a fairly high confidence level in our electoral system at the moment, but, again, if we can improve it, we should look to do so at every opportunity.

Q95 Cat Smith: My final question is about the practicalities of a local authority running the polling stations. The legislation would require voters to show photo ID. The Minister has said in the House that there would be provision for privacy screens so that voters who wear headscarves for cultural or religious reasons can prove their identity. I think you said that you have about 500 polling stations in Birmingham.

Rob Connelly: Just under 500.

Q96 Cat Smith: Are you confident about being able to provide a female polling clerk at every one of your polling stations?

Rob Connelly: We have been talking about this as two considerations, really. We will have to start reviewing all our polling stations again to be able to have privacy screens in place, because some of them can be fairly small. We have a couple of huts, and we would have to revisit those. Again, on polling day, I probably employ around 2,500 all told, including the count, and maybe 1,600 at polling stations alone. Our ability to put a female poll clerk or member of staff in each one is something that will cause us some headaches, and we will have to revisit all our processes to make sure it happens. As it is, we struggle to recruit and retain staff, who come to the polling station literally for one day a year. They do not do it for the money; they do it because they want to part of the process—I am a very firm believer in that. That is a concern for me.

Q97 Chris Clarkson: Rob, I have just consulted the oracle that is Google by putting in “Birmingham electoral fraud”. It goes all the way back to 2005, and then there are articles from 2011. Interestingly, one from 2016 says:

“20,000 voters vanish from Birmingham’s electoral roll”.

That was around the time that individual electoral registration came in. Obviously, a lot of work has been

done to combat some of that fraud already, and you should be commended for that, as yours is the largest authority in Europe. How far do you think the measures in the Bill will go towards challenging the perception of fraud, which is still there?

Secondly, you have both said that there are fairly low levels, or no levels, or personation that you know of. Do you accept that, although there is no voluminous information, it is quite an easy thing to do? By using a bit of nous or looking at a marked register, you can work out who does not normally vote, rock up and claim to be them, and vote without any challenge. Do you accept that the measure will go some way to adding extra safeguards to prevent that from happening in great numbers without detection?

Rob Connelly: The short answer is that, for ID, I think it will, yes. I do not know whether Louise has anything to add to that. It will add to that protection, and it will stop your casual fraudster from thinking, “Actually, I know they’re not here, so I’ll nip down to the polling station and act as Joe Bloggs.” It will prevent that type of scenario.

Q98 Chris Clarkson: Do you think it will give people more confidence in the electoral process?

Rob Connelly: Yes, I do.

Chris Clarkson: Fantastic. Louise, do you have anything to add?

Louise Round: I think it is self-evident that if people have to produce some form of ID, it minimises the risk of fraud in so far as there is any. Although confidence in elections is really high—the Electoral Commission’s report, which was published yesterday, made that clear—some people certainly raise the odd eyebrow when you explain to them that they do not have to prove who they are, so it probably would help with confidence, yes.

Chris Clarkson: That has been my experience, too. Thank you very much.

Q99 Fleur Anderson: Rob, I would like to go back to the practicalities and your thinking about how you would roll out voter ID. How many additional staff do you think you would need all year round for the applications that come in? We heard earlier that Northern Ireland has ID clinics. How many additional staff do you think you would need for the election period and on the day itself?

To add to that, which groups are you concerned might be disenfranchised by this measure, meaning that you would be working harder to include them? We have had representations from organisations representing older people, people with disabilities, people who are black, Asian or minority ethnic, and women fleeing domestic violence, for example. Are you concerned about those groups, and might other groups be disenfranchised?

Rob Connelly: First, in terms of staffing numbers, I do not know the honest answer to that. We are trying to figure that through. I am already very much leaning towards saying that this cannot sit with my core elections office, because it is too big. What I would worry about is that they become swamped and that they will not be able to deal with their core election job: delivering the election itself.

