



Public Administration and Constitutional Affairs Committee

Oral evidence: Electoral Commission: annual review, HC 524

Tuesday 24 November 2015

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Members present: Mr Bernard Jenkin (Chair); Oliver Dowden; Paul Flynn; Mrs Cheryl Gillan; Kelvin Hopkins; Mr David Jones; Gerald Jones; Tom Tugendhat; and Mr Andrew Turner.

Questions 1-149

Witnesses: **Jenny Watson**, Chair, Electoral Commission, **Claire Bassett**, Chief Executive, Electoral Commission, and **Alex Robertson**, Director of Communication, Electoral Commission, gave evidence.

Q1 Chair: We are distressed that you are so far away. You will have to pretend you are on the stage at the Royal Opera House, and we will then hear what you have to say. Thank you for joining us today for this session. This is an annual review session of the work of the Electoral Commission, and we have a lot of issues to discuss with you. Could you identify yourselves for the record, please?

Jenny Watson: Of course. I am Jenny Watson, and I am the Chair of the Electoral Commission.

Claire Bassett: I am Claire Bassett. I am the Chief Executive of the Electoral Commission.

Alex Robertson: I am Alex Robertson. I am the EU Referendum Director, and also the Director of Communication at the Electoral Commission.

Q2 Chair: Claire Bassett, we should congratulate you on your appointment very recently. Welcome to I think possibly your first appearance in front of a Select Committee.

Claire Bassett: Thank you. I have been before Justice.

Chair: Right, there we are. We like experienced chief executives. Can I remind you to please answer as crisply and directly as possible, and we will reciprocate with clear and

crisp questions. If you do ramble on a bit I will pull you up, or if I do not think you are answering the question, I am afraid I will pull you up.

Q3 Paul Flynn: Individual electoral registration is thought to be a serious change that is likely to have profound effects, so many people are concerned about it. I understand your advice to the Government was to go slowly on this unless there was a compelling reason to accelerate the process. Why do you think the Government have rushed in where wiser heads have feared to tread?

Jenny Watson: I think you would have to ask the Government for their reasoning. As you say, our advice on this transition was that it should stay at 1 December 2016, which is where Parliament originally set it to be. We made that judgment call in full support of IER, which we have been calling for since 2003. We are very pleased to see it, because when we published our evidence this summer we found 1.9 million electors who were only retained on the register under the transitional arrangements. In light of the important elections in May next year, notwithstanding that we expect that number to fall significantly, we felt that it was right to keep the transition at 1 December 2016 instead of accelerating it. We were confident in doing that because of the annual canvass, which has the important role of removing people from the register who would not be there because they have moved house or died or gone away. With that safeguard we felt that the transition should stay as Parliament had originally decided it should be, at 1 December 2016.

Q4 Paul Flynn: Could you give an estimate of the number of electors you think will be disenfranchised in the Welsh Assembly elections and the Scottish Parliament elections by bringing forward this arrangement?

Jenny Watson: I am afraid I cannot. That was the reason that we felt the transition should stay where it was. In the absence of up-to-date data we were unable to give Parliament—and of course we are accountable to Parliament not to the Government—the data that it would need to be sure of the impact of that change. We will, of course, be looking at the 1 December registers and we will have something to say about those, I would anticipate, in the spring. We will be doing a full completeness and accuracy study along the lines of those that we have previously done, which we will probably publish next summer. So there is evidence that we will have but we did not have it and could not have had it at the point at which Parliament was making its decision.

Q5 Paul Flynn: Have the Government given any indication to you why they have rushed this change forward, other than the obvious one of political advantage to the Tory Party?

Jenny Watson: I have seen the debates in the House of Lords and I have had the ability to discuss that with the Minister. It is a judgment call, and we simply disagree, that in the absence of that data we do not think it was sensible to bring the transition forward by a year. On the positive side, and it is a positive, we had always told electoral registration officers to prepare as if 1 December this year were the cut-off and not to think that they had an extra year, so they should be prepared for what has happened. In the light of events, I think we were wise to ask them to prepare on that basis.

Q6 Paul Flynn: Yes, indeed. Does anyone else want to comment about this? This does seem to be a fairly obvious attempt by the Government, and one particular party, to increase their advantage in elections by manipulating the system. Is that a fair criticism, or what other possible explanation could there be for bringing this forward by a year?

Jenny Watson: As I say, you would have to ask the Government for their reasons. We are very focused and made it clear to the Political and Constitutional Reform Committee, on which you previously sat so you will have heard this a number of times, that our focus is on the elections and the right of voters to remain enfranchised for those elections. Alex may want to say a little bit about the voter registration campaigns that we will run ahead of May.

Q7 Chair: Before he does, can I ask what assessment have you done of the likely change in the shares of votes going by the parties as a result of this change?

Jenny Watson: We have not done any analysis of that type. We do not have any role in relation to boundaries, which I think is what your question is about.

Q8 Chair: No, I am not asking about boundaries. I am asking about the result of accelerating individual registration. You have just heard from one member of the Committee that in his view it is likely to change the result of votes in marginal council seats, for example, because there is an assumption that the people who will no longer vote as a result of early registration were voting predominantly for one party rather than another. What is your assessment of that question?

Jenny Watson: We have not done an assessment of that type that maps the—let me start with what we have done, which is to publish the different variations in different local authorities of the percentage of electors that are retained under the transitional arrangements. It is, therefore, possible for any Member of the House to see for the local authority that they know best the percentage of the electors who are retained under the transitional arrangements and then potentially could come off the register. The annual canvass is going on now and I would anticipate that that will remove electors who have moved and gone away or died and add electors who have moved into the area.

Q9 Chair: I appreciate all that. I am asking a different question. I am asking what assessment you have done and it sounds as though you have done no assessment. The argument is that this is to the advantage of one party rather than another. Are you in a position to accept that or refute that on the basis of your analysis of voting intentions of the people being registered and the people who are no longer going to be registered?

Jenny Watson: We have not done any analysis of the voting intentions.

Q10 Chair: You were asked a minute ago what were the implications of the Government ignoring your advice. How were you intending to persuade the Government to accept your

advice when you could not explain to them what the implications were of ignoring your advice?

Jenny Watson: I refute that, Mr Chairman. We identified 1.9 million electors who, at the point that we published in the summer, would come off the roll because they had not registered individually. They were only there by virtue of the transition arrangements. We made it clear that those electors were not in one part of the country; they were not uniformly scattered throughout the country; the impact was more significant in larger cities, particularly in London. In the light of the elections in May 2016, our balance of judgment was that voters who were legitimately on the roll should stay on the roll for those elections. We would expect that figure to go down significantly, given the annual canvass. But we would not usually do any analysis that relied on people's voting intentions before we published data about the state of the electoral register.

Q11 Chair: The argument by one political party in the House of Commons has been very clear that this is about manipulating the voting system for political advantage. Is it not your job to either refute that with analysis and survey data or to corroborate it?

Jenny Watson: We have made our view clear that the number of electors was significant enough for the transition not to be brought forward, and that is our judgment.

Q12 Chair: You do not think it is your job?

Jenny Watson: I am not sure. It is an interesting suggestion.

Q13 Chair: We are not trying to put you on the spot. I can understand the Electoral Commission shying away from anything that smacks of party policies, but in this particular instance, where changes are being made or accelerated that some people regard as at the advantage of one party to another, I am suggesting to you that is a legitimate space for the Electoral Commission to produce some evidence to inform the debate.

Jenny Watson: We have a good deal of knowledge about who those people are likely to be, so we know that they are predominantly young, that they are students and that they are living in private rented sector accommodation, because those are the people who are the most mobile.

Q14 Chair: You know almost everything about them except how they might vote or what their voting intention might be, whether they have a strong intention to vote or not.

Jenny Watson: We have not done it; we have not seen it as part of our role to do it. It may be that this Committee thinks that that is something we should think about for the future and we will take that on board for the future.

Q15 Chair: I appreciate it would be controversial, but you are an independent organisation and you should not fear putting the truth on the table.

Jenny Watson: We do not fear putting the truth on the table. We had not seen it, I don't think ever, as part of our role to identify voting intention before we say that everybody that should be entitled to be on the register is on it and no one who is not entitled be on it should be on it either.

Q16 Paul Flynn: Certainly it is a strong belief in the main parties that if there is a high turnout, if there is an 85% turnout, that is an advantage to the left-wing parties. If there is a low turnout it is an advantage to the Conservative Party because of the stronger motivation, the disorganisation of the lives of many young people, and so on. But that is a strong belief, and the Tory Party believe it as much as the Labour Party. Is it not inevitable that we would interpret their rushing forward of this change as because of political advantage? There is no other explanation for it that makes any kind of sense. In terms of doing it in an orderly way to get the public used to the new arrangement, the date was 2016, and it has been put forward almost certainly because of the important elections in Wales and Scotland. What else could one suggest?

