

Public Administration and Constitutional Affairs Committee

Oral evidence: The Work of the Electoral Commission, HC 43

Tuesday 7 December 2021

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

Questions 214 - 292

Witnesses

I: John Pullinger CB, Chair, The Electoral Commission; Bob Posner, Chief Executive, The Electoral Commission.

Written evidence from witnesses:

- [The Electoral Commission](#)
- [The Electoral Commission](#)

Examination of witnesses

Witnesses: John Pullinger and Bob Posner.

Q214 **Chair:** Good morning and welcome to the Public Administration and Constitutional Affairs Committee. This morning is the final oral evidence session in the Committee's inquiry on the work of the Electoral Commission. To round off this inquiry, we are hearing from representatives of the Electoral Commission itself and putting questions to its chair, John Pullinger, and its chief executive, Bob Posner. Mr Pullinger and Mr Posner, welcome. I wonder if I could ask you to introduce yourselves for the record, please.

John Pullinger: I am John Pullinger and I am the chair of the Electoral Commission.



Bob Posner: Good morning. I am Bob Posner, chief executive of the Electoral Commission.

Q215 **Chair:** Mr Pullinger, this is your first appearance before the Committee, so welcome. Following your appointment, you noted the importance of “building relationships with people across the United Kingdom to ensure that everybody involved in elections continues to have confidence that elections are freely and fairly run.” Six months into your post, what have you identified as the key issues for the commission to improve public confidence in the regulator and in the integrity of the electoral process?

John Pullinger: The thing I would like to start with is that the public have high and increasing confidence in how well elections are run. That is a very positive baseline to start from. I also observe from the evidence to this Committee and elsewhere that a significant majority of the public are supportive of the commission and very appreciative of the work it does. None the less, there are voices that are critical, some sharply so. We need to really carefully listen to those voices, learn from them and act accordingly.

What are the issues that that brings up? First, everyone we are dealing with is an individual. We need to design and deliver all of our work recognising that and with that in mind. Secondly, while those headline figures are positive, there are a number of big-ticket items in the electoral system that we really need to get ahead of, if we are to ensure that our democracy is safeguarded for the future. The third issue—you referenced it in the quote of mine that you gave—is that, as I get into this, I am even more convinced that the key to the commission’s success is the relationships it has, both across the party spectrum and with the various other organisations and individuals that we seek to serve. We will be judged, and rightly so, by the quality of those relationships.

Q216 **Chair:** What assessment have you made on both the strengths and, indeed, perhaps the weaknesses of the Electoral Commission as an organisation?

John Pullinger: I have boiled it down to three words, and they each have a weakness and a strength to them. The three words are independence, performance and co-operation. From all the evidence that I have seen, the Electoral Commission is at its strongest when it is and is seen to be independent, impartial and having respect, particularly across the political spectrum. It is at its weakest when it is not seen to command that respect and where there are important communities that do not feel that confidence.

In terms of performance, we need to set and hopefully exceed high expectations for those we are seeking to serve. When we do so, we are strong. We are not strong when we are disappointing people and when people feel we are not living up to the expectations they have of a public service regulator.



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Finally, on co-operation, we are strong when we are working effectively with others, particularly others across the electoral system and other organisations. We are at our weakest when we seem to be working in isolation, butting up against other organisations and not feeling as though there is a common endeavour, which is about the system as a whole rather than the Electoral Commission as a single entity.

Q217 **Chair:** You mentioned that public perception and confidence in elections and the process of elections has increased. I just wonder what measures you are taking to monitor and, indeed, improve political and public confidence in the system.

John Pullinger: I might ask Bob to add, if I may, but we have a regular tracker survey that looks, at a high level, at various elements relating to the commission and the system as a whole. That is what I am referring to. We are watching that for different movements. It gives us this high-level view of the outcomes.

More systemically, we are looking at all the interactions we get, not least the evidence from this Committee, and trying to internalise that. That gives us a combination of this survey base and then personal stories and testimony, which really give us a bit more meat. If you would like to add to that, Bob, please do.

Bob Posner: To build on that, it is the day-to-day engagement that we have across the organisation with the public, political parties, campaigners and electoral administrators that is so important in understanding what is going on. One of the indicators around that is when we see that our website is being heavily used and well used by the public. In the local elections, there were millions of hits. That says that something is going right. Equally, when we are getting feedback and people or parties are concerned about guidance or whatever it may be, we have to listen and learn from that. For me, the real measures are the day-to-day engagement that staff have at all levels, the feedback loop on that and what we do about it, learning from that and moving forward.

Q218 **Mr Jones:** Mr Pullinger, you have mentioned the importance of the commission being seen to be independent and impartial. Of course, that inspires confidence in voters. Given the controversies that the commission has experienced over recent years, what systems are you putting in place to monitor and demonstrate the independence and integrity of the commission?

John Pullinger: There is a range of levels to this. As the chair, the first one is to be really rigorous in the processes we have for the commission itself and for the staff of the commission. As part of our board standing orders, at the start of every meeting we are very explicit about checking for conflicts and concerns, and making sure they are properly recorded on a public register so that people can see that.



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We are also very rigorous in the conduct of our meetings to make sure that, if any issues arise that could give rise to a perception of partiality, we take action and do not get ourselves into that situation. As an example, within the commission we have four members who are politically nominated. The strength of that is that they are in a sense partial, but they sign up to a code of conduct and the Nolan principles when they come on board. We set ourselves up in a way that does not put them at risk by discussing things that would be perceived negatively. This is an area that has been significantly strengthened over the years.

A specific example would be on our enforcement work. The commission, as a commission, sets the policy, monitors the policy and holds the executive to account for the policy, but it does not get involved in individual cases, which by their nature are likely to relate to individual parties or individual entities. That is the formal approach to perception.

There have been concerns. Specifically, the Conservative Party has raised quite substantial concerns. On my appointment, one of my first calls was to the then co-chair of the Conservative Party to talk to her and ask, "What are these concerns? How do we address and get under the skin of them?" I met her early on and I have met her successor since. That clearly is a relationship that has been troubled, and we need to rectify that. I would do that with others, where there are concerns. I would reach out to them and ask, "What is the problem here? How can we fix it?"

Q219 **Mr Jones:** Are you confident that you will be able to eliminate any perceived or actual conflict of interest?

John Pullinger: We have to keep working at it. I am confident that we can deal with actual conflicts of interest, but perceptions matter, as your question rightly implies. If people do not believe the commission is acting impartially, that is a problem for the commission. We need to take ownership of it and deal with it. Certainly I am pledged to do that. It was a recurrent theme through my appointment process, in my public pre-appointment hearing and in the debate on the Floor of the House. I am certainly watching for that in myself but also in the commissioners and the staff of the commission.

Bob Posner: Could I briefly add to that, if it would help? I have been at the commission for 15 years, and I honestly do not think there have been any actual conflicts of interest. I have seen the commission in operation; I have seen different commissioners coming through. All of the politically nominated commissioners and the other commissioners have really been genuine and done their best.

There is a problem with perception. Clearly, the job you do as a regulator is going to create issues with perception. There are strong feelings, and I understand that. That is the challenge that you are identifying, Mr Jones. All the commissioners do sign up to the code of conduct; they sign up to the Nolan principles. They withdraw from meetings with any possible



perception of conflict, and they are very good about that. We publish the minutes of all meetings. They sign a register; we publish that.

We do everything we can for best practice. What is really important is what John says about how the commissioners are very careful not to involve themselves in the details of investigations—the work that can create that perception of difficulty. The commission does its best. If one talks about eliminating it, that is a difficult one. There will always be the risk of perception, whether it is fair or not. It is an ongoing risk, because of the work we do.

Q220 John Stevenson: Mr Pullinger, you are still very fresh to the job so you might have a good perspective on things. Are the commission's current mandate and responsibilities clear both to those who are regulated and overseen, and to the wider public and voters?

John Pullinger: It is pretty clear at a high level. We are there to oversee elections and regulate political finance. Those are two straightforward ideas that have been embedded for many years now. There is a broad understanding and acceptance of that.

At the margins it is less clear, and sometimes that matters. The law is very complicated. For example, it is complicated to explain where the boundary between the work of the commission and the work of the police is. It is tricky to get people to understand it. We think we understand it; the police think they understand it. Explaining it to those involved in often quite stressful situations can be trickier. At a high level, there is a very straightforward mandate that we can describe, but we have to work quite hard to explain, particularly to those we regulate, how the boundaries work in practice in individual situations where the boundary matters a lot and is not entirely obvious.

Q221 John Stevenson: Again given that you have fresh eyes, are there roles that the commission should exercise or, indeed, are there others that it should no longer exercise?

John Pullinger: I have thought a lot about this. It is broadly right, but I would ask myself a slightly different question. What matters is not so much what the Electoral Commission does. I am genuinely open-minded about this. It is about how well the system as a whole works. The review the Law Commission has done on the legislation and the recent review that the Committee on Standards has done have taken that higher view. How does it actually work in practice? Are there gaps? Are there overlaps? Are there confusions?

The role that the Electoral Commission should properly take needs to be seen in the context of the roles of other organisations—regulatory bodies, law enforcement bodies and local authorities. We need to look at the whole system and ask, "Does this whole thing work?"

