

Public Administration and Constitution Committee

Oral evidence: [The Elections Bill, HC 597](#)

Tuesday 14 September 2021

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Members present: Mr William Wragg (Chair); Ronnie Cowan; Mr David Jones; John McDonnell; David Mundell; Tom Randall; Lloyd Russell-Moyle; John Stevenson.

Questions 77 - 235

Witnesses

[I](#): Chloe Smith MP, Minister for Constitution and Devolution, Cabinet Office.

Examination of witness

Witness: Chloe Smith MP.

Q77 **Chair:** Good morning and welcome to the Public Administration and Constitutional Affairs Committee. Today's evidence session is the latest in our inquiry into the Government's Elections Bill, which was introduced just before the summer recess and received its second reading last week. The Bill is wide ranging in its ambition and proposes changes to the way that elections will take place in our country. Following our session last week with academics and experts, we will be putting questions today to Chloe Smith, the Minister for the Constitution and Devolution at the Cabinet Office. Would you like to introduce yourself, Ms Smith?

Chloe Smith: Good morning, Chair. I am a Member of Parliament and the Minister for the Constitution and Devolution at the Cabinet Office.

Q78 **Chair:** How significant would you say, Minister, is this piece of proposed legislation for how elections are conducted and regulated in the UK? How significant in terms of upholding public confidence in our democracy?

Chloe Smith: This is a significant piece of legislation. We do not get the chance to legislate to do with our democracy every year. It is something that we are able to do from time to time. When you think in context that we have the RPA broadly at 40 years old and PPERA broadly at 20 years old, we do sit in an important sequence of legislation. What I am hoping



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to achieve with this Bill is to keep our elections secure, fair, transparent and up to date, as people would rightly expect.

In particular, this Bill also delivers a number of recommendations that have been made over many years by parliamentary Select Committees, by other observers and by a wide range of debaters, participants and, indeed, citizens, and also delivers upon a series of manifesto commitments from the Government.

Q79 Chair: You mentioned, quite rightly, that we do not get the chance very often to look at this important area of law. Do you not feel at least partly that this could perhaps be a missed opportunity, particularly with regard to the consolidation of our massive statute of electoral law?

Chloe Smith: I am very familiar with that argument but I do not think this is a missed opportunity in that sense. I think, first, that it is very important to be able to not only deliver on manifesto commitments—some of which have been repeated; for example, you would have seen the overseas electors' items in this Bill in several Conservative manifestos without a chance yet to have been delivered—but it is also important that we are able to deliver on many of the suggestions for reform and improvement that have been made over the years. To do all of that, as well as delivering the kind of consolidation that the Law Commission and a few others have looked at and proposed, would be a very difficult piece of work; almost too large a piece of work. It would be an enormous undertaking.

I acknowledge, though, that our elections law is complicated and I acknowledge the underlying arguments that the Law Commission makes, therefore, about consolidation, but I think it is perhaps more pressing to be able to deliver on those things that we have promised to do, and which others have called for, than to necessarily tackle the whole of the consolidation task.

Q80 Chair: From that, it is worth asking if those issues of consolidation are likely to be addressed in any future legislation or are we simply too far gone in this Parliament to begin to undertake such a piece of work?

Chloe Smith: There are probably two points within that question. First, about what time is left to us in this Parliament. It would seem unlikely to me that you could bring forward a consolidation Bill in that time. I don't think I am saying anything there that would surprise the Committee. Obviously you will have taken from my comments already that it takes some years to do the preparatory work, to bring forward reforms and to proceed as carefully as we ought to do in this complex area of law.

The second point perhaps is: could there ever be the consolidation job done outside of this Parliament, or beyond that? I cannot speak for looking far into the future but it is something that I will continue to consider.

Q81 Chair: Concern is expressed—as I am sure you are well aware and have



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heard rehearsed in our arguments at the second reading—about an apparent lack of meaningful consultation, if I can put it that way. How would you respond to that concern from certain stakeholder groups?

Chloe Smith: I don't think it is right. As we have already been saying, you can look at the pedigree of discussion, debate, and indeed consultation, across this Bill and you can see it there on the record. Many elements in this Bill are long-established commitments or have stemmed from reviews and reports conducted by parliamentarians. One of the main ones that members here will be entirely familiar with, is the review by Lord Pickles in 2016. There are also many other reports by Select Committees, this one and in the Lords, and bodies outside Parliament as well. So, I think it is quite possible to see a full pedigree for the measures that are here in the Bill.

In addition, we have run technical consultations—and indeed repeated consultations—on measures to make sure that they can work. For example, the Bill includes three sets of measures that have been the subject of consultations. They are in the intimidation, influence and information piece of 2018, the technical consultation on digital imprints of 2020, and also the call for evidence of 2017 around accessibility in elections. We have also undertaken a range of pilots.

We have been continuing to seek input and experience, including, for example, from electoral administrators and indeed political parties in the form of the Parliamentary Parties Panel. That is as well as me personally, and my officials, continuing to hold many meetings with representative organisations to hear their views and understand any technical or other issues that they may have in respect of these measures.

Q82 **Chair:** Notwithstanding the consultation that you rightly outline, would you be able to commit to post-legislative scrutiny of this important piece of legislation that is about to become an Act.

Chloe Smith: Potentially and, of course as you will well know, that is generally an approach that this Government, and any Government, will often try to take. For example, it does feel to me as if I have only just finished conducting post-legislative scrutiny on, for example, the trade union and third-party campaigning Act, which you will also be aware of. That is just one example of other Bills that have had that scrutiny.

I do not see any problem in committing to post-legislative scrutiny as I think all governments generally ought to do as a position of principle.

Q83 **Chair:** Beyond a position of principle, would you do it on the basis of statute?

Chloe Smith: Allow me to consider that. I will take some advice on that, if I may. In general, I am keen to make sure that this legislation works—that is why we have taken all this time to consult, to listen, and to get it right—and I think a reasonable part of that is of course continuing to look at it after legislation as well.



Q84 Chair: Many of the changes envisaged to come into effect will only be given effect by secondary legislation, so could you tell us how much secondary legislation you envisage being made under the Bill and when you would anticipate that being brought forward?

Chloe Smith: It is quite normal for legislation of this kind to be a blend, effectively, of primary and secondary legislation. Again, this in part stems from the way that elections law is complex but also stems, of course, from the way that some of the measures we are talking about have things in them that are suitable for secondary legislation. For example, if we are going to talk about identification, it would make no sense to have a list of types of identification on the face of the Bill. That is naturally something that would be better suited to secondary legislation.

I think there is a fair balance between primary and secondary legislation. I am keen to be able to bring forward as much of that secondary legislation as early as possible so that parliamentarians can scrutinise it. That is only fair. In particular, in terms of the passage of the Bill, I am hoping to be able to do that ahead of the Lords stages. That is a reasonable ask of those who are doing the work behind the scenes, balanced with making sure that Parliament can see the detail that is contained.

Chair: Thank you. Over to David Jones now.

Q85 Mr David Jones: Minister, this is a constitutionally important and significant Bill. Is there any reason why you have decided not to lay it for pre-legislative scrutiny?

Chloe Smith: Principally, because of the pedigree of the measures, as I was describing earlier, that many have already been the subject of public debate or indeed have been called for by others and, therefore, have been capable of being scrutinised in that sense. Also, as I say, the way that we have consulted on the measures has given them formal time to be scrutinised. With that in hand, I thought it was suitable to bring the measures together in the Bill and introduced it to Parliament that way.

Q86 Mr David Jones: The Bill is progressing remarkably quickly through the House. You are observing the conventional minimal intervals but only just about. Given the importance of this Bill, is there any reason for the Government's extreme urgency in rushing it through the House?

Chloe Smith: I would not characterise anything here as extreme urgency or as indeed anything sinister at all. There is a general point about where we stand in this Parliament, which is that time has been lost due to the pandemic. That is true across the whole of the legislative programme and any Bill Minister, or indeed any Chief Whip, would no doubt have to explain that. Therefore, I think there is an appetite in the House to be able to make progress on this Bill and others.

Q87 Mr David Jones: Forgive my interrupting, but do you not think there is also an appetite on the part of parliamentarians to discuss the ramifications of the Bill as it progresses and that the very, very fast



schedule that you have set does not really allow for that?

Chloe Smith: I absolutely agree that there needs to be time to discuss this Bill and I think that is what is there. Parliamentary procedures allow for that. Nothing unusual is happening with the parliamentary procedures for this Bill. Therefore, it will have the right time because we all respect Parliament and want it to work in that way and that is what its procedures do.

If I may add another point. There are several measures in this Bill, because it is an Elections Bill, that would need to be in place by the next General Election, or by the time of a relevant local election. That is the nature of what we are legislating for here. Those elections also provide some obvious deadlines for the work. Perhaps we will get into that later in the session. In addition to that, there is a principle that we try to work to with those who operate elections, which is called the Gould principle, which suggests that we should be able to allow election teams and all those involved in elections six months' notice between the end of legislation and measures being operable. That is a reasonable expectation from those who have to work with this law and that is part of what I am trying to do in delivering this Bill to its deadlines.

Q88 Mr David Jones: What consultation have you had with the devolved Administrations about the Bill?

Chloe Smith: A lot, and that spans over several years. As you will recall, I have been in my post since 2018, most recently and a little bit of time before that as well. In the context of this Bill, that time since 2018 has given me time to work with colleague Ministers in the devolved Administrations as they were in their previous Administrations and then running all the way up through the preparation of this Bill until the point of the elections in Cardiff and Edinburgh this spring, where of course their Administrations technically changed and the Ministers changes, so I have made sure that the relationships and the forums in which I work with my new colleagues are in place and we continue that work.

Given that there has been that change of colleagues in those other Administrations, obviously there has been a little break in that series but I would say we work closely together and, therefore, we are now right in the middle of discussions with each other about how the measures in this Bill could be applied in their jurisdictions as well. You will have seen the memo published by the Welsh Government most recently. I am speaking also to my counterpart in the Scottish Government later this afternoon. Therefore, I can assure the Committee that there has been lengthy work and consultation with the Administrations according to the proper processes.

Q89 Mr David Jones: Did you share a draft of the Bill with the Devolved Administrations before it was introduced?



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Chloe Smith: Sorry. First may I apologise if I have unclear wording due to sitting close to the microphone. I have just been passed a note that suggests that some of my words may not have been heard clearly.

Chair: Minister, we heard your words very clearly indeed.

Chloe Smith: If there is anything you need me to repeat from what I have already said, please let me know.

Mr David Jones: No, it was all very clear.

Chloe Smith: I apologise again. I therefore missed your question.

Mr David Jones: Did you share a draft of the Bill with the Devolved Administrations before it was introduced?

Chloe Smith: Yes, in the normal way, and we have been working on those clauses at official level as well.

Q90 **Mr David Jones:** When you say “in the normal way”, when was a complete draft shared with the Devolved Administrations? How long before the Bill was introduced?

Chloe Smith: I will have to check the precise date but I am very happy to come back to you on that. I do not have the precise date to hand.

Q91 **Mr David Jones:** Approximately? Was it fairly soon before introduction?

Chloe Smith: I am afraid I haven’t that date to hand but I am very happy to come back to you.

Q92 **Mr David Jones:** If you could write to us that would be very helpful. Why have the Government sought to legislate in areas of devolved competence?

Chloe Smith: Again, let me just set out the normal context here. As you will know in particular, David, we have the potential with some of the measures in this Bill to legislate both for the UK general elections and English local elections—that is what I am responsible for—and some measures could also be applied to devolved elections in Scotland and Wales. I should be clear that in this conversation I am going to be answering this question principally with respect to Scotland and Wales. The situation in Northern Ireland is a little different. We can go into that if we need to but I think your question is likely principally to be about Scotland and Wales.

There are measures that could be put in place across all elections. For example, I think some of the measures around intimidation could be done that way. If I were to propose to do that—and after my discussions with my ministerial counterparts—I would have to obviously request a legislative consent motion from them and for that to have been passed in their legislatures. As everybody will know, that is the way that the Sewell Convention works and the UK Government are committed to that convention and, therefore, would operate those processes.



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My hope with this Bill would be to be able to have a degree of partnership with my colleagues in those Administrations to be able to, where possible, have measures that could apply at all elections. If that is not their desire, they will not be putting forward a motion in their legislatures, as Mick Antoniw has laid out in his memo, and that is that. Therefore, we will have effectively separate arrangements. After all, that is a natural consequence of devolution. That is for them to make their decision and for us to make ours.

Q93 Mr David Jones: For clarification: you would not propose to persist with legislating for the Devolved Administrations in the event of an LCM being refused?

Chloe Smith: No, I don't propose to do that.

Q94 Mr David Jones: Right. That is fine. The Welsh Government have also raised concerns that other non-devolved measures in the Bill could lead to voter and candidate confusion because, of course, we have an increasing disparity and differences in electoral law across the UK. Do you feel that this legislation may be adding to the confusion?

Chloe Smith: No, I do not; also, I would argue that I do not think it needs to. I think contained in your previous question was the idea that there are good reasons to wish to legislate consistently across the United Kingdom. Indeed, that would be my wish. There is much here that can and would be beneficial if it applied across all elections because that would provide a consistent environment for those who run elections and, crucially, for voters, candidates and parties who participate in elections.