Jenny Watson: As I say, we agree with the fact that it was 1 December 2016 and it should have stayed as 1 December 2016. We are not in disagreement there. I think you would have to ask the Government for their analysis of that.

Paul Flynn: I find asking the Government is not very fruitful, generally. I have been rather disappointed at some of their answers.

Q17 Kelvin Hopkins: Do you have any analysis of the categories of individuals who might not find themselves on the register under the new regime?

Jenny Watson: Yes. Do you want to pick that up?

Alex Robertson: Yes, I can pick that up. We did some analysis on the registers that were published for the general election, and the 1.9 million figure that Jenny identified was the number of people who are currently on the electoral registers but, unless they took action, would fall off on 1 December—the people who have been targeted this autumn. It was not the kind of very full research that Jenny mentioned we are doing next summer, where we go out and knock on everyone's doors and really get into the demographics of people. The data did not allow us to do that. But that suggested that the groups that were most likely to come off were people who had recently moved house and students. We are, of course, all talking about something that has not yet happened. The registers have not yet been published; they will be published on 1 December. We took the view ahead of the May elections that we should be running a campaign ahead of the May elections and electoral registration officers targeted all the under-registered groups: young people, students and people who have recently moved house. In addition, when the Government, against our advice, decided to end transition on 1 December we decided that we would boost our campaign aimed at the groups that are most likely to be affected by that early end date, so home movers and students.

Q18 Kelvin Hopkins: Would ethnicity be a factor?

Alex Robertson: That was not what we were able to say in our report in June or July. In the report that we produce next summer, where we have done much more detailed research and where we have knocked on doors, we will be able to get under the skin of it much more.

Jenny Watson: Although it is fair to say that the historical data would suggest that some ethnic-minority communities do have a lower rate of registration. Not all, but some. You have already given us food for thought, Mr Chairman. We are about to undertake a strategic review, and so we will take some of those suggestions into that, if we may.

Chair: I do not necessarily think I have the right answer, but I think you need a reason why you are not going to do it if you are not going to do that kind of analysis. Andrew Turner.

Mr Turner: I think my question has been answered.

Chair: Right. You are very generous. Mr Flynn, did you finish?

Paul Flynn: Yes, I did. Yes. I am entirely dissatisfied by the situation, but happy with the answers.

Chair: Okay. Moving on to your role in referendums. Cheryl Gillan.

Q19 Mrs Gillan: Good morning. Just a simple question: what are your main concerns in relation to the forthcoming EU referendum?

Jenny Watson: That is a very good question. I will start and my colleagues will act as sweepers and pick up. We are very pleased to see section 125 go back into the Bill. It would be remiss of me not to thank this Committee for being very quick off the mark in your scrutiny of that legislation. We had seen no reason why it should not be there, so we are very pleased to see that. We are pleased to see the Government statements in the House of Lords that they do not plan to bring forward amendments to amend section 125. Our main concern is that we have been planning for this since May after the election. Claire may want to say a little bit more about that planning, because she has joined us with a fresh and probably more sceptical eye than I might have. I think our plans are good. It is probably true to say that the most significant risk is that we do not know when that poll will be. Having said that, there is a great deal of planning that we can do to mitigate against that risk, and we are doing that work. Do you want to say something on that?

Claire Bassett: Thank you. Coming in, one of the things that I have done as Chief Executive and the accounting officer is take quite a keen interest in our mechanisms for managing this process. The referendum is one of our biggest projects and programmes, and I have been very impressed with the really robust nature with which the programme is being managed. It is very thorough; it takes all the different elements of the referendum and tests them, and has plans and key expert people involved. I think there has been, as Jenny said, considerable effort put into being ready whenever that date is. Obviously there is going to be a challenge for us organisationally, if the dates are a very long way off, in maintaining the momentum, but I am confident we can handle that.

Alex Robertson: I have nothing to add, really. The main risk that we are managing is around the date and being ready to go as soon as we know it.

Q20 Mrs Gillan: I presume that as you dig down into the fine detail, as you and I have dealt with before, Ms Watson, on a referendum that passed without too much of a problem, other problems arise from time to time during the passage of this. Have you identified a modus operandi with the Government, and are you finding the Government are responsive to the concerns that you have raised?

Jenny Watson: I think I would say so far that is mostly true. You are right, there are events that come up from time to time. The Commission staff are meeting with Government officials on a reasonably regular basis. That is in order to let people know what we think and what needs to be changed, as well as to say thank you for doing what we have asked. Alex is close to that so he may want to say a little bit more about that.

Alex Robertson: Our relationship with the Government is working fine. The two bits where we need to interact with the Government are, first, making sure the legislation is right. There were lots of good things about the legislation. We are having it as a standalone poll. There have been changes introduced so that we will know where loans and donations come to ahead of the poll. That was not the case in the referendum in 2011. Obviously there were also times when we disagreed with the Government, around section 125 most obviously. Beyond that, we will need to work with them on the fees and charges order that will be laid to provide for the funding for counting officers. But the key phase of working with them to make sure the legislation is right is nearing its conclusion.

Q21 Mrs Gillan: Are there any other issues that you are keeping a close eye on that you think may cause you concern, that you have not yet discussed with the Government?

Jenny Watson: No. I think if there was anything that was causing us concern we would have raised it with the Government, and indeed we would be raising it with Parliament, as the Bill goes through the House. We take that accountability to Parliament very seriously, and so if there is something that is a cause of concern for us it will be clearly identified in our briefings.

Q22 Chair: I should declare an interest that I am on the board of Vote Leave. Can you summarise what your present concerns are with the legislation as it stands, or the amendments on the order paper, at the moment?

Jenny Watson: Yes, I can. This is probably the right moment for me also to remind you of something that I think you know about, Mr Chairman, but members of your Committee may not, which is an internal governance firewall we have put in place. I will be chief counting officer, or the chair will be chief counting officer, for the referendum. In order to allow me to be free to engage with campaigners with no perception of a conflict of interest, I am not closely engaged in the detail of any work with campaigners or with designation. So I will ask my colleagues to pick up aspects of that. In terms of the chief counting officer role, I do not think there is anything that is being discussed at the present time that is of concern. There are aspects around the franchise—you will be aware of the

recent vote in the House of Lords—that obviously creates work that needs to be done. But we can park that and perhaps return to it if you would like to do so. Would either of the other two of you like to say anything?

Q23 Chair: Are there other aspects of the Bill that are causing concern, or amendments on the order paper that are causing concern?

Claire Bassett: Not causing concern. We are having discussions with the Cabinet Office about the amendment that was put forward on permissible donations. That is really about seeking clarification rather than being an area of concern.

Q24 Chair: We will come to donations. Anything else?

Alex Robertson: No. As Claire mentioned, there is one amendment that we hope will come back at third reading. There is also something that the Government have committed to come back to on one-sided designation.

Chair: We have a question about that.

Alex Robertson: You have that covered? Those are the only two things, that we think are still relevant, to be looked at.

Q25 Mr David Jones: I should declare an interest too as a member of the compliance committee of Vote Leave. Section 125 of the Bill, as currently drafted, obliges the Government to consult with the Commission before tabling regulations pursuant to the clause. You were reluctant to undertake that duty. Why was that?

Jenny Watson: We are very content to undertake that duty. I have read the evidence session previously, and I think that there was a slight misunderstanding in the question. We are extremely happy with that role. I think it is unlikely, on the back of the statement that the Government have made in the House of Lords, that we will need to undertake that role, because Baroness Anelay has put on record that they are not intending to bring back amendments. But if we are asked to give a view we will give a view and feel very content to do so.

Q26 Mr David Jones: How will you undertake that role?

Jenny Watson: We will be asked for advice, we give that advice, and we will make clear that advice to Parliament.

Q27 Mr David Jones: Do you have a process for consultation worked out yet with the Government?

Jenny Watson: I am going to ask one of my colleagues to pick that up, because it relates to the specific—

Alex Robertson: The way that we would go about that is the same way that we would go about briefing a Parliament on any order. We would make our views very public; we would make them clear to Parliament as opposed to just to the Government first. We are absolutely clear about that. As you will know, we have said on section 125 that we were absolutely content with section 125 as it was originally. I think you also know from the provision that any exception must be laid four months prior to the poll, and the Minister has said that it is very unlikely they will use that power. I must admit it is difficult to see the circumstances in which something will be brought forward and that we would think it was necessary, but until we get there we do not know.

Q28 Mr David Jones: Have you had any conversations with the Government about that yet?

Alex Robertson: Nothing beyond what you would have heard reported in Parliament, that there are no plans to make a provision at the moment.

Jenny Watson: I have certainly had no conversations with Ministers about that.

Q29 Mr David Jones: On what matters, if any, would you consider it acceptable for the Government to seek to limit section 125 of PPERA by regulation?