I was interested when Virginia talked about 70 additional staff at the time; I had not even thought that it would be that high. To be honest, that is going to have to be a corporate response from the whole local authority. It is not something that returning officers can do in isolation. I am absolutely certain of that now. We have tried to figure out what that could look like, but until we know a bit more detail it is quite difficult. One of the questions that I have raised is, as I have 10 parliamentary constituencies, do I just have one core centre, or do I have to have something in each constituency to ensure that I do not have any barriers to people coming in? Why should they have to come into the city centre? I do not know.

In terms of who it potentially disenfranchises, that is a really good question. Back in November, I brought a report to one of my committees in the city council, just to flag that voter ID was potentially going to be introduced. They are better placed than I am to identify the vulnerable groups within their communities, so I am going to push the burden on them a bit to tell me who those communities are—older people, students or vulnerable people. I get on my hobbyhorse about students, because my son is 19 and at university. He has already lost two forms of ID, and that was during lockdown—[*Laughter.*] My advice to him would be: go to your local elections office and get an ID card. I know that it will not have any date of birth, as I understand it, but you have to be 18 to vote, so over time that could itself drive demand.

The other, related scenario is that my son is registered in Nottingham and in Birmingham. If he had lost his ID—like his passport—would he have to come back to Birmingham to collect something and then return to Nottingham to vote? The way the Bill is currently worded is that you will potentially have to make a declaration that you have no other forms of photographic ID. That is just one of those little areas that I had not given much thought to until my son was asking for something to replace his driver's licence. We automatically assume that, because they are younger, students have ID, but that is not always the case. We have to be a bit wary of that.

Some of my members have said to me, “I don't have any current form of photo ID.” These are people in their mid-30s or mid-40s. Again, until we actually get into the nitty-gritty of it and put it into practice, I am not sure whether we will entirely know—until the day or week itself.

Q100 Nick Smith: Louise, my sense is that you are pretty sceptical that much voter personation actually occurs. It was interesting to hear Mr Connelly talk about the difficulties that young voters may have in having voter ID easily to hand. My view is that simple systems boost participation and simple messages are key. What measures do you think you will have to use across the UK to inform our diverse communities that they will need voter ID, and what are your concerns?

Louise Round: I think that it will need to be tackled on a whole range of fronts. There will be a national campaign, and obviously the Electoral Commission will have a massive role to play in relation to that. However, if you take the vaccination programme, which was the most recent analogous experience, our experience is that small and local works. In Merton, as in many other councils, we used local community champions, in

some cases from the same ethnic backgrounds as some of the harder-to-reach groups: younger people and older people who can actually talk to people who may be less inclined to, or may not even know that they need to, apply for voter ID in a language and with experience that those people can tune into. It will take a huge concerted effort by the Government, the Cabinet Office, the Electoral Commission and local returning officers.

To pick up what Rob was saying about voter ID cards not being an electoral services responsibility, teams in London range from three to five people, so there is no way they can take on issuing voter ID cards in the middle of an election—as I said, I suspect that, however long the run-up, that is when all the pressure will be piled on. This is a corporate responsibility, and returning officers, generally speaking, are senior managers or chief executives in councils, so they will need to mobilise all their colleagues and make sure that everybody puts all hands to the pump so that we do not disenfranchise people.

Q101 Peter Gibson: I have two questions for Rob. In her evidence, the returning officer from Peterborough outlined that they had explored using CCTV in their polling stations. Could you comment on whether you have done the same and on whether that would be of benefit? Could you also outline whether all your polling station clerks are fully trained in the applicability of tendered ballots?

Rob Connelly: CCTV is something we explored in around 2010 or 2011, but we had a number of concerns, including that it might go the other way and affect people's confidence in the system, in that they might be worried that we were spying on them or would be able to identify how they were voting. We opted not to go down that route. We invested more in additional training for our staff. We even considered looking at CCTV outside polling stations for people who were entering. Again, we did not think, if there were allegations of personation, that that would really help us. We had discussions with West Midlands police about the evidential side of that, and CCTV would not necessarily help you identify who had committed any crime of personation or when. We know it would have been very difficult to prove. As I say, we invest more in our staff who are delivering the ballot papers, and what have you.