However, if it is the wish of my counterparts in the Welsh Government or the Scottish Government not to do that, that is a shame but I respect the fact that that is a natural consequence of devolution and that it is within their legislative rights to take that approach. What I would seek to do then—and have always sought to do with those colleagues—is to operate our respective elections rules in the most collaborative way possible, so that we reduce any confusion or any difficulties that might arise for the people who have to be subject to those different rules.

Q95 Mr David Jones: So there would be further discussions with a view to developing mechanisms?

Chloe Smith: Certainly; absolutely.

Q96 Mr David Jones: What do you anticipate the Scottish Government and the Northern Ireland Executive will do? Do you think that they will be content to allow this legislation to proceed? Or do you anticipate that they will be withholding consent, like the Welsh Government?

Chloe Smith: I mentioned that I am meeting my colleague from the Scottish Government later this afternoon. I don't think it is going to be helpful to pre-empt that meeting or his views. Obviously we will be more than happy to discuss that further with the Committee and with Parliament when it comes.



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Mr David Jones: I will not press you on it. Thank you very much.

Chair: Briefly from David Mundell, please.

Q97 **David Mundell:** One issue is about the ability to hold elections on the same day for different Parliaments. We saw earlier this year, when Mr Cowan's former colleague, Neil Gray, resigned, that a bye-election was held one week later at a cost of £300,000 to the public purse because it was not held on the same day as the Scottish Parliament election. Do you not think that by having different rules, effectively, in relation to these elections, that that makes the holding of elections on the same day much more difficult?

Chloe Smith: That is not in the Bill, of course. The Bill is silent on the matter of the combination of polls in that sense. You may have in mind the brief discussion we had in the Chamber last night in respect of the other Elections Bill going through the House at the moment, the Dissolution and Calling of Parliament Bill where Jonathan Edwards was proposing some measures to do with how polls may be combined between the Senedd and general elections. Again, that is not contemplated in that Bill either. These are ideas that others are putting.

Q98 **David Mundell:** But this is a practical effect. If the rules for UK elections are different from the rules for a Scottish election—I would go to the polling station, I would be subject to the requirements in relation to ID and the UK election, but I would not be subject to those rules in relation to the Scottish election, as far as I understand it. Therefore, the practical effect of this, is it not, is to make it much more difficult to have two elections taking place at the same time although, in terms certainly of the public purse and in terms of campaigning and so on, that might be the most practical and best way to proceed?

Chloe Smith: I think it might be helpful to split out two issues here. There is the technical combination of polls issue, which is: do we permit it in law for, for example, a Scottish parliamentary election and a UK parliamentary election to happen on the same day? I think that is one issue, which this Bill does not cover. That is a separate issue.

Then more generally, if you ever did have some combination on the same day, which is difficult considering the prohibitions in place, could voters get confused? That is perhaps the question you are asking, if I understand it right.

Q99 **David Mundell:** No, it is not. The question I am asking is: does having different sets of rules make it more difficult to have two elections on the same day?

Chloe Smith: I am sorry; those are two different legal concepts because we have prohibition on the combination of polls. I think they are two different questions.

David Mundell: I don't agree, but I have noted what you have said.

Q100 **Ronnie Cowan:** My big question is why. Why does the UK Government



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want to introduce a voter ID registration system? What was the driving force for why the UK Government wanted to introduce a voter ID system?

Chloe Smith: Because we think that we need to make sure that our elections remain secure. A body of evidence provided by many observers, including for example the Electoral Commission, including the OSCE, suggests that there is a particular vulnerability in our polls whereby a person commits impersonation—that is the name of the fraud that we are talking about—and we think that needs to be removed. We think that is a sensible measure that will keep our elections secure.

Ronnie Cowan: The Electoral Commission have given a body of evidence that impersonation is a problem?

Chloe Smith: Yes. You will be aware, Ronnie, that the Electoral Commission is a longstanding supporter of the idea of being able to take identification to the polling station. There are many reports, which I am sure you will look forward to reading if you have not already. In addition, the Electoral Commission is also the body that publishes statistics on fraud.

I may go into an entirely new area of questioning. Would you like to ask me about the extent of fraud? I would be delighted to answer on it.

Q101 **Ronnie Cowan:** We will be going there eventually. Let's just take it gently at this stage.

The 2019 Conservative manifesto says the purpose of introducing voter ID is to protect the integrity of UK democracy. How do you judge whether something is protecting or damaging the integrity of UK's democracy?

Chloe Smith: Yes, that is indeed our manifesto commitment and across this Bill there are a number of ways by which that is happening. Voter identification is one of them. There are also several other important measures in this Bill that I would say contribute to that integrity. For example, the measures in here on postal and proxy voting, the measures on digital imprints, and in their different ways all of these things do contribute to the integrity of our elections. Voter identification and tightening of proxy and postal voting are specifically about the potential for fraud. The digital imprints policy, I would say, contributes to the integrity of elections in a slightly different way, which is that that is in favour of helping voters have greater transparency about who is campaigning. I think transparency can be said to be an important part of the integrity of elections as well. Those are just a couple of examples. There are plenty more in the Bill that feeds into those principles.

So how are we going to measure that? You will have seen the discussion on this, of course, and the correspondence between the Chair of the Committee and me, where we talk about this. I have put forward that one of the important measures for the integrity of our elections will be the confidence that people can have in our elections.



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Honing in again on voter identification, one of the pieces of evidence that I am working to here is that we would expect that two-thirds of people would feel more confident in elections if this scheme was in place. Again, indeed, that analysis was supplied by the Electoral Commission.

Q102 **Ronnie Cowan:** You said that cases of electoral fraud are likely under-reported. What levels of impersonation do you think there have been in recent UK elections?

Chloe Smith: By its very nature, that is not a question that it is possible for me to answer. I could not put a number on that for you because of these—

Q103 **Ronnie Cowan:** How do you know it is under-reported?

Chloe Smith: As you will have read very closely in the letter I sent back to the Committee it is simply not possible for me to give you a number answer to that question because it is a crime of deception. I cannot say how many of these crimes may have been committed because they are not possible to observe. The criminal will be away, having committed the crime, before you even know that it has been done. For example, if you were to turn up at the polling station later in the day, you simply would not know until you did that somebody had come earlier in the day, pretending to be Ronnie Cowan, and had stolen your vote. Naturally, then, I cannot give you a number to say how many times that might have happened. It is not just a number that it is possible to give.

Q104 **Ronnie Cowan:** So potentially the problem may not exist.

Chloe Smith: What we see happening is a funnel of the way that crime rates work for any category of crime. We can all be quite grown up about this and appreciate that there is the amount of activity that may happen followed by the amount of activity that somebody sees fit to report, followed by the amount of activity that might make its way through the police and the CPS, followed by the amount of activity that might then result in a conviction. It is perfectly obvious that in any crime you choose to analyse, there will be that funnel in operation.

I am entirely open about the fact that in the case of impersonation that number at the end of that funnel is small. It is small, I agree. It is a small number that you see in the reports of impersonation over recent years. But what I cannot say—and I do not think anybody in this room could say—is how big that first number is, which is what level of activity is taking place. So that is why this section of this Bill is all about stopping the possibility of that activity happening in the first place, eliminating the fraud, eliminating a crime, which we think is the right thing to do. Indeed, it would be rather irresponsible not to do, because we need our elections to have integrity and people to have confidence in their votes.

Q105 **Ronnie Cowan:** I understand what you are saying but should the focus not be in seeking evidence of whether there is a problem? You could take any problem and say, "That is something we have to take action to address but we do not know what the size of the impersonation problem



is apart from these figures, which are not small, they are minuscule”.

Chloe Smith: I am sorry, Ronnie, but your logic would lead to us leaving a door wide open in our elections and just saying, “There is a fraud. We know it can be committed, but we are just not going to act on it, we are going to leave it there”, and I think that would be irresponsible.

Q106 **Ronnie Cowan:** Is there a proportional response, then?

Chloe Smith: Yes, which is this Bill measure. This Bill measure is that proportionate response, in a couple of ways. First, it is entirely reasonable to ask people to bring identification with them to a polling station. It is something that people do in many walks of everyday life. It is a perfectly common-sense thing to ask people to do and, indeed, you do hear people say, “Why on earth doesn’t this happen already?” so I think this is very much a proportionate response to a problem.

It is also the case that of course we have to make sure, just as a baseline activity, that our elections are secure. That is what we expect to be delivered time after time by local authorities and those who put elections on. It is perfectly proportionate to make sure that a crime that can be seen, can be committed, is dealt with in that system, alongside the way that over its development our elections law has dealt with other crimes that are capable of being committed, has them as prohibited, and delivers the elections accordingly. This is just an addition to what we already do as the baseline activity for delivering secure elections

Q107 **Ronnie Cowan:** The Government are using the use of voter ID in Northern Ireland to support their case? Yes? Are the circumstances that led to the introduction of voter ID in Northern Ireland at the time comparable with the circumstances in the rest of the UK now?

Chloe Smith: Yes, I think they are comparable because what you have is the possibility for criminals to exploit a vulnerability in the system.

We can all agree that the history of Northern Ireland has something different in it, perhaps, from the rest of the United Kingdom. I am not going to suggest we need to argue over that, but what is fundamental here is that criminals can use the same method. Whatever their political or historical motivation, criminals can use this method. I do not think it is right to leave people subject to being victims of that crime and that is therefore why I am drawing on what has been possible in Northern Ireland to bring in place into Great Britain. In Northern Ireland, of course, the crime has been virtually eliminated and that is my core point. Elimination is the goal here. It is not to be able to—

Q108 **Ronnie Cowan:** How do you know that? You just told us a minute ago that you could not tell. How do you know it has been eliminated in Northern Ireland, because for sure it might be happening and we are not catching it?

Chloe Smith: It cannot happen because a person has to show identification at the polling station.



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Q109 **Ronnie Cowan:** Criminals do have a nasty habit of being one step ahead of the law in many, many aspects of life. You told me that we did not know the size of the problem here but we think it is a lot bigger. Then you are telling me you have eliminated it in Northern Ireland.

Chloe Smith: Of course you are right about that. In that case, the crime would have to have moved on to falsifying identification, which is a whole different area.

Q110 **Ronnie Cowan:** There you go. Can you tell me, then, how many people have been unable to vote in Northern Ireland due to the requirement for a voter ID? Because we don't want to be stopping people voting. That is not the purpose of what we are trying to achieve here.

Chloe Smith: This is correct. First, let me agree and let's get that on the record, clearly and early on, that we all want to see participation remain high in our elections and for people to register to vote and participate. I hope that is agreed among us all.

What you will have seen over time in Northern Ireland is a policy that has become very easy for people to use. You could hear this from Northern Irish colleagues here in this House. They will say that it is simply a common-sense and accepted part of the elections. It is just is not a point of argument.

I have absolutely no doubt that at the beginning of the introduction of the policy there, you might have seen some people make some of the same arguments that we are having now about it, some anxiety. Perhaps, "What if I don't have the right ID? Will I still be able to vote?"

Q111 **Ronnie Cowan:** My question was: did you know how many people have been unable to vote because of the introduction of voter ID?

Chloe Smith: The answer to that is that that is an unknowable number. I am happy to state that in terms of Northern Ireland and I am happy to state that in terms of what we are operating here. We have some evidence from our pilots, from surveying afterwards by the Electoral Commission. We were able to understand a little bit more about people's choices at elections, for example, those who did not have ID during the pilot or those who chose not to vote for other reasons. By the way, the largest reason that people gave for not voting was that they did not have time. It is worth stressing that. You will find that in the Electoral Commission's research. So, we do have some research on this but fundamentally you are asking me for an unknowable number because we will never be able to know what particular choice a citizen makes at the time. Voting is not compulsory in this country. Returning to vote with your ID is not compulsory either. It is a person's choice, so it is unknowable precisely what choices citizens might make.

Q112 **Ronnie Cowan:** What attempts were made to gather that information in Northern Ireland? Given that we had just put a new system in place, what was done to try to gather information to see how effective it is, to see if it is achieving what we wanted to achieve, particularly from the



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European or General Elections of 2019?

Chloe Smith: Let me provide the information from our pilots and also from Northern Ireland.

Q113 **Ronnie Cowan:** Surely Northern Ireland is better than a pilot.

Chloe Smith: Both are important and you would expect us to pilot.

Ronnie Cowan: Surely Northern Ireland is better than a pilot. It is whole nation voting.

Chloe Smith: Both are very important, the Northern Ireland experience, the pilots, the evaluation, the research, and the ongoing work and implementation; all of those things are very important.

Q114 **Ronnie Cowan:** They are important but surely a whole nation voting would give you a great opportunity to gather information to see if it is appropriate for throughout the United Kingdom.

Chloe Smith: Yes, I agree. That is right. That is indeed why we used Northern Ireland but it is also the case that our pilots are very important because they give us valuable information across different parts of Great Britain. What we are able to say from our pilots is—as I noted in my letter back to the Chair of the Committee, in which I was very clear that from doing the 2018 and 2019 pilots—we are able to give some statistics for those who were turned away for lacking identification and who subsequently did not return.

In the case of the 2018 pilot, we are looking at 326 to 350 cases and in the case of the 2019 pilot, we are looking at 740. In the 2019 pilots, where photographic ID was required—and was both in Woking and Pendle, as the Committee will be aware, there were a total of 123 such cases and that is 0.4% of polling-station voters in those two pilots.