Jenny Watson: I think we have made it pretty clear that we think section 125 of PPERA has worked well in the past, and we do not see a reason for it not to be applied in full. It is clear also that it should not restrict day to day business of the Government, and indeed it has not done so in any previous referendum. I would anticipate that we would want to give advice in that spirit. But as I say, we have not had any conversations with the Government about that at this time.

Q30 Mr David Jones: Is it your understanding that they will not necessarily be proceeding to make any such amendment?

Jenny Watson: From what I have read in the *Hansard* of the House of Lords debates, not only last week but the week before, it could not be clearer that they do not think it likely that they will be bringing forward amendments. That has been said more than once by Baroness Anelay. Certainly we have not had the conversations, and we are anticipating at the moment that what has been said on the parliamentary record is the state of affairs that will apply.

Q31 Chair: Can I suggest that you do lay out a proposed procedure for exchange and consultation about any draft regulations that involve public disclosure and the possibility of public debate so that, should the Government change their minds and want to bring forward some regulations, everyone is clear about the procedure that needs to be followed?

Jenny Watson: I am sure that discussion about that is happening internally at the moment, so we would be happy to do so.

Q32 Chair: Thank you. Can I also ask on the question of enforcement—I am delighted to hear that you are enthusiastic about this advisory role—there have been amendments in both Houses, that the Government have rejected, that there should be better enforcement of purdah? What advice have you given the Government about how the Electoral Commission should monitor compliance with purdah?

Jenny Watson: We have previously recommended, after the 2011 referendums, bearing in mind there were two in that year, that we thought the Government should consider sanctions relating to section 125. That is a recommendation that we made previously. Like some other Electoral Commission recommendations, I am afraid that has not been taken forward. So the situation that we are in now in relation to section 125 is that we do not have an enforcement role. But Claire may want to spell out our role in relation to section 125.

Claire Bassett: You say it is our role to monitor compliance and take reasonable steps. Having looked at that, I think that would be about drawing attention to a breach and then seeking to use the other routes of enforcement, which would be things such as the civil service code or the ministerial code, depending on where the breach took place.

Q33 Chair: But if somebody comes to you during a referendum and claims that there has been a breach of purdah, previously the Electoral Commission has said, “It is nothing to do with us”, which seems a little sad. My experience was with North East Says No, where the Electoral Commission just said, “It is nothing to do with us”. They said, “It is a matter for the Government”, and when the Government were approached the civil service said, “It is a matter for Ministers”, and then when Ministers were approached they said, “We can do what we like”. This was when John Prescott announced new powers for the regional assembly in the north-east a few days before the ballot papers were issued, which was clearly a breach of purdah. If such a situation arises, are you now saying that you would make some noise about it?

Claire Bassett: Yes. One of the things that we do have now is clearly published guidance about what can and cannot be done. We would be able to draw attention to it by pointing out where it failed to follow that guidance and by asking the appropriate people to investigate.

Chair: Excellent. Thank you very much. I think you said yes to my question, Jenny Watson.

Jenny Watson: I think Claire answered your question. That is the role that we have previously taken in relation to more recent referendums and I would not anticipate that we would want to deviate from that.

Q34 Oliver Dowden: Given the Commission’s response to amendment 12 by Lord Forsyth in the Lords, should Parliament consider any spending restrictions in the referendum?

Jenny Watson: We can probably find Lord Forsyth’s amendment, but was this in relation to the total spend on either side, just so I am clear which question you are asking us to answer?

Oliver Dowden: I believe that is the case.

Jenny Watson: I am going to ask my colleagues, if you do not mind. That does relate to this specific referendum.

Alex Robertson: I have not quite found it, but if it is the amendment I think you are referring to, placing a cap on the total spending on either side of the debate, we do not think that is a good idea. The reason we do not think it is a good idea is we think it is important that campaigners who want to come forward are able to come forward and then comply with the rules. But to create an artificial ceiling, basically, and stop campaigners at some point joining campaigns, in the way that democracy currently operates where you have lots of different voices and you want to encourage debate, we do not think would work terribly well. What we think is important, though, is that for the lead organisations there is a £7 million cap on spending, and for any individual organisation that is not that lead organisation a £700,000 cap on spending. Before the Scottish referendum, we published in June that the spending was quite close to that limit and we monitored very closely what was going on to make sure that people did not go over, and of course they did not.

Q35 Oliver Dowden: How do you intend to advise Parliament on the practicality of these spending restrictions? Have you made those views public to Parliament?

Alex Robertson: Yes. That is right. Our approach generally on briefing throughout the legislation where amendments are put down that we think we need to offer a view on, we have made—I think on that amendment we have made that view public.

Q36 Oliver Dowden: What lessons have been learned from campaign funding arrangements for the Welsh referendum of March 2011?

Jenny Watson: For a number of previous referendums lessons have been learnt, so not only the referendum in Wales but the parliamentary voting system referendum in 2011, and indeed the independence referendum. I think one of the issues that was different in the Welsh referendum was that we were not able to designate lead campaign organisations in that particular referendum and so we made a number of suggestions around that. Indeed, the Scottish Government legislated for the independence referendum for us to be able to designate on only one side, should that contingency arise. In fact, it did not arise, and we were able to designate lead campaigners on both sides of the argument. Alex may want to say a little more.

Alex Robertson: So that provision was there. Following the Welsh referendum we made the recommendation and then, as Jenny has said, it was given effect to for the Scottish referendum. In the course, though, of setting legislation there was no need in the end. There were two sides we were able to designate. We identified an issue particularly with the broadcasters where they felt that if we designated to one side and then they were forced to carry a campaign broadcast from that one side, they would then be in breach of the other rules around impartiality. So what we have said, and we were mentioning earlier the amendment that was in the Lords previously and that I think the Government are going to come back to, is looking at what benefits accrue to the side that is—if they were one

side, what benefits they get. Basically, taking our view, we certainly want to take broadcast out of it.

Q37 Oliver Dowden: I suppose the underlying issue with the amendment is, given that this EU referendum will be of a different scale in terms of public interest and financing compared with previous referendums you have been involved in, do you have any concerns about an arms race developing between both sides? Obviously there is a £7 million cap, but you could have other organisations that could drive spending considerably higher.

Jenny Watson: I suppose the lessons from previous referendums—if I confine myself to that and then colleagues may interject if they wish—is that those limits are limits. They are ceilings; it is not necessarily the case that everybody spends up to the maximum. Indeed, in the independence referendum we had lead campaign organisations on each side and we had, I think, 22 campaigners registered on each side of the argument. So in the end the vibrancy of the debate and the number of campaign organisations that were involved did balance out to a reasonable degree. I take your point that it is likely that this will be a referendum of a slightly different magnitude than the parliamentary voting system referendum, but it may not be that different from the independence referendum. Certainly that informs my planning assumptions for things like turnout and delivery of the poll as chief counting officer, but so far it seems to us that the rules have worked well.

Alex Robertson: It might be worth adding, in terms of there not being a total cap on spending on both sides, that we have the £7 million and the £700,000, but other organisations would have to join and be creative. It is not like one side could just start manufacturing organisations to up its spending limit. There are rules around working together, so any new organisation has to be genuinely independent and run its own campaign, so there is that protection. As Jenny points out, by coincidence it did happen that it was evenly balanced in Scotland.

Jenny Watson: You may find it interesting that we are already sending out updates for campaigners. We are collecting lists and names of people who already know that they want to campaign. If it is helpful to the Committee, we could perhaps add the Clerk to that list and then you would get briefings for campaigners and know what we are saying to them in real time. If that is of any use to the Committee, we will happily do that.

Q38 Chair: We are very grateful for that. We do get them by one means or another but if you could make sure that we do, that would be very helpful.

Can I just ask for clarification? As the spending restrictions currently stand, because a substantial amount of spending is allocated by the distribution of votes between the political parties, can you describe to me what the spending limits for the “in” and “out” campaigns actually will turn out to be?

Jenny Watson: That would involve a degree of prediction on my part in relation to how some parties might—

Chair: Let us assume that the Conservative Party is neutral, which has been decided, the Labour Party is in favour, the SNP is in favour of remain, the Liberal Democrats are in

favour of remain and UKIP is the only major party that is for leave, and each organisation is given a grant of £7 million. How does that leave the distribution of cash?

Jenny Watson: Has anybody done the maths while I have been listening to the question?

Claire Bassett: Labour is £5.5 million, plus the £3 million for the Liberal Democrats, so that is £8.5 million, and the UKIP would be £4 million, the threshold.

Q39 Chair: What does it add up to for remain?

Claire Bassett: £8.5 million.

Chair: £8.5 million, plus £7 million?

Claire Bassett: Plus £7 million.

Jenny Watson: Yes. We have the figures. We can try to work out the maths while we are listening to you.

Chair: I think it is very easy to work out, actually.

Jenny Watson: The limits for each designated lead campaigner are £7 million, as you know.

Chair: That is the grant.

Jenny Watson: That is right.

Alex Robertson: Sorry, that is the total spending limit.