In terms of the question about tendered ballot papers, that is something we make sure we reiterate every election. We introduced a form for our polling station staff. If they gave out a tendered ballot paper, they had to give an explanation as to why—what was the reason? We would then spend some time collating that information post-election. That would do two things. One, if there were particular problems with particular polling stations and polling station staff, we could pick that up with them to find out why they were doing those things and fix that for next time. Two, we would then report that back to our members and give out numbers over the whole city, saying that x number of tendered ballot papers had been issued and giving the reasons why. I will be honest with you: there were times when they were probably issued wrongly, but that helped identify the issue so we could eliminate that from the process.

Q102 Jerome Mayhew: Mr Connelly, you were asked a moment ago about disenfranchisement, with specific reference to the first clause in the Bill, on voter ID.

Although the Bill has one clause relating to voter ID, it has five clauses relating to proxy and postal voting. We heard really powerful evidence about that from Mr Mawrey QC this morning. When he was asked his view about disenfranchisement, his evidence, which was absolutely stark, was that it was the Bangladeshi community who had had their votes stolen and harvested and who were overwhelmingly disenfranchised as a result of voter fraud. Would you agree with that expression of opinion?

Rob Connelly: When we had our 2004-05 issue, I don't think it was with that community.

Jerome Mayhew: I should make it absolutely clear that he was making direct reference to Tower Hamlets in that series of questioning. Rather than pinning it all on the Bangladeshi community, what I really want to focus on is that it tends to be minority communities who have had serious examples of electoral fraud—the kind of fraud that is dealt with in the proposed legislation. That is the area where most disenfranchisement has taken place historically.

Rob Connelly: As an example of that, there was a local election in which complaints were raised with us about potential fraud in the community by one of the candidates. People were potentially going to polling stations, and what have you. We did additional training for our polling station staff in that particular ward—myself and a police officer from West Midlands police—to explain what the particular allegations were and also what they could do to identify offending. In the petitions we have had, people have questioned the integrity of our polling station staff, which we vigorously defend, because 99.9% of the time they are absolutely honest. As I say, they come in for one day a year and without them we cannot deliver elections.

The sort of scenario you are talking about is often identified before an election, because the communities can sometimes be split by party lines. They will flag these issues up with us and we will work not only with the police, but with the political parties. I always think that to combat fraud, there are three parts of the jigsaw puzzle: the returning officer, the police and the political parties. If they all work together, that is how you combat fraud.

Q103 Jerome Mayhew: You mention the police as one of the triumvirate. How important is it that the police take electoral fraud seriously and get actively engaged?

Rob Connelly: West Midlands police always have done because of what happened in 2004 and the criticism they got at the time. It was a lesson well learned for them. Ever since then, they have taken such allegations very seriously. We work very closely with them and we have a point of contact. We will meet them in early January or in February to start preparing for the next May elections.

Q104 Jerome Mayhew: That is a definite improvement. Prior to 2004, complaints were called “Operation Gripe” in West Midlands police.

Rob Connelly: Yes, you are absolutely right.

Jerome Mayhew: It is fair to say there was room for improvement.

Rob Connelly: Yes.

The Chair: This will be the last question.

Q105 Paul Bristow: You said in your evidence that a feature of elections in Birmingham in the past has been people turning up at polling stations with a collection of ballots. That is a feature I know all too well from Peterborough—it happens all the time. There is clear evidence of postal vote harvesting. I know that it goes on. We see people knocking on doors down the street collecting ballot papers and postal votes. Do you feel that the provisions in the Bill will go some way to ending what is a pretty murky practice?

Rob Connelly: They do—I would like to think so. One thing we have to be careful about is that if we introduce voter ID, one of the unknown consequences could be that people say, “I can't be bothered to go and get my ID card.” Will they then think, “I'll go and get a postal vote instead.”? We just have to be mindful of that.