Q115 **Ronnie Cowan:** Just hang on to those figures because we are going back to that particular 0.4% figure later on.

It was estimated that around 25,000 people did not vote in the 2003 election in the Northern Ireland Assembly election because they did not have the correct form of ID. That is 3.5% of the turnout in the election. Would that be an acceptable figure in the United Kingdom?

Chloe Smith: I am not looking to see turnout going down. I am looking to see turnout stay high. That is why the scheme in this Bill is accompanied by, first, the free local voter card, to make sure that people do have the ID that is requested. Of course, 98% of people do have already the ID that we are anticipating in this scheme but for those who do not, that is why we are providing that local voter card.

First, there is no reason to assume that people do not have the ID that would be requested. Secondly, in terms of encouraging people to bring that ID with them to the polling station, that is why the scheme in this Bill, and the work on costs that you see in the impact assessment,



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include considerable expenditure on communications to make sure that people are aware of this need. Finally, the final step in the process—

Q116 Ronnie Cowan: I am not for a minute saying we are deliberately trying to stop people getting in to vote. I am not saying that, but it could be a consequent reaction and 3.5% seems to be saying that it is a consequent reaction. So, the question is would that be an acceptable figure if it occurred in the UK. Clearly not.

Chloe Smith: I am not interested in putting a figure on it, with respect, Ronnie. It is not a question that I think is going to be helpful. The key aim here, surely—which you and I must share and I do hope we share—is to ensure that people do know about the scheme and do take up the free local voter cards so that everybody eligible to vote can carry on doing so. That is absolutely my aim and it is what I am working towards with the measures in the Bill, to make sure that there is not a drop off in turnout.

Q117 Ronnie Cowan: Briefly then—and I know you do not like the word “disenfranchise” but I can’t think of a better one—in 2018 we are talking about 0.4% in the photo ID pilot: 123 people; 0.4%. In 2019 there were 34 allegations of impersonation at polling stations. That is 0.000057%. There were two cautions or convictions: 0.0000035%. They are small numbers but for that figure, you want to put in a system that potentially—0.4%; some of the figures you quoted were bigger than that.

Chloe Smith: I have already dealt with this point, Ronnie, which is that the funnel for any crime is going to involve a number for what activity might have taken place, a number for how many allegations are made, and a number for how many convictions result. We should all be familiar with that. I don’t think we need to do that again as legislators. We know that for any crime.

Q118 Ronnie Cowan: We have an electorate of 55 million and we have two cautions, and for that you want to introduce voter ID registration. So, two maybe, what? If you were catching two, that, through this funnel, is going to be what? We don’t know, which is why I am surprised we did not gather information from Northern Ireland to say how much have we improved this problem.

Chloe Smith: I think to be fair, Ronnie, you just quoted information from Northern Ireland as well, so it is perfectly clear that there is information out there and I am happy to come on to it as well.

The evidence base is clear, then, from Northern Ireland and from the extensive work done by the Electoral Commission and others that have, for a long time, recommended that this policy should come in.

The fundamental point remains as I have said. We are responsible for making sure that our elections are secure. There is an obvious vulnerability that is possible here, which is that somebody steals another person’s vote. We have already, through the passage of history, made our elections progressively more secure, progressively more inclusive, progressively towards what we would all want them to be. This is another



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step on that journey to make sure that we are stamping out this particular crime, so that people can have more confidence in our elections.

It is well worth reiterating this research derived from the Electoral Commission that emphasises that we could hope for two-thirds of people to have more confidence in their elections with this measure in place. I think that is the right thing to do.

Q119 **Ronnie Cowan:** Nobody wants to see electoral fraud, obviously.

Chloe Smith: Good.

Ronnie Cowan: There has to be a balance here between trying to solve this problem, or perceived problem, with the number of people who we are going to disenfranchise from the voting system. I just wonder what that balance is.

Chloe Smith: We are not going to be disenfranchising people from the voting system. Let's address that side of your question. First, as I have already stressed, 98% of people have the right ID and for those who do not, we will be making provision for a free local voter card, so everybody will have the opportunity to either bring or to gain ID that will show who they are at the polling station. I think that is perfectly clear.

In addition to that there will be a very large communications campaign, which will make sure that the need to bring that ID to voting is well understood. Those are the absolutely essential things that have to happen with this policy and those are exactly what you would expect me to put in place with this policy.

Some people say this policy is expensive. Well, in fact, the expense comes from making sure that it works. The amount that is in the costings is in large part for training polling-station staff and for the provision of the voter card, and for communications. Those are what makes this policy work. Those things are incredibly important.

In addition, I think there is another point that is worth making here, which is that it does cost something to run elections. Democracy is not free of cost. Democracy, although we might call it priceless, does in fact have a price tag. To run secure elections costs many millions of pounds. That is simply what we already do, every year, every spring, or any time when we have an election. That is simply what we pay—all we taxpayers—to be able to have secure elections. These costs fit in as part of that and to be able to provide what we will therefore be able to be said to be secure elections where a remaining vulnerability has been stamped out.

Q120 **Tom Randall:** On the point of vulnerability, you will be familiar with this; there was a trial a little while ago of Lutfur Rahman, the former mayor of Tower Hamlets. Ballot papers were looked at in some detail. In the judgment, Richard Mawrey QC found that there was an appreciable



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number of false registrations, which, had a ballot been cast in that person's name, would have amounted to impersonation. You talk about the vulnerability of the system. There is a general vulnerability across Great Britain. Do think the system is more vulnerable in some places than in others?

Chloe Smith: The point of this measure is that it can happen anywhere. Therefore, we think it is right to stamp out the possibility in elections across the country and I also think that is what people would expect. Elections ought to be based, of course, on universal principles where we are all equal before the law. That needs to be said.

That said, it is also the case that for example in the Tower Hamlets judgment, the judge was very clear that those who had come off worst from this atrocious set of crimes being committed, were those in the Bengali community in Tower Hamlets and that they had been made victims, in the most awful way, of one man's power drive, and of his cronies' enactment of all those crimes. Perhaps empirically, what we see there is an example of a minority community being the victims of this crime.

Q121 **Tom Randall:** In order to address that particular problem, did the Government look at measures that could be adopted in particular places? Or is it the case that to deal with these specific issues, there has to be a universal approach across all elections, in order to stamp out any that may be theoretical in some places but are particular problems in some places?

Chloe Smith: I can provide you with a bit of an answer about both types of issues. The point that you see in the Bill is that we think that a universal approach is right, as I have just said. To be able to stop a crime occurring, it needs to be dealt with in the law of the land and for that to be applied to everybody equally. However, it might also be of interest to look back at some other work that has been done over the years.

For example, in the time running up to the pilots that we ran, there was work going on with particular councils in areas where there had been a history of fraud, or a history of concern about fraud, and we were working with them to pilot different measures that might make a difference. For example, to pick one that was not part of the later pilots, Peterborough. I think the Bill Committee will be hearing from the returning officer from Peterborough at the time. There was work done there to see how postal voting could be made more secure by non-legislative means, effectively by communicating better with voters about the rights and wrongs around postal voting.

That kind of work is very valuable because it allowed for things to be tried, things that could work. That then rolls forward into the work we did with piloting. Piloting is vitally important because it allows those things that you can try to become more formal and to become schemes in their own right, from there to be evaluated, and then potentially to be rolled into a national scheme.



Q122 David Mundell: Chloe, concerns have been raised with this Committee that it is not just the numbers of people potentially disenfranchised by voter ID but that it will disproportionately groups, such as older people, ethnic minorities and LGBTQ+ communities. Age UK was particularly concerned that the Cabinet Office research strongly underestimated the number of older people without ID, that for example people living in care homes were excluded from that survey. To what extent is this policy likely to lead to discrimination of certain groups?

Chloe Smith: We don't think it is likely. It is something that we have been very careful to look at.

Obviously the Committee will have looked very carefully at our equality impact assessment where we have systematically worked through the protected characteristics under the Equality Act and made sure that our policy is responding to particular needs.

Q123 David Mundell: Can you give me some examples of that?

Chloe Smith: Happily, yes. I will turn to the equality impact assessment, if I may, in a moment.

The other thing to say first, and in addition to that, is that we have done a lot of work with representative groups, who may wish to speak for, for example, the elderly, from your question, and other groups. We sought to understand their concerns and to respond to their concerns. In particular, that conversation often centres around something else that I have been emphasising to the Committee this morning. That is the communications that will be needed to help voters to adopt this change. For example, encouragement that may be needed to apply for the free local voter card, particular kinds of training that may be beneficial for polling-station staff in respect of people from certain community groups or with certain characteristics. Those are the kinds of valuable things we can get out of those conversations, which I hope is of some reassurance to anybody who may be anxious about how the policy would be implemented.

Q124 David Mundell: In terms of particularly the issues around older people, are you satisfied that your research is accurate on the number of people who might not currently have ID and might not take up the offer of a voter ID card? My understanding is that, no matter how much training you give people in polling stations, if somebody turns up without ID and does not have ID, they are not going to be able to vote.

Chloe Smith: Yes, I am confident in the robustness of our analysis. That is your question. Yes, I am indeed confident. As you can see from our impact assessment and equality impact assessment—and I hope the examples I am also giving you verbally—that we have done a lot of work on this over a period of several years, to get this policy right. So, yes, I am confident in that work. That work continues with, to pick an example, Age UK with whom I have been speaking and working. I know Age UK gave evidence to this Committee, last week I think. So that work



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continues and it is very important to be able to encourage uptake of the voter card, if that is what is needed, or to encourage bringing it to the polling station.

Of course, it is also worth pointing at some of the particular types of ID that we are including in the list, which may reassure elderly voters. For example, concessionary bus passes are on the list. That may be a form of ID that elderly voters in particular might be likely to have.

Together with those sorts of reassurances together, I do think it is possible to give elderly voters, or anybody else who may be anxious, the reassurance that this is going to work and the confidence that it is the right thing to do because overall it will make our elections more secure.

Q125 **David Mundell:** On the issue of bus passes, for example, which I think was raised when Age UK gave evidence here, they are not uniform across the United Kingdom. They do not all have the same criteria, for example for a photograph such as my driving licence might have. You are saying that you can take you can turn up with a bus pass. What criteria will then be applied to that bus pass to make sure that it is satisfactory? Having seen some bus passes, I think it would be relatively straightforward, if you were so minded, to falsify them.

Chloe Smith: This leads us into a chance to make the point about how the primary legislation, the secondary legislation and implementation planning have to fit together. The primary legislation, with the schedule, will show a concession bus pass. After that comes in sequence the work that has to be done with local authorities to make sure that they each can operate the scheme as they see fit. This is entirely appropriate, of course, because local authorities run elections. This is their responsibility. It is for a very good reason that local authorities run elections.

We are, and have been for some time, and are continuing to work with local authorities to make sure that what is in the requirements set out in the legislation can be translated into workable local schemes with the appropriate discretion that goes to local authorities because it is their responsibility to run elections.

Q126 **David Mundell:** Just to be clear, I might be able to take my bus pass, if I live in one local authority, but not in another? That is the logic of what you have just said.

Chloe Smith: No, not at all.

Q127 **David Mundell:** The alternative is that there will have to be some uniformity of bus passes now across the whole of the United Kingdom so that they meet the criteria that you are going to set for it being something that can be used as voter ID.

Chloe Smith: The Bill itself is very clear, as you will know because you will have seen it, that the identification has to be photographic—let's state the obvious—and that it may then be of the form that is prescribed



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in the schedule, That deals with whether the bus pass meets those criteria. If it is photographic, it meets the criteria, doesn't it?

Then it is for local authorities to apply the scheme. I think that is fairly normal, in how legislation works with the local application of it.

Q128 David Mundell: All right, but if you are saying that people will be told in this communication exercise that they can take their bus pass, there must be some criteria in relation to that bus pass other than that it simply contains a photograph.

Chloe Smith: The criteria are in the Bill. It needs to be photographic, yes.

Q129 David Mundell: Given the relative ease of falsifying a bus pass as they currently exist, how is that going to meet all the things that you have set out in response to previous questions?

Chloe Smith: First, the list of ID types that we are including in the schedule are in general ones that we hope are secure and robust and of high quality. That is a general point across all the types that are in the schedule. More specifically, the answer is that local authorities will want to make sure for their own purposes anyway, with bus passes, because in their case it is a matter of a different scheme working properly, isn't it?

It is quite reasonable, I think, for local authorities and central government to be able to work together in needing the schemes to work robustly. We can do our part in setting out legislation. The Department can do its part in supporting authorities with the training and the co-ordination that may be required. But fundamentally, yes, it is for local authorities to be able to satisfy themselves that—in your example—a bus pass is of the right level of quality for bus services and for this purpose as well.

Q130 David Mundell: I am concerned, Chair, to put it on the record that if I was in one local authority I may be able to vote with my bus pass and in another I might not.

Chloe Smith: We are being clear in the right way in this legislation that it needs to be photographic. There is the point of universal principle, as I was answering to Tom earlier on. It is quite correct that we have universal principles running through our democracy and universal rules that apply. The universal rule in this case is that it needs to be photographic ID, which people fairly easily understand. Then in addition to that, we have set out in the schedule a list of ID that, so long as it meets the requirement of being photographic, will also enable the widest possible range of participation, which is after all our goal. But that is appropriately set out in the Bill. There is nothing hiding there.