Q222 John Stevenson: Given what you have just said, are there roles that you should be doing? Are there other roles that you should not be doing?



Is the balance right?

John Pullinger: The balance is right, but we need to keep looking carefully at the boundaries. I will give you a specific example, if it helps. It may come up in questioning. The Elections Bill has provisions relating to prosecution powers and what the Electoral Commission should or should not be doing. As I said, I am open-minded about that. If there is a role the Electoral Commission is not going to have, who is going to have it? Are they ready to have it? Do they have the expertise and resources to make sure the laws Parliament has passed will be properly taken forward? I do not know whether that helps answer your question.

Q223 **John Stevenson:** What role do you see the Electoral Commission playing in raising public awareness of the electoral process?

John Pullinger: There are two critical elements to this. The first one is registration, making sure people are registered, and the second is at the point of voting itself. At registration, the commission has run a series of successful campaigns in the past that have caught the public eye and ensured that people are aware that, in order to vote, they need to be on the electoral roll.

Specifically and recently, the extension of the franchise to 16 and 17-year-olds in Scotland and Wales has required a significant effort of outreach, particularly to schoolteachers and teenagers themselves, so they understand what to do and make it straightforward. That role is crucial, and the Electoral Commission has a good track record and expertise in doing it. We work very actively in partnership with others to tackle the particular questions that people are concerned about.

It is a similar issue for voting itself. Again, we would want to tailor our message to the questions at hand. Again mentioning the Elections Bill, the proposal for voters to produce identification when they come to vote will require a significant public campaign by us to make sure voters are not disenfranchised by not having the relevant identification when they go there. We will need to work particularly with community groups and groups representing voters who have particular challenges in voting. I will mention two. We work closely with the RNIB to support blind or partially sighted people to vote. Mencap would be another one that I would quote. We have good relationships with those organisations, but we need to keep renewing and refreshing those so the message does get across.

Bob Posner: I will just slightly build on that in terms of the breadth of work, which John has referred to partly. Clearly, there is the electoral registration work, which is about getting people to register, but there is a massive amount of work that goes on about explaining to people that elections are happening, how to vote, the system, how it is easy, accessible and so forth. There is the campaign around protecting your vote and the work we do with Crimestoppers to minimise and reduce electoral fraud as well, so that people think that it is their vote and their vote alone.



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Increasingly, there is work that we are doing online. It is about saying to people, "You are increasingly being influenced online. Think about who is influencing you with digital campaigning. Think about that; understand it." That is very consistent with other comparable democracies. We are doing increasing work in this area. That links to the public awareness work that we are also doing increasingly—we have discussed this with the Speaker's committee in particular—around political awareness and learning. This is working with the education and schools sector.

There is a massive range of work. There are the partners that John referred to, but the other key partners are the local authorities, which know their patch and their area. We do a lot of work for them on public-awareness material to help their campaigns. They know their area; they know their path. They can use that material if they want. They can adapt it locally. That is well taken up, and they can get to the hardest-to-reach groups. There is a whole range of work going on there, including some elections where every household gets a booklet. It is a massive and complex range of work. Then one adds on the things that John was talking about in the Elections Bill and how one raises awareness on that.

Q224 Karin Smyth: We understand the commission intends to present a new five-year strategy next financial year. Is that the case?

John Pullinger: Yes.

Q225 Karin Smyth: In your previous answer, you said you are open-minded about what the commission actually does. Now you have had a bit of a chance to look at the last five years, what areas are you going to prioritise in that five-year strategy?

John Pullinger: We are required to produce a five-year corporate plan. We have a draft of that, which is currently, according to our governance process, sitting with the three bodies we report to: the Speaker's committee in this House, the Senedd and the Scottish Parliament.

I hope I can say this without compromising the fact that we are in the process of them reviewing it, but there are two core elements that the plan distils, which relate back to my answer to the Chair. The first is that the commission's focus should be on providing an excellent service to the people we are working with. For electoral administrators, that is supporting them to run elections properly. I had the benefit of starting on 1 May and seeing the amazing work that local authorities did in running Covid-safe elections this year. There is an ongoing task of making sure that our guidance and our support for local authorities hits the mark with them. The corporate plan lays that out.

The second group of people we are serving is what we describe as our regulated community—parties, campaigners and candidates—to make sure they understand the rules on political finance and, specifically, know enough about what they are doing ahead of the game, rather than risking being investigated afterwards. I have heard a lot from parties, agents



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and compliance officers that one of the most challenging things for them is the fear that they might get it wrong and be caught out by us in an investigation. A lot of your evidence refers to that as well.

The corporate plan puts a lot of emphasis on what we are describing as our regulatory support strategy. It is about going in early and supporting those people, particularly volunteers, who are trying to do a job with minimum resources and just wondering, "How do I do this? How do I get it right?" I have spoken to several people, including new mayors for example, who asked, "What are the rules? I want to get this right. How do I do it?" The strategy really puts a focus on that. Of course, we are doing an enforcement job. We have to be robust, and the public expects us to be robust. The plan is about how we can be robust but also courteous.

Finally, of course, are the voters. The answers that Mr Posner and I have given to Mr Stevenson really focused on that. What do voters need to know in order to be registered and to exercise their vote securely and happily? We need a big emphasis on those people who are most challenged in doing that. I have mentioned some groups, but we can all think of many. There is a great diversity there, which we need to understand and recognise.

The first thing is great service to them, but the second element of the plan is about getting ahead of the curve. We have highlighted two core issues that we would hope we can get ahead of in the next five years. First, electoral law is antiquated, complicated and extremely difficult to interpret for us and for everybody involved. The Law Commission has come up with a blueprint that, as far as I can see, is broadly supported across the political spectrum. Let us find a way—can every party build that into its manifesto at the next election, for example?—to have an impetus in the next Parliament to make this happen. There is a role for this Committee in thinking about the broad constitutional landscape, but boy would that make a difference.

The second one is to get ahead of changes in society, with technology being the most obvious case here. The world of technology and social media is changing our elections. Some of it is for the good. It is a great new medium, but we have had the recent experience in this House around intimidation and those kinds of concerns, along with fake news. We need to work out how to get ahead of that. That is not all about legislation. It is also about joining up different agencies, working together and generally being more intolerant of people who are threatening our democracy.

That couples with broader changes in society. The electorate is changing. How do we work with an increasingly older community? This year, we helped to ensure that we reached people in care homes, who might only be registered at their old address. Changes in society mean that we need to change the way we think about our role. That is quite a long



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description, but, basically speaking, it is about providing an excellent service across the piece and getting ahead of these challenges that are coming down the track towards British democracy.

Q226 Karin Smyth: Certainly, antiquated laws are something that the Committee has been concerned about. How are the measures in the new Elections Bill coming forward? Without divulging the secrets of the draft at the moment, because that is not appropriate, how have the measures in the Elections Bill been incorporated into that five-year corporate plan?

John Pullinger: From what we have seen so far, we think the corporate plan is robust to those, because it is couched in the way I have described. If the Elections Bill is enacted—I have mentioned voter ID already—our outreach to voters will need to reflect that, and we will need to make sure we are vigorous in looking for those sections of the community that might struggle to get voter ID and make sure they have it.

Another one is overseas voters and the practical details of supporting local authorities to have a system that deals with time delays when you are looking at posting things backwards and forwards. If that franchise is what is agreed by this House, we have to make sure we are delivering on it. We do not need to change the plan to do that, but some of our measures will be more or less challenging as a result.

Q227 Lloyd Russell-Moyle: What challenges is the commission facing in overseeing the delivery of the centralised system of elections across the UK? Would you advocate any changes to the commission's remit in regard to that?

John Pullinger: There is a plus and a minus here. Bob might wish to add to this, if we have time. Of course, it makes it more complicated. From 1 April this year, the commission has been formally accountable to the Scottish Parliament and the Welsh Parliament as well as the Parliament here, including for financing. A slug of our money is now voted by those Parliaments. There is an administrative complexity to doing that, but there is also a benefit, which is that we are working very directly with those Parliaments. They have their own mandates. The newly elected Parliaments in Scotland and Wales have quite ambitious electoral agendas. There is an opportunity for us to work with them and, as a result, to learn from their experience.

I will use a specific example. The Scottish Parliament has already voted on digital imprints—so digital signatures on campaign literature. That is now before this House. In the debate in this House, it is possible to look at the Scottish experience and ask, "How can we learn from this and make sure that whatever happens here is as good as possible?" It is a real plus to have that chance to look, listen and learn between different policy propositions in different jurisdictions. It is complicated, and there is also a risk of confusion for voters, campaigners and everybody else involved. That is a significant task for us.



Q228 Lloyd Russell-Moyle: It is not just about the devolved Assemblies. You do not have any power to direct returning officers in England or Wales; in Scotland it is slightly different at local level, because there is a slightly different layer there. You do, of course, when there is a referendum. Is there an inconsistency there that needs to be evened out? Should you play a role in directing returning officers at the local level?

John Pullinger: Bob, do you want to pick that one up? It is something you have been working on.