Q106 Paul Bristow: What about party activists collecting ballot papers and handing them in? The Labour party once had its own mock ballot box that it was taking around and asking people to put their votes into. I think we can all agree that that is a practice we ought to end, and we could end it.

Rob Connelly: After 2004, all the political parties undertook not to—

Paul Bristow: That is absolutely true.

Rob Connelly: The Labour party have signed undertakings before every election following that. It gets undertakings from its candidates and activists that they will abide by all the guidance. It shares that with me and gives clear instructions that, certainly in Birmingham, its party activists will not go anywhere near postal votes.

Q107 Paul Bristow: There is no excuse for it—do you agree?

Rob Connelly: The only reason you would allow it is if a disabled or elderly person wanted some help, but that is a service we can offer.

Paul Bristow: Yes, indeed. Thank you.

The Chair: If there are no further questions, I thank the witnesses for their evidence and we will move on to the next panel.

Examination of witnesses

Dr Kate Dommett, Professor Justin Fisher and Darren Grimes, gave evidence.

4 pm

Q108 The Chair: We will now hear evidence from Dr Kate Dommett of the University of Sheffield; Darren Grimes, a political commentator; and Professor Justin Fisher of Brunel University London. We have until 5 pm for this session, but we might be interrupted by a Division. Will the witnesses please introduce themselves for the record?

Professor Fisher: Hello, my name is Justin Fisher, and I am a professor of political science at Brunel University London.

Darren Grimes: Hello, I am a political commentator, and I campaigned for leave in the 2016 referendum.

Dr Dommett: Hello, I am Dr Kate Dommett and I am a senior lecturer at the University of Sheffield.

The Chair: Thank you. Cat Smith?

Q109 Cat Smith: Thank you, Chair. My first question is for Dr Dommett, regarding your research on digital campaigning. Obviously, for about a decade now, there has been widespread support and campaigning for additional imprints to be part of transparency around online campaigning. Do you feel that this is sufficient? Do you feel that it is future-proofed, and are there any changes or additions that you would like to see in the legislation, given your specialist knowledge in that area?

Dr Dommett: Thank you very much, Cat. First, it is very good to finally see imprints being tabled into electoral law. This is something that has been called for for 10 years. I have sent evidence to the Committee that outlines some small changes, but broadly I think there is support for this and it is likely to be welcomed. There are questions about the implementation of the proposals as drafted. For example, there is a lot of vagueness around what it means for an imprint to be “reasonably practicable”. From my perspective, that appears to be quite a big challenge in implementation. Is it going to be down to a campaigner, for example, to determine what is reasonably practicable? If that is the case, we are going to see imprints being placed not directly on the material itself, but on external websites. That starts to pose significant challenges not only for oversight, but for researchers such as me, who will be tasked with collecting all these instances to offer any scrutiny. That is a point of concern that I would raise.

The other issue is the distinction between paid and unpaid material, and the implications for what is regulated under each type of content. This is a very challenging issue, and it comes to your question about what is and is not being covered in future-proofing. It is notable that, in focusing on page content, we are talking about a very specific type of page content in relation to imprints. This is about being paid for dissemination, and it is a reflection of the huge growth in online political advertising and payment for dissemination on platforms such as Facebook. It leaves a big gap, so we are already seeing, particularly in other electoral contexts, things like influencers being paid to produce content that they then disseminate organically. That material would not be required, if it was being disseminated by an unregistered non-party campaigner, to contain the kind of imprint we are talking about. There are some questions about what will be left out under the Bill as currently drafted.

There are also issues of confusion around paid and unpaid content. One phenomenon that we see very often is that a piece of content will start paid and will then begin to be disseminated organically or, vice versa, it can begin as an organic piece of content and a campaigner can then decide to pay to boost it. Depending on the origins, it could create ambiguity about when an imprint is required.