Jenny Watson: That is the total spend. That would mean adding together £5.5 million, £3 million and £700,000 for any of those smaller parties that might want to campaign, but that is not to say that they all would, of course, or that they all could get to that limit.

Q40 Chair: No, I understand that, but I mean hypothetically. £5.5 million. What were the figures?

Claire Bassett: £700,000.

Chair: Sorry, £5.5 million?

Jenny Watson: £5.5 million, £3 million, and £700,000.

Q41 Chair: And £700,000, which is £15 million for the remain campaign. Assuming that UKIP is supporting the leave campaign but no other political party is, what does that add up to?

Jenny Watson: UKIP's spending limit is £4 million.

Chair: Plus £7 million?

Jenny Watson: Yes.

Q42 Chair: Is it £11 million? Why are we happy with such an uneven distribution of funding for the two campaigns?

Jenny Watson: The principle that the Commission adopts, and has always adopted in every referendum, is that where there are arguments to be put, it is important that those arguments are able to be heard. To have a fetter on campaigners coming forward, not in relation to this referendum but in relation to any referendum, would be an artificial fetter and if you construct a level playing field in terms of the outcome you prevent arguments being heard. I have no idea at the moment—none of us know—how many other campaign groups may come forward. We do not know what that balance will look like at the end of it. It may well not end up as it looks from only looking at the political parties.

Q43 Chair: Of course, the Government are in favour of remain as well, so they have all their influence to bring to bear until the purdah period, which is just 28 days. It feels pretty stacked.

Jenny Watson: I am sure that voters will engage with the arguments, Mr Chairman, and the arguments will be persuasive to them, as they have been in other referendums.

Q44 Chair: Supposing the Government brought forward an amendment saying that there should be an even wider disparity between the spending of supporting the remain and leave debates, at what point would you say, “This is unfair”?

Jenny Watson: The rules that we have in place are set out in PPERA, as you know, and our experience of those is that they have so far worked well and that the limits do change, depending on the vote share of the party and depending on how the parties fall in relation to the arguments. If we accept, which we do at the Commission, that there is a role for civic society and campaign organisations and a role for political parties in campaigning around referendums, then it seems to us that the rules so far have worked well.

Q45 Chair: It depends what you think “worked well” means. However wide the disparity became, you would not consider that in your domain of requiring a fair and level playing field for a referendum?

Jenny Watson: In terms of setting a cap that could be spent on either side, that is not a position that we have taken because, as I say, we believe the arguments need to be heard. I think Alex may want to come in on that.

Alex Robertson: Yes. Obviously it seems unlikely at this stage, but if the Government were to bring forward an amendment—the spending limits that we are talking about are all set out in PPERA and have not changed this referendum—or seek to change them, I am absolutely certain we would comment on it.

Jenny Watson: We have no indication that that is going to happen.

Q46 Paul Flynn: I was hoping you were going to address what happened to a past member of this Committee, Gordon Prentice. Among many other causes he took up, one was to draw attention to the excesses of the behaviour of Lord Ashcroft, as a result of which his Pendle constituency was singled out for huge spending by Lord Ashcroft, which he did in a number of other marginal constituencies. In the case of Gordon Prentice and Pendle, it was an act of vengeance against him because he was attacking Lord Ashcroft. This was Lord Ashcroft before he took an interest in the welfare of the carcasses of dead animals. Is there anything in the recommendations that is going to alter that kind of abuse, where rich people can move in and between elections, before the restrictions come down, spend uncontrolled sums of money to defeat MPs?

Jenny Watson: That is a slightly different area from the rules in relation to referendums.

Paul Flynn: Indeed, but if so—

Jenny Watson: It is not an unimportant area and I am not aware of any change that is looked at for that area. Of course we do now have, and I am going to get its full name in the wrong order, what I am going to call the Lobbying Act for the purposes of you all understanding what I am talking about, which does restrict the amount that third party campaigners can spend in particular local areas. Perhaps if I may, Mr Chairman, we might write to Mr Flynn separately about that matter.

Paul Flynn: I would be very grateful. Thanks.

Q47 Kelvin Hopkins: I have to declare an interest. I am a member of the Vote Leave campaign but also co-chair of Labour Leave. Bear that in mind, perhaps.

The Commission has said that it agreed with the principle of Lord Hannay's amendment, which allows there to be a designated campaign on one side of the question. Can you explain the consequences were this amendment to be accepted? What would happen if only one campaign were designated?

Jenny Watson: I am going to ask Alex to pick that up.

Alex Robertson: As we were mentioning earlier, I think the effect of the amendment that was originally tabled—and the Government are going to come back with a slightly different one—was that the side that was designated would get all the benefits of designation: a higher spending limit, a grant, access to public buildings, campaign broadcasts and a free mailshot. The concern we would have with that is the particular inclusion of campaign broadcasts that, as I mentioned before, would create an issue with impartiality. We understand the Government, from what the Government said in the House, are looking at that and will come back to that at third reading with a slightly amended package of benefits that would accrue to one side, but essentially the principle is the same, that whichever side is designated, a one-side designation would get some benefits and an increased spending limit that the other side does not. The reason that we think it is a good idea is to act as a disincentive for one side of the campaign essentially to game the system and think there is an advantage to them in lowering the amount of

campaigning and, therefore, to pull their application knowing that it affects the other side too.

Q48 Kelvin Hopkins: The amendment included saying that if both sides applied for designation then there would not be a problem, but if only one side applied for designation—apparently this happened in the Welsh referendum.

Alex Robertson: That is right. If, as obviously seems likely, both sides have well-developed campaigns that apply and meet the minimum criteria of adequately representing each outcome then the problem does not arise at all. It is just as a disincentive for one of them to decide to pull out, and in Wales there was one, I think, not terribly serious applicant on the “no” side, but the main, most high-profile campaign organisation in the end decided not to apply. The legislation at that time meant that we had no choice but to designate on either side.

Q49 Kelvin Hopkins: Is that qualification likely to go through, in that the Hannay amendment would be perfectly acceptable if it said that if both sides sought designation then there would not be a problem? It is only if one side refuses to seek designation that the other side is prevented from campaigning. That is what I think happened in Wales.

Jenny Watson: That is what we are seeking to avoid happening this time.

Q50 Kelvin Hopkins: As long as that qualification is built into the amendment, then there is not a problem.

Alex Robertson: Yes. We have not seen it yet, but we would certainly comment, and I think we would have the same concerns and issues that you do. We would look at it from that perspective.

Kelvin Hopkins: Can I just ask a brief question on the previous set of questions about funding?

Q51 Chair: Before we leave the Hannay amendment, it really would be unconscionable for the Electoral Commission to designate one campaign and not another. That is not the intention of the amendment, is it?

Jenny Watson: It is not our amendment, but we would hope that this would act as an incentive to have lead campaigners on both sides and support that. It just removes the ability to frustrate it.

Q52 Chair: Should you not be making it explicit that the only way that such an amendment would be acceptable is if it was clear that the intention of the amendment was that the Electoral Commission only had the power to designate one campaign and not another in the event that there was no application from another campaign for designation?

Jenny Watson: Let us be clear about the context for this. The process—

Chair: No, I understand the context.

Jenny Watson: There is a statutory test that applicants who wish to be designated need to meet, and the Commission would not be able in any referendum to designate campaigners if they did not meet that statutory test. Assuming that we received applications that both did meet that statutory test, there would not be a problem.

Q53 Chair: It would be absolutely unconscionable for one campaign or one side of the argument to be applying for designation and be refused and the other side applying for designation to be granted designation and public funding and the free mailshot and all the rest that goes with it. That would be unconscionable, would it not?

Claire Bassett: The threshold is quite clear on that test. I think for a side to apply and not get designated because it did not meet that test would only be because there would be very serious concerns about its ability to represent—

Q54 Chair: I appreciate that, but that is not what the amendment says. The amendment gives a blanket power to the Electoral Commission to designate one campaign and not the other. Does there not need to be some qualification to this amendment?

Jenny Watson: Let me be clear why we made that recommendation in the first place resulting from the referendum—

Q55 Chair: I understand why all that. I understand why, in 2011, the non-designation of the “no” campaign was a direct sabotage of the designation of the “yes” campaign. I understand that, and we need to deal with that, but should it not be clear that that is the intention of the amendment, to prevent direct sabotage? Can you imagine a referendum where you designated one campaign in this referendum and not the other? Can you imagine? No. That is what the amendment says.

Jenny Watson: That is not going to be the case in this referendum. It seems to me extremely unlikely, although I will not be involved in it, that there will not be such a lively debate that there will be applications from both sides, is my only—

Alex Robertson: Yes.

Q56 Chair: In that case, what you are saying is if there are applications from both sides of the argument, you must either designate both campaigns or neither campaign.

Jenny Watson: That is the law as it currently stands. This amendment is a response to a previous recommendation that we made.