Bob Posner: To pick that up, as a generality, in a decentralised system of local authorities and devolution, it is important that voters are not in a postcode lottery. Wherever they vote in the country, they should get a standard that is broadly consistent. We play a key role in helping to enable that to happen through our guidance, our support for local authorities and our work across the three Parliaments.

Indeed, we also have performance standards, which is a system for enabling all electoral registration officers and returning officers to continue to raise standards and, in a very positive way, to share best practice. That really close working is what makes the system work well. The recent survey results showing voters' high confidence in elections is really a good news story. It can work, and it is working.

The power of direction is a very interesting one. You pick it up in the other context of referendums, where there is a power of direction and so forth. It is true that sometimes political parties and campaigns will have some frustration because a particular local authority is perhaps not doing something in the way they think it should. They look to us and they ask, "Can you require them to do it?", and we cannot. You could say that is a frustration for political parties and campaigners.

We are not calling for powers of direction, as a commission. Our view is that it is much more important to continue to raise the standards, to have comprehensive guidance and to enable local authority elections teams to be skilled, to have experienced people, to have the tools they need to do the job and to be suitably funded. We think that those are the key things that will deliver what is needed, whereas a power of direction can be a bit blunt, so we are not calling for that.

Q229 Lloyd Russell-Moyle: Did you use the power of direction in the referendum?

Bob Posner: In a referendum context, the chief counting officer can be of the commission. It can be the chair of the commission, for example, or someone appointed by the commission. We have had both examples over the last 10 years or so. That power of direction exists. It is used in a fairly limited way, but in a referendum context you have new players; you have new campaigners coming in. There are some benefits to some consistency across it there. In an elections context, it is really about skills



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locally, the resourcing and the funding. The clearer the law can be in practice, the better for everyone.

Q230 Lloyd Russell-Moyle: You introduced these performance indicators for local electoral returning officers. I know I still get some electoral officers saying that we are focusing too much on overseas and others saying that we are focusing too much on the homeless. Both of those require resources to be spent and decisions need to be made on who you focus more on reaching out to. You do then get a patchwork.

What is the commission doing to improve voter registration, particularly for the hard to reach, such as overseas voters, homeless people, people who move, Travellers, et cetera? How are you engaging them in the electoral process? There have been some suggestions that having a single register that is added to locally but not owned locally would help that process. What is your view? Would that help or is it unnecessary?

Bob Posner: It is all about encouraging people to register and participate. Some parts of society are less inclined to than others, which presents challenges. I have spoken already about the public awareness work we do, and the different strands and types of work. What is really key is the engagement we do through partner organisations, for example third-sector organisations, charities and accessibility groups such as RNIB and Mencap. Those are the organisations that have far better reach than us. We do a lot of work on that.

We also want the system to be as simple as possible for people to register. Online registration has been very popular and a great help for that, but it does not help everyone. We have also seen recently changes in the law that empower electoral registration officers with more tools as to how they do the canvass process and get the data. It is early days, but that seems to be working well.

There have been a lot of steps in the right direction. If I step back from it, though, there is more to be done. I would agree with that. We have been doing feasibility studies on automatic registration in terms of how these things can be done and how you can enable electoral registration officers to get hold of other data to make it easier for people. Maybe it is nudging people to register and giving them the choice, or maybe it is a bit more than that.

That feasibility study work is published and discussed with Governments, and we intend to build on that. It does show that, in the digital age, as John referred to, these things are now becoming possible and good options. It is up to Parliaments whether we want to take those steps, but there are options there that will help, which fits with the modernising voting agenda. I did not answer about the single register. Do you want to go on to that?

John Pullinger: On the point about the single register, I would want to see a single registration system. To be honest, I would be quite reluctant



to go for a single IT project that does this, because there are all kinds of concerns and past experience with this is not always encouraging. If we can think of a system that has interoperability, so that they can talk to each other, and the possibility of data being used, so you can check whether someone is registered somewhere, that feels more resilient and robust. It is also more consistent, as a system, with the way local authorities do it.

Q231 Lloyd Russell-Moyle: Requiring local authorities to have systems that talk to each other might be useful. My constituency covers two local authorities. The local authorities have two different systems that do not talk to each other. They have to manually input just before election day.

John Pullinger: It is that kind of thing, yes.

Q232 Lloyd Russell-Moyle: Yes, perfect. That is very useful. I was interested in the automation. Is it that you are trying to pilot automated studies or is it that you need Parliament to act before you can start to pilot some of that?

Bob Posner: We need Parliament to act. We need Parliament, whether it is the Scottish Parliament, the Welsh Parliament or this Parliament, to engage, to act and to say, "We can do some pilots and move on with that." It could not have been done before now. You can see that the opportunity is now arising to do that. If I can just pick up on the registers, there is a great advantage in not having a single register, which is around local knowledge and the security of the system. It is all about getting the registers to talk to each other. I would very much support that.

Q233 Lloyd Russell-Moyle: On automation, there are some good examples out there about how you nudge people. If I look at my two universities, Sussex University requires you to register to enrol, whereas Brighton University just encourages it. This year, in the halls in Brighton, we had five people registering; in the halls at Sussex, we had everyone. There are ways that you can do some of that.

Voter ID has been put forward by this Government and is likely to be introduced. Does that have an impact on your plans both in terms of the strategy and the work that you need to do going forward?

John Pullinger: Yes. As the accounting officer, you are the one who is most affected by this and thinking about how to resource it.

Bob Posner: Yes. The first thing to be said is that, because it is in a Bill and the Bill is going through Parliament, as you would expect, we are already planning and thinking about voter ID and how to implement it. Work on that is going on. We are thinking about public awareness and how that will happen, and how you inform and support the public to understand the system alongside encouraging them to register, protecting their vote and all of the other things that are going on.



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Those things need to be thought through very well. They need to be very effective campaigns and they need to cut through. That work has started on the basis that, if voter ID happens, it needs to start now, on this timetable. That is happening. The answer is that that is where we are currently. It will be built upon as we go forward.

Q234 Lloyd Russell-Moyle: You are the holder of the voter registration form that is now the standard form used almost everywhere, both online and in the printable version. Most authorities use your one. Is there something there about integrating the voter ID application form into one central form? Are you still thinking about doing these things separately?

Bob Posner: These are the exact issues that fall for discussion. We designed the forms that can be used. One wants all forms to be simple, accessible and in plain English in order for people to understand them. Does one combine the forms? It gets a bit more complicated. Does one have separate forms? I am not an expert in this. These are the things that the experts consider. It is a responsibility that we hold to get the best possible clear and accessible forms in plain English, with different ways of using them.

Q235 Lloyd Russell-Moyle: You say “the experts”, but I thought you were the experts. Who are the experts who are considering that? When will we know?

Bob Posner: Yes, it is not me personally. There is a team in the commission. They work with specialists in the area. They work closely across Government. There is a lot of expertise on campaigns, forms and so forth. There are groups working on that. We work closely with the local authorities themselves, because they understand how these things work in practice. We work very closely with the third-sector representative organisations, the charities and so forth, as to what will work there. Across the Elections Bill, there is a very major need for all this to be done well and clearly. That work is already commencing on the basis that the Bill will go through.

Q236 Lloyd Russell-Moyle: My final question is about the work you do to support local authorities and other organisations to meet those challenges. Are you doing additional work? What is the timescale for that additional work with the Elections Bill?

John Pullinger: The most important thing that local authorities want is clarity and enough time to implement things. That is an important discussion that we have been having with the Government. Even once the Bill is passed, there is a significant amount of secondary legislation that will determine the answers to some of the questions that Mr Posner has just spoken to you about.

The implementation timetable for this is really important for local authorities, in order to give them enough time to plan, to resource and to get skilled up in some of these things, which will be quite complicated for them to administer. The critical thing for our work with local authorities is



to encourage the Government to come forward with the details of what they want to see in the secondary legislation and for us to get ahead of the guidance for local authorities so we get the consistency we have just talked about but also something that is realistic for them to deliver, given the very tight financial constraints that they are currently under.

Q237 Tom Randall: Looking at your advisory role, we have already touched on multiple reviews of electoral law. We have talked about the complexity of it, and how it is difficult even for professional compliance teams to understand and ensure the law is adhered to. You have touched on your regulatory support strategy, but I just wondered if there is anything further that you could say about the work you are doing to support candidates, campaigners and non-party campaigners to understand the legal rules on spending, donations and loans to make sure they adequately account for donations and spending. How do you monitor the levels of confidence they have in their ability to understand it?

Bob Posner: These are real challenges. We recognise the challenges for people out there who want to campaign and participate in that way, whether they are party or non-party campaigners. We issue guidance. We issue a lot of guidance. By and large it is well received, but sometimes there are complex issues. I know there are sometimes frustrations for people about that. We are available all the time for advice. We can always be contacted for advice, and there is a lot that happens on that.

Again, people want quality advice; they want consistent advice. We recognise that, and we strive to do that. There are sometimes complex issues and you cannot get away from that. Therefore, we will have a view, but there will be different views on how the law works in practice.

What is important is that we give clear guidance. If you are out there campaigning, as it were, if you follow the commission guidance, you are protected. You can rely on that and you are going to be okay. If you have an issue with the commission guidance, please discuss it with us. We are constantly learning, changing and issuing fresh guidance.