I think there is also a challenging question, and I see both sides of it, about the regulation of unregistered third-party campaigners. There are of course valid concerns about the regulatory burden placed on those actors, but it does create an opportunity for something we have seen evidence for: a lot of organic groups that are very

small in scale co-ordinating to disseminate messages across social media. They would not have to carry an imprint under these rules. There is a very good example in Scotland, where this has already been tested and where both paid and unpaid material from all actors is required to have an imprint. I think it is interesting that the Bill is diverging from that practice, and I would raise a question about that.

On your bigger question about whether this is enough for the regulation of digital campaigning, I think my answer can only be no. That was being called for 10 years ago, and you only have to think back to 10 years to think about how much the digital space has evolved. There are huge questions around the regulation of digital campaigning, particularly about the power of our electoral institutions and processes. The democratic institutions that we have to oversee elections do not have any power to intervene in the activities of social media platforms, which now provide an incredible and very valuable platform for campaigning. The Electoral Commission in particular has minimal powers to compel information from those actors.

As a researcher, I may be expected to say this, but there is an incredible lack of transparency around digital campaigning because of the lack of data access available in that space, as it is a commercial realm. That means that it is virtually impossible to scrutinise what is happening in the digital space, and given the range of concerns emerging in that area, the Bill misses an opportunity to provide avenues for more information about what is happening online. Broadly, I would say that it is good to finally see this being taken forward, and I think there is potential for it to work well with a couple of clarifications.

Q110 Cat Smith: You touched on the issue of third-party campaigners, and beyond the digital side, the legislation actually gives the Minister for the Cabinet Office the power to remove the ability of a campaign charity, for example, to campaign in an election. Do you have any concerns about that? The recent legislation change in Scotland means that there would be a disparity in the UK. Do you think that could lead to confusion, particularly for UK-wide third-party campaigners?

Dr Dommett: Yes, there is definitely potential for confusion. One of my headline thoughts about the entire Bill is that it is a real missed opportunity to fundamentally rewrite electoral legislation to provide greater clarity, which has been repeatedly called for because we have a mismatch of regulations, so I think there are potential concerns. I have forgotten what you asked about—was it third-party campaigners? Apologies.

Cat Smith: It was about third-party campaigners and the Minister’s power to remove their ability to campaign.

Dr Dommett: I have concerns about the powers of ministerial discretion in a number of areas in the Bill. That comes to a different area of my research that is not focused so much on the digital side but on public perceptions. The importance of electoral processes—especially electoral oversight—being seen to have a high degree of independence is absolutely pivotal for public trust. I would have concerns about the Minister’s ability to exert discretion here. I think that is fine for parliamentary oversight, but Government interference could raise public concern.

Q111 Chloe Smith: Good afternoon to all three of our witnesses.

I will try to ask a question or two of each. Kate, sticking with you to start—very good to see you—will you give us an insight into the international picture of digital imprints? My understanding is that it is not a very long list of countries that have yet been able to address this and put it in place. I acknowledge your point that it has been a long time coming but, in turn, you will appreciate that is because we have taken time to do technical consultation quite comprehensively, which is needed here. Given that context, is it not the case that not very many other countries have managed to do this yet and we stand a chance of being in the lead?

Dr Dommett: You will have to forgive me, in that my research focus is largely the UK, so I cannot speak with as much authority here as I would like. There is some precedent for this around the world. What I am most familiar with is not national Government efforts, but the efforts made by social media companies in this area, where we have seen it rolled out at scale very successfully. As in a number of areas of electoral law, the UK is leading the way in terms of transparency, so I certainly agree that this is something that would help set a good standard, but there are certainly improvements that could ensure that this specific intervention marks a gold standard for what is done.

Q112 Chloe Smith: Thank you, that is helpful and one of the things that we will be aiming to do. Will you also recap for us the goal, or the problem, that you think the absence of a digital imprint gives rise to that needs to be solved? We did not start with principles, but went straight into the details of how we might improve the idea.