Q131 Lloyd Russell-Moyle: Thank you very much. Looking over your schedule, you have older people with bus passes, the Oyster, 60 and so on. Why did you choose to exclude the young person's Railcard?



Chloe Smith: I wondered if you might ask that question.

Lloyd Russell-Moyle: I wrote to you two years ago about this, asking you to include student cards and Railcards for young people and to allow local authorities to automatically issue cards rather than be requested. When someone gets a library card, could it be turned into an ID card or could a parking permit be turned into an ID card so that we are rolling it out to as many people as possible? You have not included any of those suggestions in here, although you did reply positively to me at the time.

Chloe Smith: Of course we have concessionary travel passes, which may include other age groups. We also have, which might be more particularly towards young people, the Proof of Age Standards Scheme or PASS. Actually, all age groups are properly accounted for in this list, but—

Q132 **Lloyd Russell-Moyle:** The UK Government, the Scottish Government or the Welsh Government fund concessionary bus passes. There is no young person's concessionary pass funded by the national Government in England. The Mayor of London funds concessionary passes for students in England but this legislation does not include them. Why could you not have included the young person's Railcards, which your Government have legislated to extend up to 35 now, which has been positive?

Chloe Smith: Yes. The specific answer on Railcards is that they require a driving licence or passport or photographic ID behind them in any case. It is duplicative—

Q133 **Lloyd Russell-Moyle:** That is not the case. I am sorry, Minister. I have here the details from Transport for London, which say in the first instance they would like a passport or driving licence, but if you cannot provide that you can provide a medical card, a birth certificate, a council or housing association rent book and statement and attend in person. That allows you to get it without one of those particular cards. I am sure that your adviser may be misdirecting you there, but you can get these cards without having a photographic form of ID.

Why have you excluded cards that might allow a small number, I am sure, but small numbers are important in this matter, to be able to vote?

Chloe Smith: I am happy to take a further look into that to be sure that a mistake has not been made. Of course, the nature of having this in the schedule proves the point, really. There will over time be types of ID that might come off or go on the list.

Q134 **Lloyd Russell-Moyle:** Why not university student cards, then?

Chloe Smith: As I say, having the Proof of Age Standards Scheme in the list is important in terms of young people. My understanding is that discussions have been had with the National Union of Students over time about the use of its card and, as a result of that, it was decided that that would not be the best document to have in the list. Again, I am happy to review these things over time because that is the very nature of having the right list of ID.



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Q135 Lloyd Russell-Moyle: The NUS extra card has an online application, so I grant you there, but a student card issued by a registered higher education institution requires a student to enrol in person at the institution and the institution has to undergo legal checks that they are the person who they are, so it meets that standard. The PASS system might be rolled out to other forms of card.

Do you think that you have the right mechanisms? You are saying that you might change the schedule to adapt, which is good. Do we have the mechanisms in place to monitor where there might be a discriminatory impact according to age, gender, identity or whatever in the future?

Chloe Smith: We will certainly be doing monitoring of this Bill. This comes back to the point that the Chair made earlier on about post-legislative scrutiny. That is one process or one example of monitoring. At a much lower or regular level than that, we will indeed be monitoring the scheme as it is implemented and the other schemes we have as well.

Q136 Lloyd Russell-Moyle: For example, will you continue to monitor the exact people who are turned away?

Chloe Smith: To an extent, this comes back to the point I was making with Ronnie, which is that some of that is unknowable. It will not always be possible to understand every citizen's individual choice and decision-making.

Q137 Lloyd Russell-Moyle: Of course, but I am sure you could at least list the people who have turned up and been denied. That could be then used for statistical analysis because we would know their age, we would know their gender and we would know their address. Will that data be recorded?

Chloe Smith: In the field of monitoring in general, we will want to work with the Electoral Commission to look at this because it connects closely to how it will be responsible for the communications campaign and planning. Naturally, we will need to do a piece of work with them.

The Electoral Commission also has some experience in this, having done this kind of analysis after the pilots, and indeed the Cabinet Office also ran analysis after the pilots.

Q138 Lloyd Russell-Moyle: As yet there is nothing being planned but you are hoping to develop something with the Electoral Commission to monitor this in the future?

Chloe Smith: Forgive me. I am giving you a long answer to your question. I am coming on to say that by dint of having done that kind of work before, we will be continuing that kind of work. Therefore, there will be material to look at in the future.

Q139 Lloyd Russell-Moyle: The marked register is made available to political parties and to electoral administrators. Would you be requiring a mark on the marked register to indicate someone had turned up and been turned away?



Chloe Smith: That is not currently in the scheme of the Bill, no.

Q140 **Lloyd Russell-Moyle:** Why was that not considered? It would enable, of course, an electoral campaigner to later follow up with that person to ensure they have the right ID. It would allow an electoral administrator to go back to the person to make sure they have the ID in the future. Would you consider adding that into the schedule?

Chloe Smith: I am happy to consider that. It is a helpful point of the kind that I am expecting will come up in Committee stage and beyond. I am happy to take that away to give that some thought. All of these things together are rightly the kinds of things that will help the scheme to succeed and for people to take confidence in it, which is of course my goal.

Q141 **Lloyd Russell-Moyle:** Some sort of monitoring laid out before this Bill is in place would be useful and monitoring that includes everyone in that conversation.

As you know, your letter said that 31% of electors would be likely to apply for the free voter ID card. What would the cost of this be?

Chloe Smith: Allow me to turn to the letter. If I may correct you, the Chair's letter aimed at that statistic and I rebutted that in my letter.

Q142 **Lloyd Russell-Moyle:** I am terribly sorry. I thought you had acknowledged it in your letter but you rebutted it. What number did you say you thought would be likely to apply?

Chloe Smith: We have included that through the impact assessment. We are working to a lower number certainly than 31. Let me deal with that figure first of all. As I explained in my letter, the 31% referred to the proportion of people who said that they would be likely to apply for a voter card and then others used a further number, a second reading, of 42%. In both those cases, it is fair to say that that came from a question asked that did not take into account the full design of the scheme. Those are why those are not the numbers we should be focusing on.

Q143 **Lloyd Russell-Moyle:** You did say in the letter that you would be looking to defer the research into this. Have you managed to do any more initial desk-based research into where you think that number might land? I know I am asking you to put a finger in the wind at the moment a little bit but give at least a rough idea of where we are pointing to.

Chloe Smith: You will know I am trying to be as clear as I can with the Committee this morning about what is knowable and what is not knowable. We all need to be as accurate as we can about that.

Let us start from the top. Our research suggests, as I have said, that 98% of people have the right identification, so that then suggests 2% of people may not. That is the starting point of how many people may require a free local voter card. Of course, there is nothing stopping people within that 2% gaining their own other ID by different means, so that is also possible.



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Q144 Lloyd Russell-Moyle: And there is nothing stopping some of the 98% who might not want to carry around a passport but want a voter ID card to apply for it either?

Chloe Smith: That is possible, absolutely. Also, let us in addition remember that in this country there is nothing forcing anybody to vote at all in any case. All of these are matters for voter choices.

Q145 Lloyd Russell-Moyle: What percentage in Northern Ireland have the voter card?

Chloe Smith: I do not have that figure to hand but that will be easily supplied to the Committee.

Q146 Lloyd Russell-Moyle: In terms of cost, then, if there is additional cost, whether it is 2% or whatever, will the Government directly provide for that to local authorities? My local electoral administrator already complains that he cannot afford the freepost, let alone issuing cards.

Chloe Smith: If I may gently say to your electoral administrator, he might be misguided on that point about the freepost because that, as many other things are, is paid for from the consolidated fund. If there is any need to work with your particular elections team, I am sure the Cabinet Office will be happy to do so.

The key reassurance that I can give, which is clear in the Bill and its document, is that central government will cover these costs. More technically, this is under what is known as the new burdens' doctrine. It is a terrible name, Chair, I am sure you will agree, but it refers to the idea that when we legislate for something new in Parliament of this kind, then local authorities are provided with the costs for it.

Q147 Lloyd Russell-Moyle: Have you done an estimate, say, per percentage point of the cost?

Chloe Smith: You are still trying to drive at the number of people who do not have ID and are applying for the voter card, to be clear?

Q148 Lloyd Russell-Moyle: Let us ignore what the percentage might be. Per head or per percentage point, do you have an estimate of the cost of administrating this? I assume there is a setup cost, which will be blanket for everyone, even if an electoral officer issued only one, so that would be a cost that I imagine you have explored. Then there would be the additional cost, which is the physical cost of issuing each card, the time it takes, plus printing of the physical card. Surely those costs have at least been run. What is the setup cost of this and then what is the additional cost either per voter or per percentage point? I am easy with whichever matrix you want to use, Minister.

Chloe Smith: Yes, absolutely. All of those costs are in the impact analysis. I am leafing through 18 pages to find you the precise figure that will best fit. If I may, Chair, it is in the impact analysis and is clearly there set out.



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We have also, as I acknowledged in my letter in response to the Chair, set out a range of certainty or uncertainty, which again is to be expected with any policy. That is what impact assessments are for. They deal with that kind of range. Again, that is clearly laid out in there.

Chair: Thank you very much. Brief questions, brief answers and we will get through everything. Tom Randall?

Q149 **Tom Randall:** Thank you, Chair. First of all, picking up on costs, I have two brief questions. The Chair wrote to you on the impact assessment of the Bill for individual cost estimates for a range of items, not only voter ID cards but also overseas voters and EU citizens. We realise there was a short turnaround on that letter, but I wonder if you would be able to provide the estimates that we asked for in that letter before the conference recess.

Chloe Smith: I am so sorry. May I understand precisely which paragraph of your letter you are referring to there?

Tom Randall: I do not have a paragraph number to hand.

Chloe Smith: Is it paragraphs 5, 6 and 7?

Tom Randall: I do not know if anyone is able to help me with that.

Chloe Smith: I am so sorry. Paragraph 2 I think you are referring to.

Tom Randall: It was a number of costs and benefits that had not been monetised in the impact assessment. It was approximate estimates for photo ID, overseas voters, campaigning measures and EU citizens.

Chloe Smith: Yes, indeed. Here is where, as you will have seen in my response, we have some of those costs but not all because the nature of some of this work is that they are not readily economic costs. Some of them are social or a little less tangible.

As I said in the letter, we are indeed further refining what we are able to say about costs and that is being done through the implementation planning with local authorities. That is naturally in a sequence with us being able to get the legislation in place followed by finetuning the programme ready for operation. More analysis will arise out of that and, to the extent that I can, I am happy to keep the Committee updated on that. I am happy to give that commitment.

As much as possible of it, though, that we can is already in the impact assessment but, again, we have made clear in that also that some costs are not capable of being monetised.

Q150 **Tom Randall:** You have also said that the Government have completed several justice impact assessments for individual components of the Bill but that those are an internal tool to assess the impact of policies. Is it possible to make those impact assessments available to this Committee to view?



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Chloe Smith: Justice impact tests, no, I am afraid, in short. It is standard practice that those are internal Government documents and that is the case across all legislation. I do not believe the Ministry of Justice would open its library of them across all legislation. I am happy to recap the important points that came out of it, which I tried to do in that letter. Indeed, they are also already in the impact assessment document that you do have for the Bill.

In particular, as I noted in the letter, for voter identification we are looking at a policy that is aimed at being a deterrent and aimed at eliminating the crime in the first place and, therefore, it should not lead to more people being charged with an offence.

Q151 **John Stevenson:** Thank you. Minister, the Government are proposing to limit the number of proxy votes an individual can have. So far as we are aware, there is no evidence or facts about the number of proxies people actually hold, so we do not know how many people have two, three, four or five proxies. Why change the law?

Chloe Smith: There are a couple of reasons here. First, we do have some evidence. As I said in the letter, we are able to provide that information from Northern Ireland. The Electoral Office for Northern Ireland does have some of that information, which I have provided.

But more broadly, again, from a number of reports such as Eric Pickles's report and from some of the court judgments—like Tower Hamlets and to an extent present also in the Birmingham and Slough cases—and also from other observers, we see concerns about postal and proxy voting.

These methods are also capable of being abused. Let us say on the record, first of all, that I am sure we all see the merits in postal and proxy voting. They are important in many ways for enabling more people to be involved in our democracy. I support them for that reason, but they are also capable of being abused. Again—

Q152 **John Stevenson:** Can I interrupt there? I understand your thinking, but you have absolutely no evidence. You do not actually know how many people have more than two proxies.

Chloe Smith: Forgive me. I thought you were asking a question about why I was going ahead with the crackdown on them as types of fraud.

John Stevenson: No, you are proposing to limit the number. I cannot understand why you are trying to limit the number when you do not actually have any evidence.

Chloe Smith: Yes. The evidence base that I am talking about here is in part a qualitative one through those reports. It is quite legitimate to draw on evidence in the form of research that others have done. I was providing there examples of reporting that has been done and, indeed, court work that has been done.



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We hear recommendations from various quarters through reports like that for limiting the numbers that can be held. We think those are reasonable asks.

Q153 **John Stevenson:** They may be reasonable but you have absolutely no evidence to know how many people have more than two proxies, so why change the law unless you go and get the evidence?

Chloe Smith: I am happy to concede that I do not have a figure in Great Britain for that number of individuals. I do not have that figure because it is not held centrally because local authorities administer elections. There is actually a good reason why I do not have that figure. We all agree, I hope, that local authorities are the right people to administer elections and therefore would hold that figure.