There are good examples of that. Prior to the 2019 general election, there were issues about there being pacts between parties and so forth. We were requested, by the chair of your party, to issue what guidance we could on election pacts. We did that, and we did it swiftly. We are very keen to issue a lot of frequently asked questions now, which we put on our website. We do factsheets on things. We can do these things swiftly and they can be adapted quickly.

We are responding as quickly as we can to things, but I do not underestimate the challenge. The more specific the queries from people who are concerned and the more quickly they come, the better we can deal with it. I recognise that, in the few days in the immediate lead-up to an election, when you are in the heat of an election, if a party contacts the commission and wants advice, it needs it immediately. That is



different to in between elections, where there is a bit more space and time.

One of the challenges for us is to be able to do that and do it well. We are very conscious of that. We are keen to do it. I recognise that that is a frustration sometimes for parties.

Q238 Tom Randall: That leads on to my next question. Some of the criticism we have heard in our evidence sessions is that, if something is not clear, the guidance from the commission might not be conclusive and the advice might not be timely. I will give you one example; there are many. Alan Mabbutt told us that the email response from the finance regulation team says that it expects to respond within five days, but, if it is more complex, it will respond within 20 days. If you are in the middle of an election campaign, that is useless, is it not?

Bob Posner: He is right, and that does not apply during an election period. Those are our standard ones. He is absolutely right to say that people need advice quickly. By and large, I believe and I hope we do that nearly all the time. I believe that is the case. We add to resource leading up to elections. We have live advice lines; we have staff there. We are available 24 hours a day. We do our absolute level best, but sometimes there will be issues where we take a position and perhaps it will not be what people want to hear. We will do our best on complex issues, but the very fact they are complex means there are multiple interpretations. Sometimes there are frustrations.

Q239 Tom Randall: What would you expect a reasonable timeline to be, then? I take it that it is difficult to talk about it in abstract, without a specific problem in front of us. If someone was coming to you with a problem in an election campaign, would you agree that it is reasonable to give clear expectations on when they might expect to receive a response and a timeframe for that response?

Bob Posner: Yes. The thing that we want to avoid is that you get into a process where there is an exchange: "I am not quite sure what you mean. Can you explain it a bit better?" They have to come back, and you go back again. You want to avoid that. The clearer the issue is quickly, the more swiftly we can act. As I say, sometimes things are not clear. What I observe is that sometimes you get into an exchange: "I am not sure what you mean by that. Can you explain exactly what is happening?" We need that two-way process from our point of view. That is a point that we are discussing with the parties all the time.

Since Alan Mabbutt wrote that letter—a lot of it was perhaps historical—there has been good progress on this. It is something that we discuss with political party panels. It is a pretty good service, but there are always issues. I appreciate that.

Q240 Tom Randall: How does this work in practice? If someone is dealing with the Electoral Commission, is there a clear point of contact between that



person and the Electoral Commission on all issues? Is there work to be done to make that more accessible, particularly when you are in a constrained period like an election, so there is a direct point of contact with one person to solve issues?

Bob Posner: There are different circumstances. In a referendum context, where you have new campaigners coming in, having a point of contact can be very useful. We have done that in the referendum context. In an ongoing election context, where you have the established political parties and campaigners who are there in the long run, as it were, it tends to be the case that they know us and we know them. There are direct contact details. I can ring up people. They know my name. They have the email addresses. That works well.

If a political party approached us and said it would prefer a point of contact, we would be very open to considering that and doing what best suited it. But there is a team available. All their details are available. Indeed, there are senior staff above that. If you are not getting a service, contact them or contact me. All those details are available. We are open to that approach, but we want it to be tailored to what best suits the particular parties. We have a range of very small parties that are not in contact with us that much. Having the team approach works better for them, but an established political party may prefer a point of contact. We are very open to that.

Q241 **John McDonnell:** A number of charities and civil society groups, as you know, have felt challenged in terms of their ability to comply with the law. What sort of support can you give them? Is there a need for a change in the law in respect of those sorts of groups? What sort of change would you look for?

Bob Posner: If they campaign at anything other than a minimum level, we take the view that they are seeking to influence voters, so we think there should be laws that bring transparency to that campaigning. Equally, we understand that that presents challenges for that sector. They have charitable responsibilities and so forth. If they are not doing that all the time, it needs to be sufficiently clear that they can engage. It is a bad thing if they decide not to engage because they are worried about the complexity of the law.

It is a challenge. Over recent years, we have been working closely with their representative organisations, the NCVO, the ACEVO and the Charity Commission. We have developed guidance hand in hand with them. It is in a much better state now—I hope they would say that as well—than it was perhaps a few years ago when the law was changed quite a lot.

We have learned through that period, and things are much better and much clearer now, but I do not underestimate the challenge to them. It is something we work on continually. It is complex. We say to them, “Please keep talking to us. We will support you to participate properly



and help you engage". The last thing we would want is people not engaging in democracy for fear of falling foul of the laws.

Q242 **John McDonnell:** Are there any legislative changes that would help?

Bob Posner: I would not call for anything specific, unless John can think of anything. You come back time and again to the general complexity of election law, which pervades into this area as well. It is not accessible, and that presents problems.

Q243 **Mr Jones:** Mr Posner, could the commission be doing more to support smaller and less well-resourced parties and campaigners in ensuring compliance with the rules before conducting investigations and considering enforcement action?

Bob Posner: It is an interesting question. There are so many smaller parties of different types and sizes. The major parties are on the political party panels; we engage with them. The smaller parties are not. One has to reach out to engage and understand them. Indeed, Parliament appoints a commissioner for smaller parties, and that is a very good thing. There is a new commissioner in that role now.

Nearly all our regulatory work is about compliance. The investigatory bit of it and the enforcement bit of it are right at the end. Everything is about not getting to that part. That very much applies to the smaller parties. Again, it is the same as non-party campaigners. One wants them to participate and to be able to participate. We work hard at that.

John referred earlier to how we have reorientated and restructured. We have a regulatory compliance team now, whose job is to reach out. They have been carrying out major survey work across the board with smaller parties at the moment. We see that as one of our major initiatives to lead into better and more sophisticated toolkits, guidance and support for larger parties but very much for smaller parties as well. There is a lot of work going on around that, but I do not underestimate it.

The other thing that has moved forward—it is slightly different, but it is connected—is that the whole process of registering new parties is now much more sophisticated than it was perhaps 10 years ago. That is a good thing. When someone comes into the system now, there is a much more robust checking process around whether they do understand the rules and what they need to do. We talk to them directly; we say to them, "We are here to support you." That was not the case 10 years ago.

Contact and relationships are built from day one, as it were. We are beginning to see the benefits of that, but the smaller parties would have to say whether that is the case.

Q244 **Mr Jones:** What about for individual campaigners, where you are likely to get more of that sort of activity, particularly in referendums? Is there more you could do to support them?



Bob Posner: I imagine there is. One always learns as one goes through major events. We do always internally review as we go through major elections or referendums or, indeed, major investigations and enforcement action. We always internally review learning afterwards. To answer your question, I am sure there is. In a referendum context, again, one wants participation; one wants people to be able to comply with the rules. At every referendum that comes along, one learns a bit more from that experience. By and large, we get good participation from campaigners at elections and referendums, but one does not want that to tip over.

One of the things about the system in referendums is that it requires campaigners to name a responsible person, an individual, to step up. It is a big ask for an individual to do that and to be responsible for the organisation. They are responsible in law, as it were, for that organisation. They step up for it and have to make sure the organisation complies with the law. That is as it should be. John referred earlier to how we have to regulate if the law is not complied with, but I am very conscious of that responsibility on them. One of the learnings from the last major referendum was around the difficulty that caused for some individuals. We are aware of that.

Q245 **Mr Jones:** Responsible persons are in need of particular levels of support. You will know from the evidence that this Committee has had the effects that it can have upon such individuals. We have heard evidence that they bitterly regret becoming involved in referendums. Is there any more that could be done? These people are performing important activities. They are fulfilling an important role; they want to participate in our democracy. Is there more that the commission could be doing to support them?

Bob Posner: We would be keen to. That is the answer. Perhaps one of the learnings from the experience of referendums is recognising the significance of that role. It does matter. If you are a party chair, a party treasurer or whatever, we are very conscious that you carry all sorts of responsibilities. There has been less thought about the equivalent in a referendum context, which is these responsible people.

There is a need to raise awareness of that for the people who step into that role. We probably need to give them more guidance on the responsibilities. If they step into the role initially, it would be great if we could talk to those people from the major campaigners. We would want to do that and be supportive of them. That would help their awareness and understanding that they are responsible for that organisation, which would help them make sure its governance is good, and that, if there are issues, they should talk to us.

One would almost want more of a partnership approach on that, which is more how we work with the treasurers of the major parties. There is work to be done on that, and that will be supported. I cannot get away from



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the fact that, while that is the system, they have to make sure their organisation complies with the law.

There is one other factor that certainly has applied, which is difficult. When things go wrong in referendums, there is this long tail after the event, which goes on and on and on. That is partly because the reporting of the spending for major campaigns does not happen until six months after a referendum. There is this huge delay. It is already six months before these things happen. It is about nine months on before, if there is a problem, investigations, queries or allegations are made. That is already a long way on time-wise.