Q57 Chair: Yes. It needs to say at the beginning of this amendment, “In the event that there is no application for designation from one side of the campaign”. Then you may have the rest of the amendment, but it has to have that qualification.

Alex Robertson: Two things. We share your concern. It feels odd to be sounding like we are disagreeing with this. We have not yet seen the amendment that will come back. We absolutely share your concern. I would make one qualification: there was an application on the “no” side in Wales, but it was ludicrous, so it is not about any application. It is about one that meets the minimum criterion that, without getting ahead of ourselves, there are very well developed campaigns on both sides.

Q58 Chair: You could understand the concern that either side of the campaign might be faced with in this referendum. Will you take on board the concerns that are being quite widely expressed about this and recommend some caveat to this amendment that should be included in the Government’s proposal?

Jenny Watson: We are having discussions with Government about the debate in the Lords on what this amendment might look like, so I am sure we will have the opportunity to do that.

Chair: Thank you. Moving on.

Q59 Mr David Jones: Just one small point: did you carry out any assessment of the practical consequences of there being no designated campaign on either side of the argument in the Welsh referendum?

Jenny Watson: We certainly did report after that referendum. We report after all referendums on how well run they were and, although it is a little while ago, my memory is that people did say they found it harder to get information to inform their voting choice, but if you do not mind I would rather check that from our referendum report and, again, we can write to you.

Q60 Mr David Jones: What I am particularly interested in are the practical consequences, how you feel it might have affected the outcome of the referendum.

Jenny Watson: I really could not comment. That is a hypothetical reversal of history. What we have tried to do is make sure that we provide advice to campaigners so that they understand what the application process is in previous referendums and work with them to ensure that they can provide us with the information we need to make that designation choice. I am sure that would be no different in relation to this referendum, though I will not be involved in it myself.

Q61 Kelvin Hopkins: Could I ask about the qualifications to be acceptable as a designated campaigner? Is the bar very high? What are the things that would disqualify?

Claire Bassett: The test is that they adequately represent those campaigning for that outcome.

Q62 Chair: There are a few more hurdles than that, having read your guidance.

Claire Bassett: Yes. We have not published it for this referendum yet, but it will be based on the Scottish referendum. Do you want to go through those?

Chair: I do not think we need to go through it now, unless, Kelvin, there is anything more you want to ask about it.

Q63 Kelvin Hopkins: No. I just want to ask about finances. Would you accept broadly that limits on funding in all forms of election in Britain are fundamental to our democratic system, and, if we do not have those limitations, we could drift towards America, where both parties are effectively bought by the corporate world and the companies buy both parties? I think it is a travesty of democracy.

Jenny Watson: There is clearly a much wider debate to come about the future of political party funding. I mentioned earlier in response to a question from the Chairman that we are embarking on a strategic review. Claire may want to say a little bit more about that, and I am sure that one of the questions there for us to answer will be what further role the Commission might have in relation to party political finance.

Q64 Chair: Ms Bassett, do you want to say something about that?

Claire Bassett: Yes. Just to briefly outline that that is something that has been put on the top of my to-do list on joining, to start having these conversations and these questions about some of the bigger issues that the Electoral Commission should be or ought to be addressing going forward. I think we are very good at responding to the election cycle, and something we want to get better at is also identifying some of the bigger issues that are coming up that affect elections as a whole. We will be carrying out an exercise over the next six months or so, both internally and externally—and we would welcome the feedback from members of this Committee on that—looking at some of these bigger issues about how we approach them and where they should sit in our corporate planning cycle.

Q65 Oliver Dowden: May I ask specifically, how do you determine the boundary between the responsibilities of the Electoral Commission and the responsibilities of Parliament to decide some of these issues? You begin to stray from administration into the field of political judgment. How do you wend your way between those?

Claire Bassett: I think that is a very good point, and something that we need to do as we go through this is identify the things that are purely matters for Parliament and leave them there, and other things—we ought to be making sure the right information, for example, is provided so that Parliament has what it needs to make those decisions—that should firmly sit within our remit. That is something that certainly the Commission as a board is very alive to, and Jenny and the commissioners are often keen to explore that and it is something that we are very conscious of.

Jenny Watson: I suppose the context for it is that we have now been in place for 15 years, and I think it is right at that point that you ask, “We have been around for a generation. What does the next generation hold for a political regulator?” Of course we live in a parliamentary democracy and Parliament absolutely makes the rules. To give you a very

live example, we take no position on the franchise. That is a matter for Parliament. What we would do is to provide parliamentarians with information as to the implications of a change or what the practicalities around a change might be. That gives you a concrete example.

It would be strange, I think, for a regulatory body to see activity happening on the ground and not to have a feedback loop that says to legislators, “You wanted this to happen, but actually that is happening” or, “We see this going on over here. There is a gap that could be closed or there is something that could be addressed”. That is what we have always seen our role as being, but recognising that it is of course for Parliament to make the law and make those policy choices. We will advise, and we may sometimes come up with our own ideas about what we think might need to happen next; then it is for Parliament to accept that or reject it.

Chair: A delicate balancing act sometimes.

Jenny Watson: Indeed.

Q66 Mrs Gillan: That neatly leads on to another one of the issues surrounding the EU referendum, and that is the franchise. The House of Lords voted to amend clause 2 to permit 16 and 17 year-olds to participate in the EU referendum. What is the impact on the timing of a referendum, in your view, if this were to be carried?

Jenny Watson: I will ask Alex to say a little bit more about some of the practicalities of what needs to be done. We have consistently said right from the beginning when this piece of legislation came into the House that we would like to see six months clear from the passage of the legislation, and we would include within that phrase any regulations that would be needed to fully enact it. Six months clear to allow for planning. That principle has been in place now for us and for all in the elections world for some time, following events in Scotland in 2007 where it was not in place and things did not go well. That six months’ breathing space between legislation and poll, where possible, enables us to plan.

I will ask Alex to say a little bit more about the practicalities of addressing a franchise change.

Alex Robertson: It is a real challenge getting 15, 16 and 17 year-olds. You would obviously have to get 15 year-olds who are turning 16 registered too. A number of things would need to happen. We set this out in our most recent briefing in the Lords on this and we will continue to brief Parliament on how much we think the issues we have identified have been addressed.

The main thing to say is if it were made legislation—that is, at Royal Assent—you would not the next day be able to start registering 15 to 17 year-olds. There would need to be regulations in England and Wales, Scotland and Northern Ireland that gave effect to that to allow electoral registration officers to register people who have just been newly enfranchised.

Q67 Mrs Gillan: How long would those regulations take, in practical terms, to be at the stage where you would then measure the six months?

Jenny Watson: We have the experience from Scotland where 16 and 17 year-olds were enfranchised, but we think it is likely that there may need to be separate sets of regulations for different countries, so that would have to be worked through. I do not know how long it would take to pass those. Clearly, some of the work on that can be happening ahead of the final Royal Assent for the Bill, but the six months' breathing space for us would start at the point at which those regulations were passed.

Alex Robertson: That is right, and we have said to Government that they need to start thinking about this now. The other thing that we would need to change at the beginning is the website. At the moment you would not be able to register if you were part of extended franchise. Essentially, put those two things together and you then have a date for which you say, "From this date forward, people can now register to vote". Until you have that, other activity cannot really follow. The two key things that would need to follow and would need to be funded and planned for are extensive activity on the ground from electoral registration officers. If the referendum fell this side of the autumn canvass, there would need to be some way to go out and reach the around 1.5 million people that would need to do something they have not done previously. That is done most effectively at a local level by electoral registration officers, and obviously needs to be funded. Secondly, we would run a national campaign to target them too.

Q68 Mrs Gillan: I read an estimate that about 1.5 million people would be covered by this. Do you have any information on the figures?

Alex Robertson: It sounds about right, but nothing more precise than what you have said.

Jenny Watson: Sorry to interrupt you. I think the other point to bear in mind is that when young people were being enfranchised in Scotland they were being added to the roll under the old household system. This time around, they will be adding themselves to the roll under individual electoral registration, so it is not a direct extrapolation from the practice that happened in Scotland.

Q69 Mrs Gillan: What could the implications be for any potential referendum being held in 2016?

Jenny Watson: I think the way that we would handle that would be to do everything that we could and EROs to do everything that they could and, as Alex said, we are already making clear to Government what needs to happen so that they can be planning for that now. At the point at which a date was suggested, we would want to brief Parliament and say to Parliament there may be a risk that not every 16 and 17 year-old will be enfranchised as at the date of this referendum, so that when Parliament is agreeing the date it is aware of that risk.

Q70 Mrs Gillan: What would be the implications?

Jenny Watson: That every 16 and 17 year-old who would be entitled to might not be on the register.

Q71 Mrs Gillan: What happens if the Government try to ignore your advice and try to rush this process?