Q154 **John Stevenson:** You could commission the Civil Service to get that information by speaking to each individual local authority.

Chloe Smith: I could. I believe I could. I would take advice on that point. I believe that would be mechanically possible. It is legitimate that local authorities hold it. That explains why it is not centrally held.

The question needs to be turned around, John. How can we ensure that people can legitimately make use of postal and proxy voting but that we also balance off the possibility for it to be abused? The evidence in Tower Hamlets is a legitimate form of evidence. We may in this exchange be having an argument about what a legitimate form of evidence is. Qualitative evidence is quite right and proper and derived through reports like I have listed.

We see concerns that if you allow, for example, for the collection of postal votes by party campaigners and therefore great numbers of postal votes passing through campaigners' hands, abuse is possible. That is pretty clear. On the proxy side, we can see the same again. There is a good rationale for limiting the number.

Q155 **John Stevenson:** The problem is that I cannot see the evidence, so I am surprised the Government want to change the law.

Moving on, on the assumption that you will go ahead with the proposal, why is there no provision for people applying in an emergency for an additional proxy vote?

Chloe Smith: We already have in this country a scheme for people to apply relatively late in the day for proxy votes. It might be worth being clear that that was changed in a specific way at the local elections just passed to take into account the pandemic circumstances. That scheme is still in force up until next year in case there should be byelections that did need to operate on that basis. We all hope that is not the case, but that explains that scheme. More normally, we would be looking to return to normal arrangements for proxy voting—

Q156 **John McDonnell:** If you are going to restrict the number to two for a



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family, why not at least have an emergency procedure in place to deal with special circumstances where there might be a requirement for a third one? It does not seem unreasonable.

Chloe Smith: The normal proxy voting scheme can accommodate that—

John Stevenson: But this is in an emergency.

Chloe Smith: Yes, and the normal scheme runs up until fairly late in the day during a campaign.

Q157 **John Stevenson:** I cannot foresee changes in circumstances in my family that might result in a requirement for an emergency application.

Chloe Smith: What we are talking about here of course is a feature that has always been there or has been there for some time separate to the work of this Bill. What happens if you have an emergency that strikes on polling day? I cannot answer for every eventuality. The proxy scheme perhaps has always had that point to be said about it.

It is legitimate to enact this limit on the number of proxies that can be held because the Bill is seeking to address concerns that have been raised about having an overly high limit.

Q158 **John Stevenson:** If you accept that there will be a limit, which the Government want to do, you would have thought therefore another procedure would allow for special circumstances, which there does not appear to be. I wondered if the Government would reconsider that.

Chloe Smith: I am happy to give it more consideration in the context of what the proxy scheme has always had to address, which is that last stage of time. But overall, it is absolutely right to put this limit on proxies. It is not to do with a limit that a person's circumstances could change at the last minute. That is not to do with a limit because you would be stuck with the proxy you had chosen in any case whether there was a limit or not. I say "stuck" but I am trying to answer the question straight off here.

Q159 **John Stevenson:** Maybe the Government will have a think about changing it to allow for emergency procedures.

Moving on quickly, the Bill has been widely accepted as beneficial for people with disabilities and people have been quite complimentary about it, but there are some concerns about the language. The previous requirement was to enable voters to vote "without any need for assistance", while the new provision is for "such equipment as is reasonable to enable disabled people to vote".

There is a view that it would be helpful if the language were tightened up. Would the Government change the wording?

Chloe Smith: We are trying to do an important thing with this measure in the Bill, which is to widen the support made available for anyone and everybody who may have a disability or a need for that support. That is absolutely the right thing to do and I am committed to doing that.



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Q160 **John Stevenson:** People are recognising that, but they are trying to ask if it could be tightened a little bit further to say “without any need for assistance” so people are independent when they go to vote?

Chloe Smith: Are you also making the argument that I have heard some others make that this ought to be tied to equipment?

Q161 **John Stevenson:** To a certain extent, yes, because that would be logical.

Chloe Smith: I am aware of this argument, particularly from the RNIB. That is the argument you are drawing on there. I also add that I have been working for the RNIB for, literally, many years on these measures, including trialling at the May elections just passed methods for improving the tactile voting device and the support that goes around it.

There is work to do here to make sure that our elections are accessible and that should include independence, quite rightly. We are all working towards that goal. There is no dispute about that. This clause that we are including in the Bill allows for that to be achieved. It is broad enough to allow for this goal to be achieved across a range of disabilities. Of course, it also functions in conjunction with other legislation like the equality Act and the general duty you see there. Electoral law has always added a more specific duty on top of that and we now making that duty go across a range of voters, all of whom, quite rightly, want to be able to cast their vote as independently as possible. We are seeking to enable that.

Q162 **Tom Randall:** Thank you, Chair. Moving on to overseas electors, the Committee has heard support for the Government’s removal of the 15-year limit on overseas voters, but some concern has been noted that the current system for overseas voters is insufficient because postal ballots have to be issued, which can take some time to reach people and for them to complete them and send them back to returning officers in time.

This Bill will increase the number of overseas voters considerably. Has any thought been given to changing the way that overseas voters participate so that they are not caught out by delays in the past?

Chloe Smith: You raise important points, which we have grappled with for some time. It is important to say that the manifesto commitment that we are delivering here was both to remove the 15-year limit on overseas voters and also to make it easier for people to vote from overseas.

With reference to John’s questions before he leaves the Committee, proxy voting is also available to overseas voters and we have made provision for that to be accommodated within the new limits that we are putting in place.

Of course, also, overseas voters can, if they wish to, come home to vote. That is available to them as well, although obviously that is not likely to be quite as common.



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We need to do a number of things here. We need to make sure that all those methods are available. We need to make sure they are all robust and secure. We have discussed plenty this morning about how the whole Bill is looking for all these methods to be robust and secure.

We have also done quite a lot of work over time to make sure that postal voting is facilitated as quickly as possible. For example, at recent elections there have been sweeps done in Royal Mail sorting offices to make sure that any postal votes left on the night before an election are swept up and taken along. Central government funds that from the consolidated fund and it helps postal voters greatly. We have also worked with Heathrow in particular to facilitate that happening in terms of airmail. That is an example of the record that we have in looking at these things over some time already.

Also, it is worth making a point here about the interaction with the electoral timetable, a debate which colleagues will be aware has been raised in the other Bill currently going through Parliament. Within that 25-day working timetable, already more days have been added to enable overseas voters to get their postal votes and return them and to enable other things around the smooth management of postal voting. Those issues all come together.

Is there more we can do? Yes, certainly, and that is the kind of work I am encouraging my officials to carry on doing in conjunction with this Bill. We want to encourage overseas voters to use their rights. They are as eligible as any other voter to vote and, therefore, ought to be communicated with about voting and encouraged to vote in all the normal ways that we would any other voter. We have provision inside this Bill for some of that communication because a one-off law change is appropriate to communicate to people.

Then the ongoing work will be there to keep making sure that all of our processes are as efficient as they can be.

Q163 Tom Randall: Also, there have been some concerns expressed that by extending the vote to overseas voters, there is scope for foreign money to be used to influence UK elections. Have the Government put in any safeguards to combat that at all?

Chloe Smith: Yes. There are a couple of points to be made here, if you do not mind.

First, this argument is a red herring, and actually quite an offensive one, because our citizens overseas are as legitimate as any citizens in this country. The fundamental point of our democracy is that those eligible to be on the register should vote and should participate and are also eligible to support financially any party that they wish to or any independent candidate that they wish to. Those are the building blocks that we already have in our elections. It is already the case that any citizen here can be part of that, and any citizen who may live somewhere else but is correctly



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on the UK electoral role can also be part of that. That is perfectly legitimate and proper and I will defend it heavily.

This measure extends that to more British citizens by nature of living the 15-year limit, but they are as much British citizens as the first set of British citizens. We should be robust on that point.

However, this Bill also elsewhere looks to make sure that our elections are kept safe from inappropriate foreign influence and you can see, for example, among the political finance measures here, one is seeking to get greater transparency into campaigning, which will have the effect of squeezing out foreign organisations that ought not be involved. But the principle underlying all of this is that there is such a thing as legitimate interest in our elections and there is such a thing as illegitimate interest in our elections. We need to keep the two things separate. We need to treat British citizens correctly but crack down on inappropriate foreign interference.

Q164 Lloyd Russell-Moyle: Following on from Tom Randall's points and your comments there, does this actually create a greater dividing line now between certain kinds of British citizens? Rather than the 15-year limit we have at the moment, which means you have to have been resident in the UK for 15 years, for those who are British citizens overseas but not full citizens—such as people based in Hong Kong or in overseas territories—now it is even more acute that we deny them a vote even though they come under a form of British citizenry.

Chloe Smith: This takes us into citizenship and immigration policy more broadly. To be fair, Lloyd, citizenship policy already establishes this principle. We are not doing something new here in this Bill in that respect. There is already a line put around the notion of full citizenship and we are simply following that line in this policy.

Q165 Lloyd Russell-Moyle: You are reinforcing the current line. What are the numbers? Have you looked at the particular impact of numbers for any constituency that might change over a large percentage, if that makes sense?

Chloe Smith: Yes. The numbers of those that we expect this measure to enfranchise are, again, in the impact assessment. We have been clear about those throughout. That runs up to millions of voters, potentially. As I have already argued robustly, that is right and proper.

We do not have—and again, no one is capable of having this—an analysis that says where all those people live and therefore to which constituency they would accrue. It is probably quite obvious that it is not possible to know that because, without registering them, you cannot know where they live. It is one of those—

Q166 Lloyd Russell-Moyle: No, but one could have done an assessment going back 15 years to see where overseas registrations have been predominantly. You could probably work out that the people who have



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come off in those 15 years are the most likely to want to then come back on. You could do an analysis there about what constituencies in the last 15 years have had large numbers of overseas registrations. Was that analysis not done, then?

Chloe Smith: Anybody who wishes to interrogate the electorate registers of a particular place is capable of doing that part of the analysis.

Lloyd Russell-Moyle: I am asking if you did it, Minister.

Chloe Smith: I am going on to say that, no, I have not done it and for good reason, which is the following point. It is not relevant. This line of questioning is likely to say that there could be perhaps a disproportionate impact on any one constituency or perhaps it might go into the argument that says we ought therefore to have different constituencies especially for overseas electors.

I do not subscribe to either of those views. British citizens wherever they live are legitimate participants in our elections and, moreover, that our constituency-based system can and should accommodate that because we have an existing principle that people have a legitimate interest in their constituency and that is how they are represented here in this place. Because I believe those things, I have not done the analysis that you are highlighting. It will not make a difference to the way we arrange our constitution.

Q167 **Lloyd Russell-Moyle:** But it could make a difference—and quite a dramatic difference—to outcomes of elections.

When I go campaigning and I assume when you go campaigning, we knock on the doors of people in a physical space. A physical constituency is geographic. I support that geographic nature. But now when I go knocking on doors, already it is complicated enough. Some are Commonwealth citizens. Some are EU citizens. Some are British citizens. Some are an assortment thereof.

But your proposals seem to create three different tiers of EU citizens, so, when someone tells me their nationality, I will not quite know their eligibility. Can you explain to me the thinking behind creating this three-tier system when we do not do that with the Commonwealth?

Chloe Smith: Yes, I can explain why we have taken those choices in terms of EU voting rights and also candidacy rights in this Bill. It is twofold.

First, it is to be able to deliver on our respect for the rights of those who were making their lives in this country up until the transition period. That is why any EU citizen who was a resident before the end of that—in other words, 31 December 2020—and has legal immigration status will retain their rights. That is why we have taken the decision for the first part of that design.



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The second part, though, is just as legitimate. If we cast our minds back to what was capable of being agreed within the withdrawal agreement, you will remember that voting rights were not part of that because they are a competence of member states, so they were not in the—

Q168 Lloyd Russell-Moyle: We decide that for ourselves without regard to any EU agreement?

Chloe Smith: We have to decide that for ourselves. We have to do that as a country.

Q169 Lloyd Russell-Moyle: Why did we decide not to, then?

Chloe Smith: We have taken the decision as a country to move forward on a bilateral treaty basis and that has actually been some years established. In fact, we have even spoken about it before.

That is quite reasonable in itself. We can and do have bilateral arrangements for various things. It is the case that we can do that with voting rights and candidacy rights. That is quite reasonable. Indeed, the other EU states themselves would be likely to do it that way. Essentially, we would not get a deal that provided the British citizens in those countries with their local voting rights if we did not do it on a bilateral basis so that we could provide, for the sake of argument, Spanish citizens here with those rights. They have to be done bilaterally.

Q170 Lloyd Russell-Moyle: If I lived in Australia, I do not get voting rights. In fact, I am barred from standing for Parliament unless I give up my British citizenship. You are not allowed to be a dual citizen and an Australian MP, which has caused a lot of them problems. That is not bilateral. It is the same with India. It is not bilateral. I would not get my full voting rights or even local voting rights if I were in India.

But we take a moral high ground position with the Commonwealth. We say, "We have had connections with you for many years, right or wrong", and I do not want to get into that discussion, but we take a moral high ground to say, "You live here. Our countries had relationships in the past. We will allow you, even if you are new here, to have voting rights at all levels".