We might be investigating civil sanctions, as it were. Equally, it could be that the police are going to come in at some point and investigate potential criminal matters. That is exactly what happened in the 2016 referendum. For those individuals, the commission did its job. After that, the police picked up and were doing their job. This was a long period of time for those people to be under pressure. We want something better than that.

Q246 **Mr Jones:** You say there is more work to be done. Is the commission actually doing that work?

John Pullinger: The evidence that this Committee has received is a significant driver of the regulatory support strategy that we are developing now. As Bob has said, we recently consulted on it and we had a lot of feedback. The key point is how we help these people—the responsible persons in referendums but also campaigners generally, particularly volunteers—get it right first time so they are not in jeopardy after the event.

That is in all of our interests. That is a significant theme of our corporate plan. It is a significant theme of our work. It is very actively informed by the evidence that you have received and what we hear ourselves.

Q247 **Mr Jones:** That is work that is carrying on at the moment.

John Pullinger: Yes, it is. We completed a major consultation last month. We had over 300 responses in from large parties and small parties. Nearly 100 of those want to follow up in detail so we get it right and tune what we are doing to the specific and quite diverse needs of different groups. That is a core thrust of the corporate plan, which is new and informed by what has happened in the referendum and other recent elections, too.

Q248 **Ronnie Cowan:** This section is entitled “monitoring, investigation and sanctions”. That is where we are going. What challenges is the commission facing in ensuring that donations and spending returns are accurate and completed on time? When I say “accurate”, I am particularly thinking about digital campaigning.



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Bob Posner: If you are a smaller party or a new campaigner, your big challenge is understanding requirements. If you are a long-term player or a bigger party, you have the challenges, as you will all know, of gathering all the financial information in, getting it collated correctly and getting it to us correctly and on time. There are different challenges depending on where you are in the system.

Wherever you are in the system, you have to think about compliance from the campaigners' perspective and whether you have systems in place to enable that compliance. Those are the challenges. In a sense, digital campaigning does not alter that. It is an additional factor—you are absolutely right—that adds complexity and challenge to it, but the fundamental tenets are the same: how you gather the data, how you understand the rules and how you get information to us.

At the commission, we are conscious of that. The challenge for us is how we support people out there to do that. That is our focus. Our focus is to help people to comply. The thing to remember is that we have very high compliance rates in the UK. We have a culture of compliance, and we have very high compliance rates. The system we have had is increasingly a success. The civil sanctions regime has been a success in raising standards.

Although I do not underestimate the challenge for people out there, it is broadly a success. Where people slip up in a minor way for the first time, they might get told how to do it better next time. It is only where it is more significant things that more significant sanctions come in. It works reasonably.

On digital campaigning, yes, there is a challenge there. We monitor what is going on in campaigning live, particularly in the lead-up to elections. Part of the reason why we monitor it is that we want to say to campaigners, "We have seen that you are doing this. Do not forget that under the rules you need to report to us in this way." That applies to all campaigning. That is quite a large part of what we do in the lead-up to elections. We are saying to campaigners, "We have spotted you doing this. Do not forget that you have to account to us on that. That is spending."

Digital campaigning is more difficult. It is more difficult to know who is campaigning and what is going on. One of the challenges for us—certainly the part of the Elections Bill around bringing in imprints really helps on this; it is one part of the jigsaw—is to know what campaigning is going on digitally and who is campaigning. It can be so targeted. That adds more complexity.

Q249 **Ronnie Cowan:** Do you monitor digital campaigning?

Bob Posner: Yes, we do. How exactly? As best we can, like everybody else. One can look at what is going on. One has the libraries of digital adverts produced by social media companies now. They are fairly live and



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are very complex. They do it differently. They are not ideal, but they help. That is a step forward. We talk to the social media companies now. We have relationships with them. We have good relationships with other regulators in the field such as Ofcom, the ICO and the Advertising Standards Authority. We are all talking to each other, particularly in the lead-up to elections.

There is a lot that goes on. People draw things to our attention as well, be it members of the public, other campaigners or political parties. Like others, we do our best. There is still an opaqueness there. That opaqueness can only be unlocked by changes to the law, as we move forward.

John Pullinger: Specifically, once we launch an investigation, we do have powers to get under the skin and find out what is really happening. It would certainly be an advantage to us to have powers outside of investigation to access information from others. Part of your question is about that. How do we monitor what is returned to us? At the moment, we do all the things that Bob has said, which is the best we can. We do not have a power outside of an investigation to access information held by others. It might help us to do that checking.

Q250 **Ronnie Cowan:** Should we be asking those agencies that are gathering to gather it in one set format so it can be accessed by you more easily? This goes back to computer systems not talking to each other again. I spent 35 years in IT. It is not that hard. If you say, "That is what you have to do," that is what they have to do. They all have the capability to do it. Are they not doing it because of the difficulty or are they not doing it because we are not telling them to do it?

John Pullinger: A format would certainly help, in the same way as when we talked about electoral registers. In this situation, the diversity of parties and the way they operate is so huge that it is tricky. Sometimes we are still getting zip files of receipts put together, and it takes us a long time to unpack that. Mandating something will, potentially, have another negative effect on small volunteer parties coming together.

One thing we think will help is that we are just coming to the end of a development of a new system for taking this information online, which has a kind of self-checking mechanism in it, so that, as parties are submitting information, it gets checked and verified before it goes into our system. We think that will help. That is currently being tested with representatives of parties, and so far quite positively, so we are hoping that will come on stream in the early part of 2022. That is a non-legislative way of trying to bring a bit of conformity but also allow parties to have a system that helps them get it right and get information in a format that will be easy for us to publish and share with others.

Q251 **Ronnie Cowan:** It sounds good for those who want to conform. I will show you my adverts. I will say, "I am going to put it on these platforms. Are they okay?" "Yes, great, go." For those who want to bypass that,



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they are still out there somewhere, using digital adverts, and even coming from outwith the United Kingdom, and we have no control of them.

Bob Posner: You are absolutely right. Already, the larger parties choose to do digital imprint online campaigning. They are not, under the law, required to, but they are already doing it. That is great; that is brilliant, but you are right: what about the players that are choosing not to play in such a straightforward way? There is a gap there.

The way the social media companies operate is that, if the law requires them to do something, they will do it, but that is where they draw the line. You sort of understand that. There is an interesting debate for all democracies about the extent to which you enable the regulators in those democracies to get information from social media companies. Certainly for us, in practice, it is the ability, outside of investigations but just because there are concerns, to say to Facebook, as a random example, "We are hearing these things. Can you please show us any information?" Maybe showing the information would show us there is not a problem at all, and we could assure very quickly and say, "No, it is okay. It is fine. That is not foreign money. That is fine." Maybe it would lead into an investigation or something quickly.

The other debate you have then is, if there is a concern, whether you give the regulator take-down powers. Do you say that the regulator can require the social media to take those things down immediately? There are grades of things for society to consider in what it wants to do about the social media companies, which is a discussion across democracies. I agree with you that certainly there is a gap at the moment about perhaps less well-intentioned players.

Q252 **Ronnie Cowan:** Can we help that?

Bob Posner: It would require legislative change.

John Pullinger: The change would be allowing us the opportunity to get hold of that information outside of an investigation. As Bob said, there is a broader debate. It goes to what the online safety Bill consideration is looking at now about where this balance should lie. Our situation here is not unique. As Bob has said, it is true for other regulators and other organisations too. What are the duties that should be placed particularly on social media companies but on these platforms more generally to disclose?

Bob Posner: Can I just link that to the other thing that we are seeing and that is now happening in the UK's democracy? It is about educating the public—it sounds a bit pompous—on digital literacy and making people realise that they are being influenced. It is interesting when you survey people that, where things are very obviously political adverts online, people recognise them and go, "Yes, I know what that is. That is fine." For the things that are indirect, probably issues-based, people are



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less able to recognise that, “Actually, how I vote is being influenced.” That is, understandably, more challenging. The literacy point about making people think about what is happening is really important. I think that that is increasingly happening.

Ronnie Cowan: There is a point I made before about schools needing funding to teach kids data literacy.

Bob Posner: Yes.

Q253 **Ronnie Cowan:** Then you do not have to worry so much about what is out there because the kids look at it and go, “Oh, that is rubbish.” It takes a lot of the burden of responsibility away. To take what you were talking about there about monitoring, access, transparency and completeness, can we take that to political finance as well—who is spending what and how? Is that a stage of your investigation: not just what I am putting out there, but how much I am spending on it?

John Pullinger: Yes, they are two sides of the same coin.

Bob Posner: They are two sides. I made the point earlier that there is something about how quickly it is right to require that political finance information to be reported to us and therefore published, to get that transparency. Traditionally, in an analogue world, there is the six-month delay after an election to a lot of the data. In the digital world now, where everyone is keeping records on spreadsheets, computer systems and all that—indeed, the Committee on Standards in Public Life recommended shortening that period from six months to four months recently—how much can you shorten that period to avoid that post-electoral event delay before transparency data begins to emerge? That would really help.

With digital campaigning, because the legislation was written prior to it and, understandably, without thinking about it, the categories of reporting spend do not bring out which elements are digital campaigning. It would be very helpful to change the law to look at the categories of reporting spend, so it is very clear what type of spending is going on and it is transparent immediately.