Dr Dommett: From my perspective, it is interesting to read the Cabinet Office's ambitions for this particular goal. They are extensive and varied. Primarily, this is about aiding electoral oversight and making it clear which actor is responsible for campaign materials, therefore providing a trail in order to determine whether any of the existing regulations have been violated.

In addition to that—this is where there is less evidence, interestingly, but where emphasis is often placed—this is about public transparency and increasing confidence and trust in the electoral process. In current debates, an awful lot of weight is placed on the ability of imprints to advance that goal. I would question whether we had the evidence that that is actually the case. It is something on which we have current live research ongoing here at Sheffield. We are looking at the relationship between seeing an imprint and a resulting increase in public trust. The primary goal, however, has to be that important one, which is providing a clear steer on where that information is coming from. That is vital because, from the public perspective, it helps. We all use cognitive shortcuts, so it helps us to orientate and understand the motive with which that actor is placing the content, which is very important.

Q113 Chloe Smith: Yes, indeed. May I quickly pick up on the third-party campaigning definition question which you have just discussed with Cat Smith? Will you confirm for the Committee that there is already a provision in the Political Parties, Elections and Referendums Act 2000—namely, section 88—that allows for a list of categories

of entities that are able to give a notification or, in other words, to register with the Electoral Commission as a third-party campaigner? That already exists in law and as a concept.

Dr Dommett: I am afraid that I am not an expert on PPERA, so I will not be able to comment.

Q114 Chloe Smith: Not to worry, we will pick that up later. Thank you so much for joining us. I turn now to Professor Fisher—welcome—and the notional expenditure part of the Bill. You have kindly already supplied some evidence to the Committee in which you say that you endorse the Bill's approach to that question.

Professor Fisher: The question of notional expenditure has exercised electoral law since the introduction of PPERA 2000. Essentially, before that we had no national expenditure as such. It has caused some difficulty with questions surrounding the role of national parties and their targeting strategies, and the accusation has been that candidate expenses are bypassed.

There are a number of ways one can look to solve the problem, but having looked at all the ones that have been suggested, it seems to me that they would cause more problems than the current situation. I welcome the Bill's attempt to bring clarity to that situation; for example, the notes around the Bill talk about the "leader 'soapbox' visit". In the research I have done on campaigns, I came across a slightly ludicrous situation in the last campaign where a candidate needed to hide from their party leader to ensure that the expenditure did not fall on the candidate.

However, in recent years there have been a number of cases that were distressing for those investigated and, in one case, the investigation led to a prosecution. The prosecution that followed the case in the 2015 election was very interesting, in that the person who was prosecuted was from the national party, rather than the responsibility falling on the agent or the candidate.

I welcome the attempt to clarify that; I have some concerns about the wording in the Bill, which refers to being "encouraged" to engage in some activity. It seems to me essential that the candidate, the candidate's agent and the relevant member of staff in the national party should be protected from any false accusation and that, therefore, there should be a proper documentary trail. That being so, the word "encouraged" leaves one open to misunderstandings and difficulties. It would be better for the principle to be in line with the acceptance of donations, where everything has to be on paper.

Coupled with that, it would be sensible for there to be a responsible person at the national party headquarters for authorising party expenditure in a constituency. There is no suggestion that that has happened, but it would perhaps protect junior members of party staff from taking the blame for something that had been authorised further up.

While I endorse the Bill, there need to be some safeguards, because in the past there have been suggestions that perhaps candidates and agents have had to take the blame for the actions of national party headquarters. Indeed, that is precisely what happened in a tragic case in 1997, and in a number of the cases I referred to that did not reach the court in 2015, there was some suggestion that candidates and agents were left rather more exposed than was necessary. I endorse the Bill. This is a difficult

area, but on balance I think this is the best approach. It recognises both the electoral system and the traditions that we have in this country—but there should be some tightening of the language in it.

Q115 Chloe Smith: Thank you. That is a very thoughtful reflection. I have always been struck by the need to continue to allow grassroots activists, volunteers and people who are not steeped in electoral law to be involved. Do you agree that there is a way here to encourage people to get involved without overbearing legal risk?