Why are we not able to take the moral high ground on the EU? We have had a relationship with France for hundreds of years and we are now saying that French citizens, after 21 January, unless we can get a deal with Macron, will not have voting rights.

Chloe Smith: You asked me to explain why I have designed this scheme and now we are going on to why the Commonwealth scheme is different?

Q171 Lloyd Russell-Moyle: Why is it different from the Commonwealth scheme? Why did we not choose to adopt the scheme we already have? That is what I am asking.

Chloe Smith: Yes, I understand that line of argument and I understand the point that it creates complexity when you go door-knocking—



Lloyd Russell-Moyle: We have a scheme already. We have taken the moral high ground with one group. Why did we choose not to take the moral high ground with the EU group?

Chloe Smith: The circumstances of the withdrawal agreement and the way that those other states were prepared to engage with us at that time have meant that the bilateral approach is the best in this case. Without reopening the full question of what we ought to do about Commonwealth voting rights, it would not have been possible to achieve the same thing in the same way. As you have said yourself, Lloyd, you feel it is not desirable to reopen the whole Commonwealth question right here and right now, so perhaps others may feel the same.

Q172 **Lloyd Russell-Moyle:** Rather than reopening the Commonwealth question, you say that we cannot reopen that, so let us level up rather than levelling down, to take your phrase.

Chloe Smith: You get 10 points for that.

Q173 **Lloyd Russell-Moyle:** Also, Scotland and Wales are moving towards more residency-based systems. Why did we not take a residency-based system? That could have reopened the Commonwealth issue because the Commonwealth is just if you happen to be here. You do not even have to have permanent residency in the UK to be able to vote as a Commonwealth citizen. Why did we not take a permanent residency approach, which Scotland and Wales have taken? Permanent residency is important.

Chloe Smith: Precisely. The drawback of the residency-based approach, as I understand it, is that it does not reflect citizenship as well as it could. It does not draw that line.

Q174 **Lloyd Russell-Moyle:** We are talking about local elections rather than national elections.

Chloe Smith: In the case of EU voter rights, yes, we are, and indeed also in the case of the Scottish and Welsh competence.

Q175 **Lloyd Russell-Moyle:** Why did we not take a permanent residency-based approach, so not just holidaymakers, for local elections? I do not understand. What was the decision there to actively create a whole new system that diverges from Wales, diverges from Scotland and diverges from what we do with the Commonwealth citizens and from what we have done now, and is complicated? What was the thinking about why that was advantageous?

Chloe Smith: I have already explained this by parts, so perhaps now is the time to pull all these threads together.

We want to see in our system a fair reflection of historical ties combined with a fair reflection of citizenship. From citizenship, you then get this point of legitimate participation that I was making a little earlier on to Tom. We do need to be able to distinguish between those who have a



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legitimate interest in our elections and those who do not. If we open the net too wide to those who do not, then essentially we have the problem of undue foreign influence. A risk perhaps creeps in there.

The approach of doing it only on residency has some weaknesses, because it does not speak across the range of our elections and does not speak to those issues that show people having a change to have a legitimate interest in our general elections.

In our local elections, the arguments are slightly different because we separate out the issues that are relevant. None the less, for some consistency across the piece, our citizenship-based approach is better than a residency-based approach.

Q176 **Lloyd Russell-Moyle:** For consistency, then, is your mind open still to making amendments to, for local elections, give the same rights to EU citizens as we would to Commonwealth citizens?

Chloe Smith: That is unlikely to be a well-supported way forward because of the different histories of Commonwealth voting and EU citizenship. In this section of the Bill in terms of EU voting rights is the best approach that reflects where we have come from and how we have had to do these things with the other member states.

Q177 **Lloyd Russell-Moyle:** Unless there is a bilateral agreement agreed with France your mind is closed and should French citizens be disenfranchised?

Chloe Smith: It is the case under this Bill that, looking forward, we will need bilateral treaties.

Chair: Okay. The Committee's meeting is suspended for a few moments, please.

Sitting suspended.

On resuming—

Q178 **Chair:** To John McDonnell, please, with the next questions.

John McDonnell: Minister, let us move on to talk about the Electoral Commission. You have previously noted, I quote, "Some across the House have lost confidence in the work of the commission." How will the proposed measures increase the confidence of the House in the commission?

Chloe Smith: By extending involvement in its scrutiny to Parliament more broadly, so not limiting it to the work of the Speaker's Committee on the Electoral Commission but allowing Parliament more broadly to have a voice and to have involvement. That will be a positive way to address any concerns there may be around confidence but also to make sure that we have the best possible scrutiny of the regulator which, in turn, will lead I hope to high-quality regulation of its activity, which we all want.



Q179 John McDonnell: We are all keen—and you have stated it previously—that it is important that there is public confidence in the work of the commission. What evidence have the Government drawn on in assessing the public confidence of the work of the Commission at the moment, and what assessment have the Government made of how the proposals set out in the Bill will impact upon public confidence in the commission?

Chloe Smith: There is some, although perhaps limited, survey work on people's opinions of the Electoral Commission. For example, I have seen some that asked people to associate words with the Electoral Commission. Some of the words in that list are not necessarily as positive as they might be.

But that is not the only evidence base to work from here, of course. We can also see recommendations, again, from reports over time. For example, Lord Pickles looked at this and suggested that more effective scrutiny of the Electoral Commission would be valuable. That is one place in particular that we are drawing from for these measures.

Q180 John McDonnell: That aside, let me put this in your mind. There are real anxieties about the potential threat to the independence of the commission. A measure of public confidence at the start, before any legislation is enacted, is quite important. Then, if and when legislation is enacted at a later date, there is some measure of how that impacted upon public confidence. I will leave that with you. Let us move on.

How will the proposed measures set out in part 4 of the Bill impact upon the commission's operational independence? That, in some of the evidence we have received, has become something of a concern.

I refer you to your Written Statement of 7 September. You state, "The statement, if approved by the UK Parliament, will set out guidance and principles to which the commission will have a legal duty to have regard in exercising their reserved and devolved functions."

Can you explain the scope of the commission's duty to comply with the statement in the legislation?

Chloe Smith: Yes, happily. First of all, I preface this by saying that—like you—I am extremely keen that the commission retains its proper independence. That is one of my guiding principles in this work. My words in various places reflect that and will continue to reflect that.

The scope of the duty is of course there in the Bill. That is the legalistic answer to your question.

We are supplementing that with description through, as you have already noted, a Written Ministerial Statement and also through, as I promised, providing an illustrative Strategy and Policy Statement. That will be available shortly to aid parliamentarians' understanding of this measure, which is important. We will be able to have a debate that will be anchored around an illustrative example.

Q181 John McDonnell: Will they be available before the Committee? That is



this week.

Chloe Smith: Yes. In addition to that, the other key point to put here is that the commission's independence is assured and proven by the way that it continues to have its range of functions, which the points put in the statement do not replace or in any way undermine. Its other statutory duties remain and its governance remains as well.

I want to draw your attention to what I said in the statement last week and the diagram I put with it, which I hope was helpful in demonstrating how the work of the Speaker's Committee and the work of Parliament with the proposed statement and the work of indeed this Committee and other parliamentary bodies all interact. In none of their cases do they replace the governance that the electoral commissioners themselves have provided and will continue to provide.

Q182 **John McDonnell:** Let me put this to you because of the anxieties many have about the threat to the independence of the commission. People are looking not just for measures that will assure them about any impact that guidance will have but also for measures in place to mitigate any of those threats. Would those protections be better on the face of the Bill in some form? Have you considered that?

Chloe Smith: They exist in other legislation it is fair to say. We do not always replace or restate other bits of legislation when those parts remain good. All that is in the PPERA setting up the Electoral Commission and setting out its governance and its other forms of accountability, as I have explained, remains. That is extant. I stand by that.

Q183 **John McDonnell:** I want to be absolutely clear in my own mind so I have this right. Your assurance that the independence of the commission will be retained is based upon the fact that the guidance will seek to reflect that independence, and that the illustrations of the exercise of the role of the commission's powers will enable people to reassure themselves that the independence is being maintained. Are we relying upon the guidance and illustrative examples of how it will operate?

Chloe Smith: We are all here relying upon, first of all, the creation of the body through the PPERA and what the PPERA did to bring the Electoral Commission about. That includes, for example, its governance, as I have mentioned. All that remains in place. The independence of the Electoral Commission is created there and maintained there. Unless it is otherwise repealed, that is what the law does. The PPERA is important in this respect.

However, we think that a further improvement can be added, which is what you see in the Bill here, to improve how the Speaker's Committee may scrutinise the work of the commission and to allow Parliament more broadly to have more of a role in that. That augments what is there in the setting up of the Electoral Commission and its operation in a way that is absolutely to be recommended. It is right that Parliament should have a role and have the ability to perform that scrutiny.



Q184 John McDonnell: You have stated that in the past it was commonplace for the Government to set a policy framework by which independent regulators should work. What models domestically and internationally have you drawn upon when coming up with this proposal?

Chloe Smith: I have been looking at some examples, for example, Ofgem, Ofwat, the Office for Students, which all have frameworks of certain kinds. There will be plenty of other examples also.

I wanted to bring forward the illustrative example of the statement so that we can have exactly this debate and assess whether it is the right kind of content. Of course, that is then to be the subject of a full parliamentary process in its own right. This Bill just introduces the concept. The actual parliamentary process on the Strategy and Policy Statement itself will be, in its own right, full and proper.

Also, I will take this opportunity to shoot down some real nonsense in this area. Somebody somewhere along the way has suggested that the Secretary of State will unilaterally be able to do this, that and the other with this Bill, and they are seeing the Strategy and Policy Statement as one of those things. It is not the case. It will have full parliamentary procedure, as you would rightly expect it to do.

Q185 John McDonnell: Going back to the examples you have drawn upon, with the greatest of respect, Ofwat and Ofgem are somewhat different from what we are talking about now. They are not regulating behaviour by parliamentarians or political parties in particular.

We have tried to pride ourselves on the fact that our electoral system does set an international best practice standard. Give me an international example that you have drawn upon that could improve our system.

Chloe Smith: I have looked at other countries but of course many regulatory systems are different then from that point on. You might think it would be an easy avenue to do comparisons with Commonwealth countries because they have in some cases drawn on from our parliamentary model and you might think that it would follow from there. But it does not necessarily because major democracies have chosen different ways to do their electoral regulation. I cannot use a simple example of read across to answer your question, John, but I can assure you that I have looked at international ways that this is done.

Q186 John McDonnell: I will not delay the Committee any longer but, on this issue, are there any examples of a statement made by a Government or a Secretary of State that then enables that Secretary of State to undertake consultations that can then be ignored? Are there any examples of that process of statement?

Chloe Smith: I am sorry. Could you explain to me what you are thinking of there?

Q187 John McDonnell: Is there any international example that you are now inserting into our legislation where a statement is made that will guide



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the Electoral Commission—illustratively, I accept, as well—and where the Secretary of State can then also in that statement have the power to undertake consultations but ignore those consultations?

Chloe Smith: I am a step behind you, John. Forgive me, Chair. I think I am being asked to think of an example that both sets a statement and entails consultations. I am not quite clear why that is relevant to what we are talking about.

Q188 **Chair:** Is it possible to say that there is not a clear international comparison? Is it fair to say that?

John McDonnell: Is there any example internationally that relies upon a statement from a Secretary of State that effectively guides that Electoral Commission? That is the first point.

Chloe Smith: It was your second point that was throwing me. You were then saying that it enables a Secretary of State to set consultations and ignore consultations.

Q189 **John McDonnell:** Answer the first point. Is there an international example of that statement process? I would be interested to draw upon it.

Chloe Smith: Okay, that has a straightforward answer. I am not able to give you an international comparison to the Strategy and Policy Statement. But could you explain to me what you mean in your second point about the Government setting and then ignoring consultations?

Q190 **John McDonnell:** It does mean that in setting out any statement in the future, a Secretary of State is not bound to respond to any consultation by way of introducing amendments. If this statement is a process which is a guide to the practice of the Electoral Commission—

Chloe Smith: I am sorry. I am not understanding the question.

Q191 **Chair:** Minister, you mentioned parliamentary oversight of this. Would the development of such a thing be a matter for the House? Would it be a matter for the House? Would a document be presented to the House that is or is not amendable, for example, or is it to be developed by others and then put to the House in a straight all-or-nothing vote?

Chloe Smith: Chair, sorry, shall we move on to a discussion about the parliamentary process attached to the statement? Is that what you would like to discuss?

Q192 **Chair:** I am paraphrasing what I think Mr McDonnell is getting at. I wonder if you could answer that point.

Chloe Smith: Is that right?

Q193 **John McDonnell:** Yes. It is not complicated. A statement comes from the Secretary of State. It guides the Electoral Commission in its practices. You can provide illustrations of how that can be done. That statement says the Secretary of State will undertake consultations, even with



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Members of Parliament through the House itself, but there is no requirement on that Secretary of State or any role in which that can be amended.

Chloe Smith: I see the point. To what extent does Parliament have a more active drafting role in the statement and how can that be accommodated?

Here we are looking at the realms of our normal parliamentary procedure. This will be subject to the normal procedure that is often used for major documents where the Government Department will lay it and it is subject to approval. That is relatively normal in its own right.

I am envisaging significant debate on it, which I welcome, and that by that mechanism Parliament is fulfilling its role of being able to satisfy itself of what is in the statement. It is the case that then, at the end of the day, Parliament would be able to take a vote of essentially approval or not approval, rather than to have in its own right a drafting role, but that is fairly usual.