Q254 **Ronnie Cowan:** There has been a report of an online tool that will make it easier for regulated bodies to upload spending and donations reports.

John Pullinger: Yes, that is the system I just referred to.

Q255 **Ronnie Cowan:** Where are we with that?

John Pullinger: That is due to come on stream in the first few months of next year. We are currently testing it with parties to make sure it actually does what they want it to do.

Q256 **Ronnie Cowan:** At this stage, we have talked about legislation, but do you think the Electoral Commission has the appropriate investigatory and enforcement powers, structures and expertise to monitor and ensure



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compliance with the political finance rules and is exercising them appropriately?

John Pullinger: Within the current broad legislative framework, the answer is yes, but we are challenged by the complexity of the framework and particularly the fact that we are effectively running two quite different regimes. We are leading on one side and the police and the CPS are leading on the other. That creates confusion at the boundaries, as we said right at the beginning.

Within the current framework, we are broadly okay. Some of the things we have already referenced are going to help us along the line, but there is a fundamental problem with the complexity and the fact that these regimes are being bolted together in a way that is not really very easy for anybody to understand or navigate.

Q257 **Ronnie Cowan:** Do the changes that have been made in the Scottish Government not give you more access and larger fines?

John Pullinger: On fines specifically, fines send a signal about how serious offences are. For us, that signal of seriousness is important, but this is another area that is a proper discussion for parliamentary debate. You are thinking of a sanction for one offence compared with others and what that means. It gives us more tools in our locker. I would be very surprised if we used very large levels of fines very often, but it would demonstrate that electoral offences are something that Parliament takes seriously. That is what the Scottish Parliament has done. We will be working to implement that as effectively as possible as time goes forward.

Q258 **Ronnie Cowan:** They have also given you wider powers to obtain information outside of formal investigations.

John Pullinger: We have referenced that as something specifically that would be helpful here. Again, it raises these questions of what it is right for a regulator to be able to access.

Q259 **Jackie Doyle-Price:** Mr Posner, when you were responding to Mr Jones, you alluded to the fact that lessons had been learned following the referendum campaign. With hindsight, would you say that actually a system for regulating political parties perhaps was not the best way of regulating parties in a referendum?

Bob Posner: I would have to say no. We have had experience of a number of referendums. In both the running of referendums, which the commission has a direct responsibility for, and the regulating of them, the context has been that all referendum results have been accepted with public legitimacy and as fair results. There have not been challenges. Something about the system is working at that level.

If you drill down, we discussed what it means for campaigners and new players coming into the system. There are different experiences. Some



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campaigners come into referendums and it has been a perfectly good experience. They have had regulatory support. It has never come to the really sharp end of enforcement action. For others, it has proved difficult. In some instances, the law has been broken and proved to be broken. In that sense, the system has worked, it has to be said. That is important. Broadly, the system is reasonable.

I make the point with all regulation, across all regulators, that you want people to be able to respond to allegations in a way that the regulator will not always get it right. It would be a sad state of affairs if every regulator decision was upheld by the courts and was correct. You have to have a system that is sufficiently pluralistic that in some cases people will defend their position and they will be right. In some cases, the regulator will be right. You have to have cases won and lost.

When I look at the referendums, if anything, what I find slightly surprising is that, throughout that whole process, there was only one case—and in recent years, there have been about 500 investigations across elections and referendums—where the courts overturned the commission's decision. If anything, I worry slightly from that side of it. It surprises me. In other fields of regulation, every day, up and down the land, prosecutors are bringing cases and they are won and lost. I have rambled on a bit just to give you a feel of where I come from. I hope that is helpful.

Q260 Jackie Doyle-Price: You are getting to the nub of what I am really interested in. You are regulating a very complex range of stakeholders. It is one thing managing a relationship with the leadership, such as a chair of a major political party. When it gets to the ground, you are dealing with volunteers. It is a different regulatory relationship when you are doing that. Also, they are all individual accounting units.

It feels to me like, with the referendum, that culture became quite acute. You effectively had a reasonably professional organisation that came together in the shape of Vote Leave and ran a campaign. Once the referendum was over, you had an accounting period where the structure had dissolved and all you had were some well-meaning volunteers who were left holding the baby and then were culpable. Would you reflect on that as a sort of cultural learning for the commission?

Bob Posner: The law quite rightly requires that campaigners, in referendum contexts, have to carry on being responsible. Vote Leave was a very professional set-up; that is absolutely right. It chose to, in a way, disband itself, but that was not a good choice, because the responsibility carries on. I daresay some individuals were left feeling just as you have described. That is hard on them, but I do not think that is down to the commission. That is down to the governance of those organisations.

Could the commission do more to raise awareness in those organisations in a referendum context: "Do not forget; you need to hold yourself together, because this process can carry on a long time after an event"?



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We know that and some campaigners know that, but that is an example where they perhaps did not.

Q261 **Jackie Doyle-Price:** Have you learned about how you get those organisations to report? From my perspective, I have my obligations to make sure things are reported to the commission. We have quite a rigid discipline to do them straight away. If you are dealing with new organisations and new campaigners, is there more that the commission can do to make it easier for those people who are not necessarily familiar with operating in this context?

Bob Posner: It is glib of me to say, but we are really genuinely always happy to do anything and everything we can to help people comply. That is our ethos. The staff of the commission desperately want compliance. There is no joy in the commission when we move to the enforcement stage. That is not the culture at all. That is how it should be in regulators. When people ask whether there is more we can do, we would always look to do more. We would always welcome more engagement with campaigns.

It is sometimes difficult with campaigners. There is something about how open you can be with a regulator, but the more open and straight you can be with a regulator, the easier it is for the regulator to help you. I understand where you are coming from, but that would be our ethos. If there was another major referendum, as with all major electoral events, we would go into it thinking, "How can we best support campaigners?" That would be our approach.

Q262 **Jackie Doyle-Price:** There is another example that I am aware of. Somebody was a volunteer officer and fell foul of the commission, not by any fault of his own. Volunteers are taking up these responsibilities and, if you miss account reporting deadlines or something goes awry, you can find yourself in trouble. He fessed up; he reported himself to the commission. He was quite a robust individual actually, so he was quite relaxed about it. He knew he had done nothing wrong, but it took the commission a year to say that no action would be taken. Do you think that is acceptable when, frankly, our democracy depends on people being willing to step up and participate?

Bob Posner: I do not know about that particular case. If you wanted to write to me, I would look into it. I would look and try to find out why that happened and what happened. Over the last year, 97% of our investigations were done in under six months. I know that that is the case. I know that, over recent years, there are literally only a handful of cases that took longer than a year. There are cases that take longer than a year and that should only be the case because the complexity of it justifies that on an evidence basis.

Q263 **Jackie Doyle-Price:** That was probably simplicity that did it.

Bob Posner: I am not going to say we are perfect. There could be instances where we have slipped up, but I would always want to look into



it. If that is the case, if that person wanted to contact me or the commission, we would look into that. I know John would as well. We would want to establish that.

Q264 Jackie Doyle-Price: That is really my question to you, Mr Pullinger. Our democracy depends on voluntary participation. If the commission is seen as a hostile player, to what extent do you think that risks having a chilling effect on our democracy and on participation? As Mr Posner has just said, culturally, it is very easy to engage with professional wings of political parties. It would be really bad for our democracy if we did not have the dynamism of new entrants being able to come in, disrupt and challenge. Do you think there are any reflections to be made with regards to that, when you particularly look at the outcome of the cases that came out of the leave campaign?

John Pullinger: I am concerned about that. I am absolutely with you: we should be doing everything we can to encourage people to stand for election, to campaign in elections, to give our democracy the vibrancy that it needs. I have spoken particularly to volunteers who are frightened of being caught out by these rules. They are doing something in their spare time, on their kitchen table, because they care about something. I have heard people say, and some of your evidence reflects this, that they are put off by this. We heard from Mr Jones about someone saying, "I wish I had not done it." That is sad and we should reflect on that.

Q265 Jackie Doyle-Price: I would go further than that, actually. I think that particular individual is traumatised and did nothing but act in good faith in accordance with his beliefs. As you mentioned, Mr Posner, the organisation left and he was just left holding the baby. In those contexts, you are dealing with a very different case. What do you think your duty of care is to make sure that people go through this experience and do not come out feeling like this particular individual did?

John Pullinger: We have a duty of care to people's wellbeing. I absolutely think that. It is something that, as a board of commissioners, we have talked about since I have been here, because I have been very keen that we have done so. I see no problem in us being a robust regulator, which stands up for the laws Parliament has passed and the interests of voters, and being courteous, polite and human with the people we are investigating. As a matter of belief and commitment, I absolutely believe that and care about that.

There are two things that I would say to supplement what Bob has said. I have been pleased to see—it was well in train before I was here, but certainly I am keen to make sure it is absolutely core to our corporate plan going forward—this regulatory support strategy, so that we reach out to people, particularly in the referendum context. You are right to say that that is different. If someone is a responsible person, we reach out and say, "This is what is going to happen. This is what we need. This is what the law requires". We explain it in terms that they can understand.