Jenny Watson: We are talking to them about what needs to be done. The Bill has not yet completed its passage, so I do not think any of us know what will happen to that amendment. There may be further parliamentary debate about it. We have been talking to returning officers and to my colleagues, the regional counting officers from the 12 electoral regions of the UK, about this for some time to get a sense of the work that would need to be done because we had this on our event horizon. You talked at the beginning about the things that can come up, and this was one of them. The implications would be that, depending on the timing, it might be the case that not all young people would be on the register.

Alex Robertson: Just to briefly add, the way I understand that the legislation works is that the order that gives the date for the referendum will need to be debated in both Houses. The briefing that we would give then would be very clear about what the risks and issues are. Interestingly, it comes back to a question we were talking about before: what do we think our role is? We think our role on this is to be very clear with Parliament on what we think the risks and issues are, and ultimately it will be Parliament's judgment whether or not you go ahead with the referendum on that date.

Q72 Mrs Gillan: If the votes were brought in for 16 and 17 year-olds—which, as you have just said, will involve 15 year-olds choosing to register themselves—have you any views on what percentage of that 1.5 million approximately would register or what you would consider to be reasonable?

Jenny Watson: No, I do not think we do. In Scotland, it is certainly true to say that young people registered enthusiastically. That is the most—

Q73 Mrs Gillan: What was the total in Scotland?

Alex Robertson: It was 109,000. We did not do a survey that would give you an absolutely precise figure but I think there are about 125,000, something like that, 16 and 17 year-olds in Scotland, so a pretty high proportion and not actually that out of line with the general levels of registration. The figure I have given you, the 109,000, is right. I am not quite sure about 125,000.

Jenny Watson: We can check that data and come back to you.

Q74 Mrs Gillan: It would be interesting to see. What would you consider would be reasonable?

Jenny Watson: Our position would be that we want everybody who is entitled to be on the electoral register to be on it and for there to be no entries where people are not entitled to be on it. That is always our outcome. It would be rare for us to get to 100% on both of those, but that is always what we strive for.

Q75 Mrs Gillan: Do you have a view on the timing of this referendum yourselves?

Jenny Watson: No. I think I indicated earlier on that we started planning this May, and at that point the earliest that we thought it might be feasible for a referendum to be held was in March next year. We have been planning for that and for practically every other scenario that can be imagined. As you might guess, we are as alert to the various rumours that sweep the Westminster village as all of you are and adapt our planning accordingly, but that will be for Parliament to decide.

Q76 Mrs Gillan: What you are saying to this Committee is that it would not be unreasonable, even if the Lords amendment was carried and entered into the final Act, to hold this referendum from March onwards from next year.

Jenny Watson: What I would say is what we have consistently said, which is that we would like six months clear from the passage of the legislation to allow for proper planning. That is what we have consistently said we would like. At the point at which a date is suggested, we will set out clearly for the Parliament the risks of any such date and it will be for Parliament to make that decision.

Q77 Chair: What you are saying is that if the regulations were passed, say, in the second week of January, you could not safely have a referendum until the third or fourth week of June. Do I have my maths right? Sorry. July.

Jenny Watson: What we have consistently said is we would like to have the six months clear for proper planning. Parliament—

Q78 Chair: You seem reluctant to say, “If you change the registration, you cannot have the referendum before X”.

Jenny Watson: This may sound a slightly philosophical answer to your question, which I don’t think will help me.

Chair: I think you are hedging your bets, Ms Watson.

Jenny Watson: No, I am not. What I was going to say was that at the point at which there is a date I become the chief counting officer and my colleagues become counting officers. We are then responsible for delivering a poll and that is a very clear delivery role and it is not for us, as people who will deliver a poll, to frustrate the will of Parliament as to when that poll should be held. We would not dream of doing it in relation to an election and nor should we do it in relation to a referendum.

Q79 Chair: No, it is not your job to frustrate the will of Parliament but you could say that, “If it is done before such and such a date then the registration will be likely to be, in our view, unacceptable but go ahead”. That is not frustrating the will of Parliament.

Jenny Watson: As we have both set out, that is exactly the sort of thing that I would expect us to say. We might say, “We have only had this amount of time. There is a risk

that this number of people may not be on the roll. There is a risk that substantial numbers of young people may not be on the register. Parliament will be making its decision in the light of that risk, having been told by us very clearly what that risk might be". We will do that.

Q80 Chair: It seems to me that that involves naming a date before which the risk would be unacceptable in your view.

Jenny Watson: We have already made clear that we would like six months clear between the passage of the legislation and the holding of the poll. I do not think we can be clearer than that.

Q81 Chair: So, the third week of July?

Jenny Watson: We have said that from the first meeting that we have with Ministers to the first briefings that we have issued to Parliament.

Q82 Chair: I am saying third week of July. You do not seem to be able to say that.

Jenny Watson: Parliament may decide that it does not want to listen to our advice.

Q83 Chair: Parliament may decide anything it likes but, in terms of what you think would be acceptable, if the regulations were passed in the second week of January, the third week of July is acceptable but nothing before the third week of July?

Jenny Watson: We are planning for that and many other contingencies that may or may arise.

Q84 Chair: If the Government rushes it, then you will have fewer young people registered. I calculate 109,000 of 125,000 was only 87% in Scotland.

Alex Robertson: Do not attach too much to the 125,000. The 109,000, as I said, was right. The unknown in this is what is done and we don't yet know what the Government are going to do. Obviously the Government's position is that they don't support votes for 16. To get them engaged with this and to find out when we get to the point with orders laid what they are doing about it, the regulations, the website, the funding, that will give us a better sense of the risk.

Q85 Chair: An acceptable percentage of those young people to be registered to vote at the time of the referendum?

Jenny Watson: I have just made clear we would like everybody who is entitled to be on the register to be on it, and in the absence—

Q86 Chair: Of course you would, 100%. You did not get it in Scotland. What will be an acceptable percentage?

Jenny Watson: We are not at the point where we would want to make that kind of prediction, Mr Chairman. What we want to do is to—

Chair: It is not a prediction.

Jenny Watson: It is a prediction.

Chair: It is an acceptability threshold.

Jenny Watson: What we want to do is to be clear about what the law will finally say, to get the regulations passed for any aspect of this as quickly as we can so that we can get on with doing the work.

Chair: I am going to cut you short because you are repeating yourself. Perfectly acceptably, but you have made the point.

Q87 Mrs Gillan: Do you have a view on the timing of this referendum? I appreciate that you have set out the six months that you need to complete the work properly, following any regulations, but we are then running into a period of time when we have elections in Wales and in Scotland, and the police and crime commissioner elections. Do you have a view on the timing of this referendum? Would you prefer it to be further away from those elections?

Jenny Watson: We have expressed a very clear view that it should not be on the same day as any other elections and, indeed, Parliament took that view. From that perspective, that was our principal view. It is an important constitutional matter. It should not be taking place on the same day as other polls.

Q88 Mrs Gillan: I happen to agree with that, but do you have a view then about the amount of distance that there should be between any referendum and that set of elections?

Jenny Watson: There are clearly implications and this is one of the conversations that I am having with the regional counting officers. It makes a difference if you think about where election periods and referendum periods overlap, and what has been important to us so far is identifying those and understanding what the consequences might be. For example, one of the consequences of having it closer to an election might be that there is an overlap for the despatch of postal votes, for example. We are aware of all of that and at the present what we are doing is watching the legislation and waiting to see when that will be passed.

Q89 Mrs Gillan: What sort of period would you like in an optimum situation to see between the next set of elections next year and any referendum?

Jenny Watson: That has not been our focus. Our focus has been—I am in danger of reporting myself and being cut off by the Chairman again—six months clear.

Q90 Mrs Gillan: There has to be six months plus, because that takes us right into that election period and, therefore, you must have formed a view over the years, and with your wide experience, of what the breathing space has to be, because of not only the overlap of literature but also voter fatigue. You can have too much democracy as far as the voter is concerned, “We are always having another election. We are always having another election”.

Alex Robertson: Funnily enough, it is not an issue that has come up before. The issue has always been about the amount of time that counting officers get to plan for elections and referendums. I have just cast my mind back as you have been speaking: there was a referendum in Wales in March and then the UK-wide one in May. The police and crime commissioner elections in November were very far separated from May. To be honest, it is not something we have had to turn our minds to before now. I think if there was a proposal to hold the referendum very close to the May elections then we would want to comment at that point about any risks or issues it created and potentially also talk to counting officers to get their assessment of it.

Jenny Watson: It is hard to say. We have a number of detailed plans that set out aspects of overlapping regulation periods for campaigns and for postal votes, and I would want to look at those before throwing dates around. The important thing is the six months clear, in terms of the legislation.

Chair: We got that. Thank you.

Q91 Mrs Gillan: If you could go back and look at your records and you could arrive at some sort of optimum period for that separation, I think it would be very helpful to the Committee. You appear to be thinking about it now and you appear to be doing the work that is needed to be able to form that opinion, because it is your duty to recommend to Parliament what you think would be the right timeframe or those windows of opportunity for this referendum, otherwise it is going to be inflicted on the country and all of us by the Government on a timescale that you may not be happy with.