Chair: That is clear enough.

Q194 **John McDonnell:** Let us be clear. By not being on the face of the Bill, it is not amendable and, as a result of that, the Secretary of State is able to issue guidance to the Electoral Commission that has not had the ability of Parliament to amend?

Chloe Smith: That is the expression of the parliamentary procedure in this case, yes. But you were also, for what it is worth, making points about consultations as well. It is worth getting on the record perhaps here that there are to be a number of statutory consultees to this, which is a good and important part of the procedure.

Q195 **David Mundell:** What, Minister, are the implications of the statement for the devolved Administrations?

Chloe Smith: This could be complex, but that is, again, a natural consequence of devolution. We are seeking, as introduced in this Bill, a statement that would apply to both the Electoral Commission's reserved and devolved functions—and therefore we have included a statutory obligation to consult the Scottish or Welsh Ministers as relevant—on the areas of guidance that would apply in relation to those devolved matters.

Referring back to our conversation at the beginning of this session, I work with my colleague Ministers in the devolved Administrations around what they would like to be part of or what they are prepared to recommend to their legislatures. That work is ongoing. As we speak, right now, I am in the middle of those discussions so not able to give you a fully finalised answer.

Q196 **David Mundell:** In due course, will you be able to let the Committee know the conclusion of those discussions?

Chloe Smith: Yes, absolutely.



Q197 **David Mundell:** How will the proposals “ensure the system will be fair and impartial to everyone who operates within it, whether or not they are in a position to be part of designing the system”? It is a direct quote.

Chloe Smith: Here we need to take confidence in what Parliament does. It is right for us to use parliamentary procedure in the way that we have been discussing and it is right for us to look to Parliament to do a scrutiny role not only of the Strategy and Policy Statement but also of the regulator as a whole. That is an important and absolutely legitimate principle. Parliament is how we will ensure that the work envisaged in this Bill and more broadly the areas of the work of the regulator are working for all those who need to be bound by them.

For example, it is important here that voters can take confidence in the overall operation of our election system, as we have been talking about all morning, and the role of the regulator is important within that. We trust in Parliament to be able to do its job on behalf of constituents, residents and voters and to be able to give that confidence.

Q198 **David Mundell:** Following up on some of the issues that Mr McDonnell touched on, what assurances can you give that there will be a meaningful consultation on the statement? Will you issue any guidance on the proposed consultation processes?

Chloe Smith: I do indeed want there to be meaningful consultation. As I was listing, for example, statutory obligations for consultation are included in the Bill as it stands. If you will allow me to come back to the Committee, as I say, where that relates to devolved matters, that work is going on at the moment.

More broadly, I can certainly give the assurance that I want to make sure that all of those forms of consultation are meaningful. I will also return to let this Committee and the Committee stage of the Bill know more about how those consultations will be conducted.

Q199 **David Mundell:** Okay. You have said that you would be engaging with the parliamentary parties panel and other interested parties on how this statement might be framed. You have touched on the devolved Administrations.

Who else might be interested parties? Would, for example, this Committee be an interested party?

Chloe Smith: I certainly think this Committee will be interested in the SPS. Of course, it will be. I want to make sure that this Committee has the chance to play its proper role. Also, the Chair of the Committee sits on the Speaker’s Committee as well, which is an important link here.

Beyond what is set out in the Bill and in the illustrative statement to come, I am not sure I have a great deal more to add right now but that information will be clear shortly.

Q200 **David Mundell:** Why is the revision of the statement by the Secretary of



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State not subject to the same consultation requirements as the draft statement?

Chloe Smith: Any consultation matter or any item that you put before Parliament you do need to be able to move forward at a reasonable pace. You do need to be able to conduct consultation, quite rightly, listen to the consultation, respond to the consultation and then move forward to presenting work to Parliament. As we say, Parliament is the arbiter here. Parliament gets to approve or not approve. That is right and proper. Any second bite of the cherry on consultation can, and I am sure will be done, by Parliament in its scrutiny functions.

I hesitate to go down the road of saying that any Government must always consult and reconsult and then reconsult because you could see that going on forever.

Q201 **David Mundell:** Obviously—a point you have made—any Government can change the laws but, at the moment, a future Government could simply amend the statement at will. Do you think that there is potential for change without consultation or due parliamentary process?

Chloe Smith: My intention with the scheme is that it is reviewed periodically and that all the processes apply periodically. If you think you have found a loophole in that, I would be keen to look into that and address it. It is certainly the intention that the Government of the day, at these periods, will conduct a full process to make sure it is a robust product that deserves the confidence that I hope it will command.

Q202 **David Mundell:** I will move on to the 2020 “A Short Guide to the Electoral Commission” by the National Audit Office, in which it said, “The Commission has a mature and well-established governance structure and its accountability framework meets the NAO’s four essentials of accountability”. Does the Government agree with that NAO assessment of the Electoral Commission?

Chloe Smith: We have been clear in saying we think that it can be improved further, which is what we are doing by the provisions in the Bill. For example, it is clear for all to see that the Speaker’s Committee is limited in its remit, certainly not in its chairmanship, membership and practice. I have spoken closely with Mr Speaker and its members to discuss this matter. Its remit, its technical remit, is limited and I think that can be improved in a way that will enable this greater scrutiny.

What we all want here is for the kind of points the NAO is making to continue to be true and we want that to be enabled by the measures that we have put in the Bill.

Chair: Thank you, Minister. Just to say that, as I am a member of the Speaker’s Committee, I am not taking part in questioning on this subject matter, at which point I hand over to David Jones, please.

Q203 **Mr David Jones:** Could we return to the Strategy and Policy Statement? There is nothing in the power contained in the Act that provides an



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obligation on the Electoral Commission to comply with the strategy that is set out in the SPS. Is that correct?

Chloe Smith: Indeed, and “it must have regard to” is the operative phrase. This goes back to the point about balancing its independence with the legitimate need for it to be scrutinised.

Q204 **Mr David Jones:** Yes, so it does not amount to a direction? As the name implies, it amounts to a strategy and policy framework. Would you agree that the Commission would be entitled—indeed on occasions obliged—to depart from the objectives set out in the statement, where they may be required to do so by the circumstances of a particular case?

Chloe Smith: There could be such circumstances because, as I have said already, its other legal duties, statutory obligations, remain in place. Its independence is illustrated this way, in that it must deliver those legal duties and statutory obligations while having regard to what is in the statement.

Q205 **Mr David Jones:** Yes, so it does not amount to a power for the Secretary of State to direct the Commission on how to exercise its functions in any particular circumstance?

Chloe Smith: I think that is exactly right and, by saying that here today, I hope that gives some reassurance to those who would either be anxious about that or perhaps have—if may say frankly—made that up. It is simply not what this does.

Q206 **Mr David Jones:** Would you go further and agree that the parameters of the statement would be capable of judicial review if they were to purport to impinge on the operational independence of the Commission?

Chloe Smith: I do not think I will go as far as to try to answer that today, David. You are tempting me into a pretty complex legal statement there off the bat. That probably has something to say as well about proceedings in Parliament, which my brain is still full of after yesterday’s Committee stage on dissolution.

Q207 **Mr David Jones:** I am sure. Could we turn to the issue of the approval of the statement by Parliament, which provides for the affirmative resolution process? So that we understand the thrust of this provision, is it the case that it has been inserted to provide an additional safeguard against the Strategy and Policy Statement purporting to be framed in such a way that might interfere with the operational independence of the Commission? Is that the reason for the provision?

Chloe Smith: We have certainly included the procedure whereby Parliament will be the arbiters of this statement, will approve or not approve this statement, and we have included that for very good reason, which is that it is quite legitimate for Parliament to take a view on a creature of its own regulation, a creature of its own law in terms of PPERA and that Parliament’s involvement here will enable proper scrutiny, proper debate and, I hope, greater confidence.



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Q208 Mr David Jones: Would you say that these provisions to any extent increase the parliamentary accountability of the Commission?

Chloe Smith: Yes, I think they do. While, as I have explained, the governance of the Commission remains in place, namely its Commissioners, its accountability very much is to Parliament, to Parliaments, plural in fact, because of their responsibilities in Scotland and Wales as well. That means that this statement and also the additional powers for SCEC are a way to enable that accountability and enable scrutiny to help the regulator be as good as we all need it to be.

Q209 Mr David Jones: The motion will be non-amendable, as we have heard. Do you think that this provides opportunity for meaningful debate?

Chloe Smith: Yes. As we say, this is a fairly normal way of working in Parliament. It is not unusual for there to be a motion or a document that is not amendable. Moreover, yes, I do believe in parliamentary debate. Debate in and of itself is a right and a healthy function of Parliament. Debate in and of itself is a helpful thing and it provides scrutiny.

Q210 Mr David Jones: To what extent is that debate meaningful, if the motion is unamendable?

Chloe Smith: It is meaningful, because it will illuminate issues of the day. There will be many things that parliamentarians will want to bring in from constituency experience, from national experience. That is what Parliament does. That is its right function. It will then work in partnership with the powers given to SCEC because SCEC's remit here will be expanded to include being able to scrutinise the Commission's performance against this statement. You will have debate, experience and insight flowing into the statement from the Chamber of the Commons as a whole and you will have SCEC then being able to use that statement at a much more granular level, I am sure, to hold the Commission and its executives under the microscope for their performance against it.

Q211 Mr David Jones: When you talk about the composition of the Speaker's Committee, we will have Ministers sitting on the Committee for the purpose of these discussions. Do you think that is either necessary or desirable?

Chloe Smith: Yes, because it is part of the Speaker's Committee naturally being a cross-party Committee. Naturally, the Government of the day is drawn from the largest party in Parliament. Therefore, both that party and the possibility that some of its representatives are Ministers is a natural function that will happen in the composition of a parliamentary cross-party Committee.

It might be worth being clear here that it does not have what some have called an in-built Government majority. What you have is the five Back Bench members of the Committee, who are not Ministers of the Crown, appointed by the Speaker himself. It is unsurprising that its composition reflects the position of the parties in Parliament; in other words, the wider majority of the House of Commons. It is perhaps also helpful to be



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clear that there is a minor measure in the Bill that effectively allows for one of the Ministers to be substituted by another and is not an additional Minister. I welcome the chance to make that absolutely clear.

Q212 Mr David Jones: In terms of the composition of the Committee, you mentioned cross-party attendance. Do you agree with the Committee on Standards in Public Life that independence of the Commission can only be ensured if cross-party consensus is maintained? Is there not a possibility with the attendance of Ministers that that consensus will not be achieved?

Chloe Smith: Certainly, I would like to see consensus in operation over all these measures. I am sure we can all take that as a starting point. I ought to perhaps argue a little bit with the idea that it is Ministers who always stand in the way of consensus, if that is your premise. I am not sure that is true, and what is more—

Q213 Mr David Jones: Put it this way, they have the potential of being more divisive, do they not?

Chloe Smith: What is more, of course, do not forget that in the Opposition Members of the Committee there are people who have been very close to the Opposition Front Bench. I stand to be corrected but I think they have been Opposition Front Benchers at the time of being on the Committee. I think it is a little remiss to single out only the Government Front Bench, if you want to run that line of argument.

Moreover, we should all be holding ourselves to a certain standard here, which is to be able to play our proper roles in Parliament, to set the law, legislate primary and secondary, scrutinise performance, account back to our constituents and for that to be supported by the relationship we have with this very important regulator. That system overall will require different actors at different points.

Q214 Mr David Jones: Did you give any consideration to any other changes in the composition of the Committee?

Chloe Smith: We think these changes are the necessary ones. You will have noticed that it is only a small set of changes we are making. In other words, it is only a few items of change that we are making here. Because we want to make improvements that we think are right, we are working within a broader framework that stays in place. Yes, there are many more characteristics of this regulator and its accountability and its governance that have not changed, that remain in place, that could be argued for change. I am sure people will no doubt argue that during the Committee stage of this Bill, but we think these are the right measures that will achieve the goal.

Q215 Mr David Jones: As you probably know, one of the witnesses to our Committee has suggested lay membership of the Committee. What is your response to that?

Chloe Smith: I think the lay voice—if I call it that—can come in through the Electoral Commissioners already, so the point I am making is about



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how that governance remains in place. Of course, the Commissioners include a range of voices—

Q216 Mr David Jones: Forgive me for interrupting, but the Commission is not responsible for setting out and approving the strategy and policy statement.

Chloe Smith: The Commissioners are responsible, though, for the Electoral Commission.

Q217 Mr David Jones: Indeed, but, in terms of the role that is going to be fulfilled by the Speaker's Committee, they are not party to that. One of our witnesses has suggested that given, as you have just mentioned, the perceived majority of the governing party on the Committee, it would be sensible or at least desirable to consider the appointment of lay members to that Committee. Have you given any consideration to that at all?

Chloe Smith: Yes, I have, and what I am saying is that I think you can see membership other than from inside Parliament happening elsewhere in the system, outside Parliament.

Q218 Mr David Jones: Yes, but a different part of the process.

Chloe Smith: Indeed, but I think it is a little hard to design in non-members of Parliament into a parliamentary process is the bottom line of that.

Q219 Mr David Jones: We do have lay membership in the Committee on Standards, as you know. Why not part of this particular Committee?