Professor Fisher: Definitely. In some ways, this refers back to the questions posed to Dr Dommett. I have some concerns about the over-regulation of elections. We have to accept that there is some activity that we simply cannot regulate, and one cannot have a situation where people who voluntarily engage in politics, which is a good thing—the vast majority of electoral agents are volunteers, and we would not want to prevent them from getting involved—find themselves on the end of a legal investigation as a result, perhaps, of a misdemeanour of which they were unaware. That is particularly true of electoral agents. The vast majority of them, more than 80%, are volunteers. It is some job to stand up and take on that role, in the knowledge that you could find yourself in prison.

Q116 Chloe Smith: Thank you. I am sure there may be some other questions around that later on, perhaps bringing in our other guest who also has experience there. Sticking with you, Professor Fisher, I want to ask about the provision on third-party campaigner registration—the new lower tier for registration—and the Bill's aim to restrict third-party campaigning to UK-based entities. You say that both of those make good sense, and hope that they serve to enhance transparency at an election. Can you explain why you take that view?

Professor Fisher: It seems to me that any piece of electoral registration around finance should be principally about transparency and trying to have an equal playing field, as far as that is possible. The tier for registration in England is out of step with the rest of the United Kingdom, so it makes good sense to harmonise that.

There is a real danger of third-party expenditure from outside the United Kingdom. It is right that the Bill seeks to regulate it, but I think that we must recognise that we will never be able to prevent it entirely. The internet falls outside of UK jurisdiction; we can deal with imprints, but it would be very difficult to stop a concerted campaign on Twitter or Facebook by a foreign actor. The principle is absolutely sound, and is something that has been practised since PPERA was introduced in 2000. The attempt to keep foreign activity out of elections is a problem that is found across the

globe. This is a step in the right direction, as long as we recognise that we will not be able to stop all of the activity.

Q117 Chloe Smith: Thank you so much. I will turn to Darren. Thank you for giving your time this afternoon. I am going to adopt the tone of Professor Fisher about the need to consider how much regulation is too much regulation, and how to encourage grassroots activists to be involved. Perhaps this is an area you might make a comment on?

Darren Grimes: Absolutely. I agreed with everything that Professor Fisher said. Briefly, as someone who was just a volunteer, and who does not know much about laws or statute books, I will set out why it is right for the law to make it easier for people to be part of the democratic process. Looking at what happened to me and others, a key concern for me is that if there were to be another referendum—and God help us if there were—people would be unwilling to put their heads above the parapet and be a responsible person for a registered campaign. I think that is a pretty damning indictment of where we are at in our democratic process.

Ultimately, as you have all said, a democracy that relies on volunteers would be left wanting if it was to be unable to recruit them. We would be poorer for the loss of their contribution. I have to say, with my hand on my heart, I would certainly not put myself forward as a responsible person in an election ever again—for as long as I live. It is not worth all the money in China for me to do that. That is pretty sad, and we should do anything that we can to make the process easier and more transparent, and for the Electoral Commission's role in dealing with those registered to be permitted participants in elections role to be much more transparent. Anything we can do to make the process much more streamlined, much more transparent, and much clearer will be beneficial for a volunteer-based democracy.

Professor Fisher: May I comment on that? So that there is no misunderstanding, I think we have to protect volunteers, but a difference emerges once you start spending money. I think that is a very important distinction.

Chloe Smith: Understood.

The Chair: For the benefit of witnesses, there is about to be a vote in the Chamber, so I thank the witnesses for their evidence, and the Committee will meet again here at 11.30 am to take oral evidence.

Ordered, That further consideration be now adjourned.
—(David Rutley.)

4.25 pm

Adjourned till Thursday 16 September at half-past Eleven o'clock.

Written evidence reported to the House

EB01 Dr Katherine Dommett

EB02 Professor Justin Fisher