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I do not underestimate the difficulty of that. In a referendum campaign, things are happening quickly. You want to get on with it. You do not want to be having conversations with the Electoral Commission. We need to find ways to make sure that happens properly.

At the other end of the situation, when it comes to enforcement, the enforcement policy now is guided by four words. The first is "swift", which I hope pleases you. The second is "proportionate", which I hope also pleases you. The last two are "robust", because people would expect that, and "fair". That is guiding. That is the policy that the commission board has instructed the executive to work with. That is what we will be working on and developing, with parties, to make sure the practicalities of that are real and effective for them over the years going forward. I am very happy for us to keep having this conversation to make sure I stick with everything we have said here today.

Jackie Doyle-Price: Thank you. That is very encouraging.

Q266 **John Stevenson:** Continuing with that sort of theme, Mr Pullinger, you mentioned "swift". Should there be a limitation period or a cut-off point for investigations and, if not, why not?

John Pullinger: We should be as quick as possible, but you do not always know what you are getting into when you start an investigation. You quite often rely on information coming from others. I would want us to complete investigations in under a year, but the thing I would most want to avoid is people being investigated being left hanging with a case unresolved.

"Swift" needs to be as quick as it can be. In our context, that would almost always be in less than a year. In fact, the vast majority of our investigations are concluded within six months already. The board monitors that and keeps tabs on it. I fear that an arbitrary cut-off would have this effect on people being investigated. They would not know whether they had been exonerated.

Q267 **John Stevenson:** Do you think it fair that the commission writes to you and says, "You have 28 days to respond," you respond within 28 days and the commission fails to respond for months?

John Pullinger: That is not good enough.

Q268 **John Stevenson:** How do you, as the board, get the executive and the Electoral Commission itself to comply without giving them set timescales?

John Pullinger: We certainly should give them set timescales. At the board meeting this month, we have had a paper on length of investigations. We had penetrating questions from our commissioners, and Bob and his team are in no doubt about what we expect. We expect "swift". The risk of a cut-off, which was your question, is in that unusual situation.



Q269 **John Stevenson:** Could you give them guidelines of the expectation that an investigation will be carried out within a certain period of time, unless there are extenuating circumstances?

John Pullinger: The guidelines at the moment say that, if an investigation is coming up to six months, the executive must review, consider and be ready to report on why that is. We need to watch how that works. You can be absolutely confident with this group of commissioners. Remember that four of them are nominated by political parties to keep us honest on that.

Bob Posner: I know some of you are lawyers. You have to be really careful about investigations, because they are all different. You could get a response in. The response could have 500 documents in it, or it could be a two-page response. How long it takes to respond depends on the particular investigation and what is involved. I accept that those being investigated should always understand the process and how long it might take to get a response, but it can take time for very good evidential base reasons. It can lead to other avenues. Every investigation is different. That is as it should be.

I am really cautious, like John, as any regulator would be. It is almost unprecedented to put a time limit on an investigation. It is not unprecedented to say that investigations must start within a certain time period: after a year it cannot start unless there is a court permission, or something like that. That gives a lot of certainty. Once the matter starts, it has to be done properly and be evidence-based. It has to respect the rights of the person being investigated. Ultimately, hopefully it will clear them, but, if not, it does not. There are two different things going on there. You must not time limit to say an investigation must close. I do not think any regulator would.

Q270 **John Stevenson:** I agree with you up to a point, but I also think that the person you are investigating should be kept informed and notified that they will get a response within X: "If not, we will let you know that you are not getting a response within X." That has not always happened.

Bob Posner: I am not going to sit here and say that it has always happened. There may be instances where it has not happened. If that is the case, we must do better.

Q271 **John Stevenson:** On civil sanctioning, Mr Pullinger, do you think the maximum fine should be increased?

John Pullinger: The answer I gave earlier is that it would help us, and we now have the opportunity to consider how the experience in Scotland plays out. The levels of sanction are relative and this is an issue where I would want not to be too strong on it, because it is a matter of parliamentary consideration.

Q272 **John Stevenson:** The board must have a view.



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John Pullinger: The board's view would be this one: the current regime is working and is working well. If sanctions were higher, it would send a signal to those that are regulated that Parliament thinks these offences are of a more serious nature.

Q273 **John Stevenson:** What do you think the threshold should be raised to?

John Pullinger: The Committee on Standards has recommended £500,000.

Q274 **John Stevenson:** What is your view?

John Pullinger: My view is more nuanced, as I have said. I hesitate to take a view and the commission has hesitated to take a view on what it should be, because this has wider considerations. That is why we have Parliament to consider it. I do not want to be—in this case it really is—lobbying for a particular answer here.

Q275 **John Stevenson:** I am just interested in whether the board or you have a view. Clearly, you do not, so that is fine.

John Pullinger: The board does not. That is correct, is it not, Bob, as keeper of the board's records?

Bob Posner: Yes. The commission continually says that, if you go back to when the regime was introduced, there was a lot of debate at the time about the level of fine and all sorts of figures were floated around. Probably rightly, a cautious approach was taken with the £20,000 limit per offence. All sorts of figures much higher than that were floating around at the time. Now we are 10-plus years on from that, so it is worth reflecting whether that is the right level. Other regulators have higher levels. What should apply here? There is a different view that has emerged in Scotland. That is the debate.

Q276 **Mr Jones:** On the issue of sanctions, in terms of the commission's prosecution powers, do you consider that the commission should continue to develop those?

John Pullinger: Straightforwardly, I am open-minded about that. Parliament has legislated for particular offences to be prosecuted. My question, straightforwardly, is this: if not us, are the CPS and the police in a position to act where that is necessary? My answer is in terms of the electoral system: is it set up to ensure that the offences Parliament has legislated on really will be prosecuted where necessary? I do not think it matters, honestly, whether it is the commission or not.

Q277 **Mr Jones:** Do you not think that the police and the CPS have the necessary ability to prosecute such offences?

John Pullinger: They have the ability and they do, but this would be a new thing, so it is worth checking that. That is a very straightforward point, really. I am not making any comment further than that.

Q278 **Tom Randall:** Returning to online campaigning, we need to make sure



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that voters can make an informed decision. Do you think the commission has the necessary powers to regulate political campaign information and advertising, given the rise of online campaigning?

John Pullinger: We have partly covered this in some of the earlier responses. The world of social media is difficult. We have limited powers to get under the surface of it. If we had more powers, that would help us to do that. We rely quite heavily on others to spot things. We have already heard that children and grandchildren are very quick to spot things that they do not think are right. There is a limit here to how much you can legislate for. For us, the key thing is to be able to have reach into social media companies and for them to be able to listen. As Mr Posner said, if something is legislated for, they act. If it is not, they tend not to.

Bob Posner: One of the interesting things is whether higher fines have a place here, in dealing with social media companies. Actually, that is an interesting area: the ability to get information quickly if something is wrong. Higher fines in that context are quite interesting.

Q279 **Tom Randall:** Do you think the Electoral Commission has the necessary expertise to regulate digital campaigning?

John Pullinger: My observation as a newcomer is that we have good expertise in the commission. For example, we are legislating on digital imprints now. The commission had already started calling for that as early as 2003. This is an area where there is often very specialist expertise. The key to our success is having good partnerships with those people who really understand the cutting edge of this, bringing them in and getting them to be bothered about what this world is doing to our democracy and making sure we keep it safeguarded. We have good expertise internally, but we have a willingness and a culture to draw on the really deep expertise that many others have where necessary.

Q280 **Tom Randall:** You think it is more bringing that in. There are no particular extra steps that you think you need to take as an organisation to make sure that you have the right skills for that. You are happy where you are.

John Pullinger: We need to keep watching it. A theme in our corporate plan is to get ahead of what the digital world is doing. We do not know what is going to come up tomorrow yet. It is just being really aware of those changes and giving ourselves the space to bring other people in, have the conversation, think, "What do we need to do, whether in law or in practice, to ensure that the new digital world is being used in a way that is supporting democracy, rather than undermining it?"

Bob Posner: We are tapped in directly with other regulators, such as Ofcom, and organisations. We are drawing on every possible expertise we can.

Q281 **John McDonnell:** We want to talk about governance and accountability mechanisms. How effective do you think the role of the party panels is in



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advising the commission of issues, influencing guidance and the application of the rules? Following on from that, is the membership of the panels right, or does it need to be expanded in any way?

John Pullinger: I have attended two. In fact, the Westminster parliamentary panel is meeting at precisely this moment, so this is a good time to ask the question. I have attended the Westminster one and I have also attended the Northern Ireland one. I guess I have a couple of different impressions.

The Northern Ireland one is a really good example. I was there, in Belfast, a few weeks ago, and we had a meeting that the Electoral Commission head of office in Northern Ireland chaired. We had DUP, Sinn Féin, the Green Party and all the other parties contesting the election in one room, discussing, in a very professional way, how we ensure that people are registered to vote and that the election will be done in an orderly way. That is an important and big thing. There is great value in having a structured, formal bit of governance that makes that happen.

There is also a challenge in that kind of meeting, because you are having competitors talking about things that are tricky, so the chairing of it needs to be very careful. The Westminster one is chaired on rotation by the parties—the one I went to was chaired very ably by the representative of the Labour Party—to make it a safe space where people can share. I thought that that was well done. If I am honest, I would like to zhuzh it up a bit, because it is still a little bit formal.