Jenny Watson: I think we could write to you in the broadest sense setting out what the issues might be, but that is precisely what we would anticipate doing at the point at which any date comes forward. At any time it may be that there is an overlap with something else that is happening in the electoral cycle.

Q92 Mrs Gillan: Will Government discuss this date with you before?

Jenny Watson: That is a very interesting question. Truthfully, I genuinely do not know whether we will have any advance notice of this in any way whatsoever.

Q93 Mrs Gillan: I recall a discussion on previous referendums going on about what would be a sensible date, and what the Commission’s recommendation would be on dates.

Jenny Watson: It would certainly be the case that we would want to, but I would imagine officials would in any case be outlining in broad terms what the interaction of various different electoral timetables might be. That is quite different from being asked a direct

question, “If it were here, would it present you with any problems?” In truth, I have to say the answer is I do not know whether that discussion will take place.

Mrs Gillan: But that is how it should happen.

Jenny Watson: I don’t know whether that is how it will take place.

Mrs Gillan: But that would be the best thing to happen.

Jenny Watson: It would certainly be more helpful for us to be able to have that conversation. I do not know whether we will have that conversation.

Mrs Gillan: Thank you.

Q94 Mr David Jones: If Parliament should decide that 16 and 17 year-olds should participate in this referendum, it would clearly be necessary for you to engage in an information campaign to encourage them to register. In fact, it would be 15 to 17 year-olds. Do you foresee any particular challenges in such an information campaign?

Alex Robertson: Yes, very much so. You are basically asking young people who may not be massively engaged in traditional politics to do something that previously they have not done. They have busy lives. It is the last thing they probably think about. You would have to make it incredibly easy, accessible and do it at the right time. They would need to really do it. Running a campaign without a date would be quite difficult. We know from previous campaigns that you have by far the most impact in the immediate run-up to a deadline, the sense that you might be about to lose something rather than notionally in the next 12 months you might be able to vote. Knowing the date is important in terms of knowing where you aim the campaign because of 15 year-olds.

Q95 Mr David Jones: How would you organise such a campaign? Clearly there would be advertisements in the media. Which media would you select to advertise in, for example?

Alex Robertson: We have just done this. We will take a real step back and, depending on the date and the timing and how it overlapped with other things, develop a campaign accordingly. As I said, the most effective way to make this work is at a local level with electoral registration officers writing to people. We have just run a campaign over the summer in Scotland—16 year-olds, as I am sure you know, have already got the vote at the Scottish Parliament elections. We used Facebook. We used radio that is used by young people, a lot of social media. We got quite a lot of interest in it, although we did face the challenge of doing it over the summer, obviously some way ahead of the May elections.

Mr David Jones: Thank you.

Q96 Mr Turner: I do not know if you noticed over the weekend we have had a press release, or something anyway, advertising the need to allow people who live overseas to vote in this referendum, beyond the 15 years, at least as far as Europe is concerned. Do you know how many people who are living overseas would become eligible, subject to them making themselves available?

Jenny Watson: I think this is one for you.

Alex Robertson: Yes, this is my pet topic. There are a number of different estimates. The World Bank and IPPR are some years old but recent enough I think to be relevant on the number of British expats and the estimate is about 3 million and 5 million. There is no survey we are aware of that goes a step further and identifies those who have been on a UK electoral register in the last 15 years. At one level it almost does not matter. The number is very much bigger than the numbers that are registered. At the general election we ran a campaign with lots of other organisations. It certainly wasn't just us. It certainly benefited from overseas electors being able to register online for the first time. There were 106,000 registered for the general election, obviously far less than the number that might be eligible but far more than the 33,000 in 2010. We think there is a lot more that could be done to get them registered. I think that really is the challenge. You are reaching a very dispersed population, very different to the domestic population.

Q97 Mr Turner: That is everyone who is not already registered in any part of the world?

Jenny Watson: Those estimates, yes.

Alex Robertson: Yes.

Mr Turner: 5 million?

Alex Robertson: Between 3 million and 5 million. We have information we can send you from the World Bank and the IPPR. They both come up with slightly different numbers but they are both in the 3 million to 5 million mark.

Q98 Mr Turner: How many people would become eligible and registered if everyone registered of those who are up to the 15 years?

Alex Robertson: That is unfortunately what we do not know. The surveys have not given us that. They have been constructed for slightly different purposes and they don't ask the question, "When were you last on a UK electoral register?" It is difficult to disaggregate that but, like I said before, at one level we just take the number as being an awful lot bigger than the numbers that are currently registered.

Jenny Watson: There are that many elections where UK citizens living overseas can vote and there are not that many opportunities for us to run campaigns to reach them. We learned a lot from the one that we ran in the run-up to this election. It was the cross-party group on voter registration, led by Lord Lexden, who suggested that we adopt a stretching target of 100,000 people to get registered and we did that. We benefited from the support of Foreign and Commonwealth Office colleagues and embassies and consulates, and we would want to repeat that in the run-up to the referendum, whenever it is held, and build on that to make sure we get everybody registered who wants to vote and is entitled to be registered.

Q99 Mr Turner: By supporting some proposals to amend the legislation but not checking with other things, which you must do now but are not doing, it seems to me you are

enthusiastically supporting what one House supports—changing the rules—while laws that are already on the statute book are ignored, apart from for 100,000 people. Is that not rather poor?

Jenny Watson: I am sorry we must not have made ourselves clear. We are not enthusiastically supporting any change to the franchise. We have no position on a change in the franchise. It is a matter for Parliament. We have not expressed a view on including 16 and 17 year-olds, nor on widening the franchise to include EU citizens or UK citizens living overseas. The franchise is a matter for Parliament. What we are doing is trying to make sure that, should the franchise change, Government is well aware of the undertaking that it has to meet in order to get all those young people on to the register.

Q100 Mr Turner: I would understand that if the law had got into law but we do not have these rules in law yet. The rules have not been legislated yet. They intend to legislate them if the House of Lords gets the support of the House of Commons.

Jenny Watson: Which it may not.

Mr Turner: Exactly, and what I am concerned about is that on the one hand we have 100,000 people, which is very small, being left alone, while the House of Lords—on its choice not our choice—can set the engine off or you could be given lots of work to do that may not be necessary.

Jenny Watson: I would dispute the fact that we are not trying to reach overseas voters. We ran a very active voter registration campaign to try to encourage more overseas voters to register to vote. Truthfully, I was not sure that we would meet the target that we set ourselves. We did, and I completely accept that in the context of the wider number it isn't good. It isn't good.

Mr Turner: No.

Jenny Watson: There is more that needs to be done but we cannot do that on our own. We need a whole range of other organisations to engage with us.

Alex Robertson: Can I say, to be clear, I am planning a campaign now for overseas voters for the referendum. I am doing that. That work is currently underway. I am not currently planning a campaign for 16 and 17 year-olds. What we have set out is what Government needs to do in the event that Parliament ultimately decides to extend the franchise.

Q101 Mr Turner: It seemed to me you had done work before the law is changed that would come into effect if it were pushed through the House of Commons as well.

Claire Bassett: That is more the work we had done in Scotland where it had changed, I think that Alex was referring to.

Alex Robertson: I was not clear. We have done something in Scotland for the Scottish Parliament elections. That has already happened. What we think needs to happen prior to Royal Assent is planning work in the event that Parliament decides to go ahead with it.

Mr Turner: Before it becomes law?

Chair: No, I think we have dealt with that, Mr Turner. We have dealt with that.

Q102 Oliver Dowden: As a supplementary to Mr Turner's question, you are saying between 3 million and 5 million overseas voters could be eligible to vote and you only have 100,000 of them, yet in relation to Scotland you got up to 80% of 16 and 17 year-olds on to the register when that was the requirement. How do you prioritise relatively driving up overseas voters? Your Chief Executive, Ms Bassett, said that one of the things at the top of her agenda was this 15-year review. Where does driving up overseas voters' registration sit on your list of priorities, because this would seem quite a poor record relative to Scotland?

Jenny Watson: Let's be very clear. We have campaigns that target under-registered groups of voters. One of those under-registered groups of voters is overseas voters. Therefore, we would always, ahead of a poll in which overseas voters were allowed to vote, have a campaign that targeted overseas voters because they are under-registered. We cannot know that every single one of those 3 million to 5 million people would be eligible to register under the current rules because of the 15-year cut-off point. We don't have the data that tells us what percentage of that number would be eligible to register to vote. Notwithstanding that, you have to assume—certainly we assume—that it is a pretty high number, and so there is always a campaign ahead of every poll where they can vote to encourage them to register to vote. Do you want to add to that?