Chloe Smith: Because I think what we are looking at centrally is parliamentary procedure, where MPs will be having a vote on the statement. That is centrally about Parliament doing that job. It cannot be about lay membership there.

In terms of the Speaker's Committee, again we are seeking not to make changes from what was laid out in PPERA, which brings into being that Committee. I think it is a good design. That the Speaker is a very important figure who, in his or her own right, can bring impartiality to this role and be able to chair the range of views that will be brought forward by parliamentarians. That is a strong enough aspect of the design of that Committee for it to be able to do the role that we are asking of it.

Q220 Mr David Jones: One final point with regard to the consultation requirements, new section 4 gives the Secretary of State the power to disapply the consultation requirements in certain cases. I would imagine that that power would be exercised sparingly, possibly in cases simply of triviality or extreme urgency. Do you agree that is what is intended, and it would not be carte blanche for the Secretary of State to override the consultation process generally?

Chloe Smith: Yes, I agree with that characterisation.



Q221 John McDonnell: Apologies for dragging you back to this: was the super-affirmative procedure even considered with regard to the parliamentary process for the statement? We introduced the super-affirmative on the basis that a Minister would be able to take into account the parliamentary debate and then amend, if necessary, the SI during the process itself. Was that considered, or why was that process dismissed?

Chloe Smith: We have considered the full range of tools that could have been used, so the full range of types of parliamentary procedure. We think that what we have here is—as I have been arguing—a normal one, a reasonable one and one that will serve this function. It is important to reflect on the importance of debate. Parliamentary debate has a value in its own right, and on the natural function of being able to influence the Government as to what needs to go into the statement. The work of parliamentarians, at their best, includes influencing what goes in at the starting point, not just arguing about what comes out.

Q222 John McDonnell: I will just make the simple point, the point that David has made, the most important thing about this whole process is building cross-party support. The super-affirmative would enable the further catchall of potential amendment at the later stages as we go through an SI. It is worth considering again.

Chloe Smith: I am grateful for that in the spirit in which you make the suggestion. Thank you.

Chair: We have an important statement at 12.30 pm so we are going to try to wrap this up in 15 minutes, if we may. David Mundell.

Q223 David Mundell: What, if any, other policy alternatives to the designation of our strategy and policy statement, and increasing the remit of the Speaker's Committee, were considered to meet the Government's stated objectives of increasing confidence in and improving accountability of the regulator?

Chloe Smith: Again, here it is worth drawing on some other points that have been made about the regulator over time. This is not just a recent idea. I am just turning to reflect on one particular report that was produced, and this is the Pickles' report. He was looking at the way that the Electoral Commission at the time of Tower Hamlets operated its inspection reports. He was looking at whether those were effective and, indeed, in his words, "We still have a series of tick-box inspections of town hall electoral registration departments that are as ineffectual as those once practiced by the now-abolished Audit Commission". He also made comments about the system of oversight of the Electoral Commission not providing an effective third-party check on its performance. He made recommendations about how it would be clearer to do it.

Given that length of debate and observations, we have looked at a range of ways of achieving these goals. As has been said, quite rightly, it is important to proceed with as much consensus and understanding as



possible. Therefore, I hope that what we have put forward are measures that can command that and thus make practical progress.

Q224 David Mundell: Obviously, you will be aware from the evidence that this Committee has taken, that not everyone shares that view. We have had comments such as “democratic backsliding”, “a retrograde step” and “like giving a toddler a gun”. Minister, if you were a member of the Opposition in Parliament, do you think you would feel comfortable with what is being proposed and that you would feel that there was not scope for the Government to abuse their position in the scheme of things?

Chloe Smith: Yes, I would feel comfortable with the proposals that have been put, because I would read them carefully and observe the checks and balances that are there in the system. If I were an onlooker, I might raise my eyebrows a little at an esteemed Member of the House of Lords calling Parliament “a toddler with a gun”, or whether he is calling the Government “a toddler with a gun” I am not quite sure. It is not particularly complimentary in either case and I think perhaps ought to have been reflected on a bit more soberly before saying such things.

Also, and I am sorry but I really must make this point, if I were a member of the Opposition in Parliament at the moment I would reflect a little on the conduct that we have seen from the Labour party in this Bill so far, which is an awful lot of misrepresentation. The second reading was absolutely full of wilful misrepresentations of what is in this Bill. I do think we are going to need to do a bit better than that.

Q225 David Mundell: I think we have agreed that consensus would be a very helpful thing to aspired to. How do you think that will be achieved?

Chloe Smith: I want to use this work with this Committee, but also of course principally the Bill stages, to be able to work through thoughts and ideas and the natural function that Parliament does to improve legislation that is put before it.

I am a great believer in parliamentary process being a place to build consensus and I certainly hope that is true with this Bill and also with the SPS that is a measure in the Bill.

In addition to that, what I personally intend to carry on doing is the kind of work that I have been doing throughout, particularly on voter identification, as I have mentioned. Where I hear concerns, anxieties, or misunderstandings about what we seek to do I want to meet those people, allay their concerns and demonstrate that we have the right responses inside the scheme in the Bill to be able to answer practical difficulties and get that confidence that we are all looking for.

Q226 David Mundell: Surely it will be important to be able to demonstrate, beyond the Government benches, that there are safeguards that have been built into the Bill and accompanying documents to prevent any future abuse?



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Chloe Smith: Yes, and I will be looking to illustrate that throughout. I think the illustrative Strategy and Policy Statement that I will be bringing forward very shortly will help in that regard. I am hopeful that the remainder of the work of this Bill will do more to increase consensus and confidence.

Q227 **Mr David Jones:** The Committee on Standards in Public Life did not recommend that the Commission should develop a prosecutions capability, but instead advocated enhancing the civil sanctions regime. Why are reforms to the civil sanctioning regime not provided for in this Bill?

Chloe Smith: Because we think that the scheme is already adequate. Essentially, we are talking here obviously that the Electoral Commission has civil sanctioning powers over referendums and elections. More serious criminal matters can be and are referred to the police. The CPS and the courts already have the power to levy unlimited fines. I am aware that there is an argument that says you should increase the fining power, so I just put that point in for completeness. We see that there is already a functioning system; we think that is as it should be. Broadly, there is a distinction that continues to be maintained between RPA offences and PPERA offences as well.

We do think that there will be more to do to review enforcement overall. Perhaps during and as a result of the passage of the Bill there will be a need to review the landscape of enforcement, to make sure that the police are well-supported to do their job and to make sure that people can have confidence in the application of all of this at a practical level. Nowhere in that scheme do we think it would be helpful to add the prosecution capability to the Electoral Commission because we think that would be a duplication, essentially, of what already exists.

Q228 **Mr David Jones:** The CSPL also recommended decriminalising some of the offences in the regime and, as you have just mentioned, increasing the Commission's civil sanctioning powers. Would you support that?

Chloe Smith: That is something I am going to look into very closely. There has obviously been a full range of recommendations made by the CSPL that, as I will be saying in my response to them, we will be looking at very closely. That is one of those.

I think there is the need to make sure that there isn't a gap left. People need to have confidence that, if they are the victim of or encounter some form of electoral wrongdoing, they need to be able to have confidence that they will get justice, either through the Commission or the police or the correct processes. Decriminalisation as such is not something that I would be keen to see as an outcome. I am looking for people's confidence to come up that crimes are dealt with appropriately.

Q229 **Mr David Jones:** You say you are open to looking at this. Is there not an opportunity with this Bill to address this? Are we not missing an opportunity by not providing for that in this Bill?



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Chloe Smith: Yes and no. If you do not mind me making almost a process point, as I was saying at the beginning this Bill is already the product of many years' worth of work and recommendations. It is not always possible to turn on a sixpence in the middle of a Bill's proceedings, to suddenly include 50 recommendations that have been made a few months beforehand. That is just a rather boring process point but I think it is fair to say here.

Q230 **Lloyd Russell-Moyle:** The CSPL in its written and oral evidence to the inquiry suggests that the Bill presents immediate opportunities to incorporate some of its recommendations. You said you will look at some of them but, particularly in terms of election financing, are you minded to accept any of the CSPL recommendations via amendment?

Chloe Smith: There are one or two in that area that are already in the Bill, so for example on asset registration. You will be aware that that is already in the Bill.

Q231 **Lloyd Russell-Moyle:** Are you minded to accept any of those amendments that were not on the face of the Bill?

Chloe Smith: I will be responding to the CSPL to say there are some very good points made in its report. Several of its recommendations need further work. As per the point I was just making to David, it is not always possible to immediately take up everything and get it into a Bill. The very interesting point in the CSPL's report in that section was that we all share the same guiding principles. CSPL is looking for the principles of transparency, and maintenance of the level playing field. That is precisely what this Bill does, but also what the remaining and still standing body of law that exists does. Let's not think that we are starting from ground zero. We are starting from a very full body of law that already does that.

Q232 **Lloyd Russell-Moyle:** I do not want to detain you more on this particularly, but I am interested if you can reply or write to us on which of those suggestions you think needs more working up and which ones you will be working up. I get that things will need more working up, but I am interested to know which ones you are proactively taking away to work up. Even if you put them in when it gets to the Lords and comes back for example. There are some good points there and it would be a shame to miss the opportunity to include them.

Q233 **Chloe Smith:** Thank you very much. I can assure you and the Committee that very shortly there will be an interim response out from me to the CSPL that essentially does as you ask. It will outline the ones we are going to work on.

Mr David Jones took the Chair.

Mr David Jones: As you can see, Minister, the Chair has miraculously metamorphosed into me. The next question is from John McDonnell.

Q234 **John McDonnell:** Briefly, because of the limited time, all the third-party campaigners are trying to balance participation with openness and transparency and there is a real concern that, with a two-tier system, it



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could make a system that is already complicated even more complex. Should certain bodies—such as registered charities and community interest companies—be exempt from the new lower tier registration requirements?

Chloe Smith: I am aware of that argument and I have reached out to some representatives of third-party groups to have that discussion with them. Again, I want to acknowledge anxiety where I see it and discuss it and deal with it. I think on balance, no, I do not think that charities ought to be exempt from the third-party campaigner regulation, either the existing set or this small extension that we are making in the Bill. That is for two good reasons. First, voters do deserve transparency.

If a charity does wish to participate in influencing people at election time, as per the definitions that have stood for a very long time now in electoral law, it is right and proper that they be regulated and transparent. It is up to a charity if they wish to step into that space. I think that is a legitimate expectation from voters that they should be transparent, if they do.

The second point is that, as I say, these principles have stood in the law for some time. We are not introducing a new principle of any kind here, so I think that it is something that charities have been able to work with. There is the guidance to do so, and I do not believe that the concerns that some may have had some years ago about that have particularly come true or need to be true.

Q235 **John McDonnell:** There are issues about joint campaign funding I would like to ask, but given the time I will drop you a line on that. A final question, maybe to leave on a positive note: in clause 23 it gives the Secretary of State the power to add or remove from the list eligible third-party campaigners. As you know, there have been some concerns about the exercise of that power. What sort of assurance can you provide charities and other third-party campaigners about the exercise of it?

Chloe Smith: I can give considerable reassurance and I am very keen to do so because, again, I think there is perhaps some misunderstanding here. There are two measures in the Bill that are relevant to this concern. That is, the one that ensures that existing spending limits cannot be bypassed by groups who might register both on the political party register and the third-party register. In other words, you cannot be on both at the same time, which I think is a very sensible measure and is targeted squarely at a loophole that has already been exploited.

There is already at least one organisation in existence, which we know of, that has done this and unfairly expanded its campaigning limits. The campaigning limits are there for a reason. It is to give transparency to voters and a level playing field to those involved. These are good principles in our election system.

The second thing that I think may be in people's minds when they think of this—to your question, John—is the points made about co-ordinated



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spending, where political parties and third-party campaigners may work together but should not do so to unfairly expand spending limits. Again, I think those are legitimate things that defend our level playing field and transparency.

The other measure that I know some people are looking at is how campaigners may be defined. Here I need to be very clear that we have had in our law for some time the idea that you can define a campaigner. This is not new; that is already done. Therefore, people do not need to have a fear that there is going to be some redefinition of a campaigner. That is not the case. What we are looking at is the list that you can find in section 88 of PPERA that interacts with the definition of campaigner.

What that list does is make clear which categories of campaigners can be registered as third parties with the Electoral Commission. That is the existing law in this area and it is that that we are building on. Because we are creating an additional registration threshold we will, therefore, still be working with that definition of who is in that list. What we are doing is creating a sensible, order-making power to ensure that no group is missed off that list and that, should it need to be amended later, you do not need to reopen a whole Bill to do so but you can do that in secondary legislation.

The definitions are not changing. The idea that there is already a list of categories of campaigner is not changing. What we are doing is creating a sensible method for allowing that category list to be kept up to date, which includes, rightly of course, not stopping groups from campaigning because they may not be on that list.

Mr David Jones: Thank you. Minister, you will be glad to hear that brings us to the end of this session. I would be grateful if you could write to the Committee as soon as possible with a follow-up on the matters that you said you would.

This is the last of our evidence sessions on the Elections Bill. We are going to return on Tuesday, 16 September, for a preappointment hearing with the Government's preferred candidate for the role of the Commissioner for Public Appointments.

Personally, I thank you for the clarity of your answers today. I admire your stamina, after that lengthy session that you had yesterday.