To get the input we need from parties, some kind of format that allows more of a free flow of ideas and conversation would be a good thing, but I was pretty impressed with the way they do it. Bob might like to say something on the composition, because that is an important constraint in having a formal body like that.

Bob Posner: They work well when others join the meeting, be it speakers, maybe, from the third sector or whatever, for a particular agenda item. Recently, we have held joint ones in the UK Parliament, one with Cabinet Office and DLUHC officials attending as well. That has helped. They work well when you bring others in. In the lead-up to an election you bring the other players in. You may bring the Royal Mail round the table and things like that. That adds a dynamism, which is probably what John is referring to.

Q282 **John McDonnell:** Following on from the controversies of recent years, are politically nominated commissioners on the board of the Electoral Commission necessary and desirable?

John Pullinger: I was not sure before I started. I was not sure how I would chair a meeting with this wonderful diversity on it. It is not just the nominated commissioners, but also commissioners specifically recruited from Northern Ireland, Scotland and Wales. To be honest, Parliament did a good thing there. It adds a strength. Diversity is a strength in any



conversation because you get different views to the table. I have been blessed with four extremely capable nominated commissioners at the moment, who bring that wealth of expertise to the table and a real down-to-earth “this is what politics is about” sense to it. We have to be careful in governance terms, for the reasons we talked about earlier, in terms of impartiality and perception.

Q283 **John McDonnell:** How do you ensure that?

John Pullinger: I ensure that through the processes we have talked about: a very rigorous conflicts of interest regime at every meeting, and a clear demarcation between the things that are reserved to the commission and the things that are delegated specifically to protect commissioners from those kinds of allegations. It is particularly important in the enforcement activities. It is also about being watchful all the time and, if there are concerns being picked up elsewhere, being attentive to those.

Q284 **John McDonnell:** Are any changes in the rules or the guidance necessary to ensure the perceived impartiality of the commissioners?

John Pullinger: I do not think so. The commissioners sign up to a code of conduct. They sign up to the Nolan principles and we are watchful of that. In that space, I feel very happy with what we have now.

Q285 **Mr Jones:** As you know, the Elections Bill contains provisions for the introduction of a strategy and policy statement, and an increased remit for the Speaker’s Committee on the Electoral Commission, which will be able to assess the commission’s compliance with the statement. Do you believe that these proposals will increase public confidence in the system, or do you think that they risk undermining the independence of the commission?

John Pullinger: The independence of the commission is of fundamental importance to its work. We are operating in the field of overseeing elections. The people contesting elections need to be confident that the body overseeing them is not influenced by one party in preference to others. Against that backdrop, a strategy and policy statement issued by the party of Government that seeks to guide the work of the commission is inconsistent with having independent oversight of elections and regulation of political finance.

Q286 **Mr Jones:** You clearly have concerns.

John Pullinger: It is inconsistent with an independent regulator and that is concerning.

Q287 **Mr Jones:** In your view, what is necessary to ensure the continued independence of the Electoral Commission?

John Pullinger: We have a system of governance that allows for that already. You referenced the Speaker’s committee. Our accountability to that committee, and to other committees of the House, including this



one, is a critical part of governance, and ditto in the Scottish Parliament and Welsh Parliament. That system is working well and will continue to work well, but I recognise that concerns have been raised that have resulted in the proposal before the House.

It is there because of real concerns, which are predominantly around perceptions and realities of the performance of the commission. I highlighted that in my opening remarks to the Chair. Within the current governance structures, the corporate plan process needs to be rigorous enough so that those areas where the commission needs to step up—and we have talked a lot about regulation and regulatory support here—are seen in the corporate plan. Then we can be held accountable to your Committee, the Speaker's committee and other committees: "You have promised this. Have you done it?" That can be made very clear.

Q288 Mr Jones: The explanatory notes to the Bill state, "The regulator will remain independent and will be able to depart from this guidance if it felt that was justified or if it had a statutory duty to fulfil." Do you envisage any circumstances in which you might take up that independence, if you like, and depart from the guidance that is proposed under the provisions of the new Bill?

John Pullinger: Bob might like to add something, because he has analysed it from the legal advice we have had and from the practical side of it. I have been recruited to be independent, as chair of this commission. I have had conversations with Government Ministers who have assured me of exactly what you have said. I intend to continue being an independent chair of the commission. I observe that it will be more difficult for me to convince the public that I am independent if, on the face of an Act of Parliament, there is a statement saying I must have regard to the views of one party, specifically, without reference to other parties. Bob, do you want to add anything about the wording there and why we think that is?

Bob Posner: Yes. It is this wording "have regard to". There is the corporate plan sitting there, accountable to three different Parliaments, with variations, and a strategic policy statement sitting there that does not relate to Scotland and Wales, because they declined to be part of it. It just relates to the commission's work on a UK basis. That is confusing.

Ultimately, where it ends up will be for the courts to decide. One could take the view that "have regard to" means something. If it means something, effectively, unless there is a good reason to depart from the strategic policy statement, it will prevail over the corporate plan. If it does not mean much at all, it is a very low threshold, in which case what is the point of it? It is a really challenging structure that is set up.

It also captures the Speaker's committee and its independence, which does not seem right either. It is being required to make sure this thing is complied with, but it is responsible for the corporate plan and approving, amending or changing that. It creates these conflicts and that is difficult.



The answer to your question, whether we envisage circumstances where there will be departure from it, is that there could be, but it is very difficult to work out the realities of it. There still needs to be secondary legislation. If it is to happen, there needs to be a strategic policy statement.

The Act will enable the Government to issue guidance as regards the operation of the commission in addition to the strategic policy statement. That could go right to the heart of what the commission does. That creates another, third strand to it all. It is a structure that one struggles to see a way through at the moment. That is the best way to put it.

Q289 **Mr Jones:** If you were to decide to depart from the guidance, what do you think would happen if the Speaker's committee disagreed with your departure?

John Pullinger: We would be accountable to the Speaker's committee for that. In the same way as we have in our accountability to this Committee, we would have an evidence session where we would explain what we had done, and the committee would draw its conclusions and make those conclusions public.

Chair: I should say, in the interests of transparency, that at least until tomorrow I am a member of the Speaker's committee, after which I am subjected to a transfer of functions order and the Chair of the Levelling Up, Housing and Communities Committee takes my place, owing to the elections function moving from the Cabinet Office. I should put that on the record and say no more.

Q290 **Jackie Doyle-Price:** I wanted to come back on the point you just made there, Mr Pullinger. You said that you were being held accountable to one political party when there are a number. Actually, the Government issuing guidance are taking a different role than that. Forgive me, but it feels to me like you are seeing this in rather too partisan a way, in terms of regulation. You may have good reasons for that, given some of the comments that have been made by some players with regards to that. Can you not see a reason why the Government could issue guidance to you in the same way that they do with other arm's-length bodies, recognising that, while the political parties are a player in the elections, the Government have the overall responsibility for our constitutional arrangements?

John Pullinger: I would argue that the Electoral Commission is different from other areas that are regulated for a very precise reason: we are overseeing elections. Future elections are where the Government will be contesting their right to be the Government with other parties. There is this issue of the perceptions—"Is that fair?"—of the other parties that are contesting them. That is different. That is unique to the role the Electoral Commission has.

Q291 **Jackie Doyle-Price:** We get trends with these things. For example, if we



had things emerging where, for example, there was extreme right-wing political activity in certain areas of the country and evidence of electoral fraud, the Government issuing guidance to invite you to have regard to the circumstances of that would be in the interest of the integrity of our political system. We need to get beyond just seeing the Government as a political party that is a player in the election. All of us here, whatever our political differences, take our responsibilities very seriously, in terms of upholding constitutional integrity. I feel, from the responses you have given, that you are not giving the Government the benefit of the doubt on that.

John Pullinger: If there were serious issues affecting the integrity of elections, we would want to be working with the Government and others to make sure we took appropriate actions, stepped up to the plate for that and were held accountable to this House and equivalent bodies in Scotland and Wales for doing so. That is absolutely right.

I should make it clear that the relationship the commission has with the Government is very important. The current Minister and her predecessor have both been very open to having conversations with me and colleagues. We do that regularly and I expect us to continue doing so. That is very important, because we need to understand the Government's position. The Government have important insights that can help our work, so the relationship is really important.

The critical thing here is about, on the face of the Bill, there being a statement that represents the views of the Government as one party in a future election. It is thinking of the context of this particular activity. The primary role of the commission, as we have said from the outset, is to oversee elections and regulate political findings. The core of that is what is going to happen in future elections, rather than what has happened in the last one.

Q292 **Jackie Doyle-Price:** You are actually being very polite in trying to say that you have to be robust in your independence in case any future Government abused their majority and tried to stitch up rules to support themselves. That is not to say that that is how any political party would behave, but it is the nature of independence.

John Pullinger: Yes, exactly. It is, yes.

Chair: With that, thank you, Mr Posner and Mr Pullinger, for attending the Committee today. If there is anything that you wish to write to us following this session, please do so. It will be gratefully received. In the meantime, thank you both very much indeed.