Alex Robertson: I might say that the target of 100,000 was a target suggested by the all-party group that looked at overseas voters. At the time that it was set that was stretching. The fundamental challenge with overseas electors is they are so dispersed, unlike people who are here domestically, where you are sitting in a local authority area, the electoral officer can send a letter to you, can go and knock on the door, and has access to tons of data about you. For obvious reasons it is not like that overseas. Equally, people overseas do not all consume the same media so you cannot stick something on TV and expect them all to see it. In terms of how much focus we put on it, I have to say I think it is really quite a high priority for us in our campaigns.

Q103 Oliver Dowden: What is the relative budget between the two? How much do you spend on Scotland and how much have you spent on overseas voters?

Alex Robertson: For the overseas voter campaign for the general election we spent about—we will write to you if I don't get this absolutely right—£120,000, £130,000, from what I recall. For the campaign in Scotland, I would need to—but the point is—

Q104 Chair: It is an interesting question that. How many voters are you getting per £1,000 spent in that area?

Jenny Watson: We certainly have that data. We can send you that.

Alex Robertson: We can certainly follow that up.

Jenny Watson: We can send you our valuation of our public awareness campaign.

Alex Robertson: But the point is that—not letting the money be too much of a distraction—because you do not have the option with overseas electors of putting something on TV or putting something on radio that they all consume, the most effective way of reaching them is through online media. At some point you reach saturation. You don't get any more. It is not a good use of public money to keep spending more and more to reach these people. That is why just looking at numbers simply on their own may not give you an accurate reflection of how much priority we attach to it.

Jenny Watson: We are also resourced differently. We do receive some funding from the Scottish Parliament for some of our work in Scotland and, of course, that will increase with the changes in the—

Oliver Dowden: Do you really think at 100,000 you have reached the point of saturation? That is a fairly small sum, isn't it?

Q105 Chair: What about using friends and family?

Alex Robertson: Yes, absolutely.

Chair: When you say “yes, absolutely”, how do you use friends and family?

Alex Robertson: We are thinking about what the campaign looks like for the EU referendum and thinking about ways to grow it through Facebook, through people's social contacts. It is clearly not just all about buying digital advertising.

Jenny Watson: We also work very closely with political parties, many of which have reach with voters living overseas, and they are a great asset to us as well. So we do all of that.

Q106 Chair: I am not quite clear how you exploit it—most people have friends and family who are overseas. How do you instantly enable them to sign up? How would a family with a son abroad or an uncle abroad say, “Oh, let's forward them this e-mail to make sure that they know they can sign up”?

Jenny Watson: That is something we are looking at for this future campaign, as Alex just said.

Q107 Chair: When I hear “saturation point” and the number is so low—can I also ask as a supplementary: how are we doing with the armed forces?

Jenny Watson: We do have an active programme with the armed forces. We had a programme ahead of May's election and we will have another one ahead of the referendum. We have very good links with the Ministry of Defence. They will have unit voter registration days. I think for the first time this year we also had something about voter registration on something that everybody looks at, which is their payslip. When you are looking at your payslip to see how much you have been paid there is an encouragement to register ahead of the elections.

Q108 Chair: What proportion of serving armed forces are registered to vote?

Jenny Watson: We would have to write to you with that information because, of course, they are not registered at bases, they are registered at their home address.

Alex Robertson: It would mean coming up with a total percentage figure for armed—they basically have a choice. They can either register as an ordinary elector, in which case there would be no way of distinguishing them on the register, or they register as a special category for the armed forces. Unfortunately, there will not be a figure we can give you that covers both.

Q109 Chair: Armed forces used to be 100% registered by their bases, by their units. You cannot give any estimate of what proportion are now registered?

Jenny Watson: They can register in different ways, so you would not necessarily know. We don't mean to be difficult. It just simply is the result of the legislation.

Q110 Chair: What do you think the answer to that problem is? People who are prepared to go and fight and die for our country should have a vote.

Jenny Watson: Absolutely they should, and we do everything that we can to make sure that they get it. As I said, we work very closely with the Ministry of Defence. Truthfully, I think the answer for serving personnel is for that to be done through units and through chain of command because they have good access obviously. They can encourage and they can make sure that people are ready to sign up. There is another challenge, which of course is family members who may also be moving around the country. That again we would expect to be best done locally through EROs who know who is moving in and out of their area.

Q111 Mrs Gillan: With Scotland, Wales, Northern Ireland and England there are differentials with how many people are estimated not to have registered. Do you have a view as to where we are on that, on the four constituent parts of the United Kingdom? On the polling that is now being broken down by the four constituent countries as well, if there are significant people missing off the registers in any of those countries that will have a slanting effect on the outcome.

Jenny Watson: I think I said earlier on we will be carrying out a completeness and accuracy study on the 1 December registers, which we will publish in the summer. That would certainly give us an indication for Great Britain, which would be able to be broken down. I don't have that data in front of me but we can write to you with the data that we have from our last survey. It would be true to say that the people who would be less likely to be registered would be the same types of people in each part of the UK, so they will be the people who are mobile, who are moving house frequently. That would not change.

Q112 Mrs Gillan: You say by the summer. Again, what sort of date in the summer, because I am still keen that you should express an opinion as to what windows of opportunity for this are offering?

Jenny Watson: I was answering a different question. On the percentage of people who are registered, we will do a completeness and accuracy study on the 1 December registers—it goes back to Mr Flynn’s question at the beginning of the session—and that will be published in the summer. That would not in any way impact on anything around the referendum. We will also be running voter registration campaigns ahead of the elections in May, and then again ahead of the referendum whenever it is called.

Q113 Mrs Gillan: But it would be advisable for the Government to be in possession of that information and that analysis before deciding on a date as well, because surely that would also reflect on where the emphasis should be for campaigns to encourage people to register.

Jenny Watson: We have elections in May and so our voter registration campaigns will focus on those parts of the country that have elections in May. They are pretty widely spread.

Q114 Mrs Gillan: But your report will not come out until after the May elections, on 1 December?

Jenny Watson: That is right, but it is always the case that a voter registration campaign run ahead of the poll is what brings the largest number of people to sign up. If you have a situation three months before a poll that suggests that there are a number of people missing of course that matters, but many of them will register in the run-up to the poll. Our campaign ahead of this May’s poll added 1.5 million to the electoral roll. Many of those people would not have registered had there not been an election on the horizon.

Q115 Mrs Gillan: With the timing on all of this, particularly if the legislation then says 16 and 17 year-olds can vote, isn’t there a huge potential for great confusion out there on the whole registration capability of being elected, because 16 and 17 year-olds will not be able to vote in the May elections?

Jenny Watson: I do not entirely agree with that. There are risks around the timings, which we have said we will make clear to Parliament. The other thing that we will do, which has not been touched on at all so far, is distribute to every household a booklet ahead of the referendum that tells people what a referendum is—because not everybody will know—who is entitled to vote, and how they can get registered to vote, and we would also have some material from the designated campaigners, assuming there are designated campaigners. That will give people information, as will our other campaigns, about who is entitled to be able to register. Alex, do you want to say any more about that or any of this?

Alex Robertson: Changing the franchise for one set of electors is a communication challenge for sure. What we can do, in terms of the information booklet and the campaigns we have run, is be very clear about some of the changes ahead and what they apply to. Young people would all be registering on the Government’s website and that would also need to be clear. But I don’t think you can entirely remove the possibility that if we encourage people to register to vote ahead of May some will wrongly assume that they can vote in the May elections. I do not think you can remove that risk entirely.

Q116 Mrs Gillan: In fact it has huge potential for being a great mess if it is held within a certain period of time, in terms of confusing the public.

Jenny Watson: I don't think that is the language that I would use.

Mrs Gillan: Sorry, I am just trying to use normal language as opposed to—

Jenny Watson: We are thinking about how we mitigate those risks and what can we do to make a difference, so clearly if it is held very close there are some risks, more than there would be if it is held a further distance apart. We will write to you about that separately.

Q117 Chair: Can I make a suggestion? You have made it clear that you are in the dark as much as we are about the date of this and are likely to be kept in the dark, with no advance notice. You have these problems of overlap, you have these problems of registration, and yet you are very clearly saying you will not give any advice on these matters until a date is being proffered. Wouldn't it be better if you produced perhaps a list of dates with traffic lights next to them so that everyone is now fully informed and we can debate the date with the Government before they propose one, in the light of your advice about what is the best date, what are less acceptable dates and what are unacceptable dates? For example, that would include any overlap between an election period and a referendum period.

Jenny Watson: We can certainly set out the areas of overlap between election periods and referendum periods and the consequences of that. What we can't do, and we have tried to make this clear but obviously we have not quite succeeded, is that some of that is contingent on money potentially being spent on something that has not yet become law.

Chair: Yes, I understand that.

Jenny Watson: We do not know whether that will happen and if it does how that money will be spent.

Chair: You have been very clear about the six months.

Jenny Watson: We are very clear about six months.

Q118 Chair: I can't imagine that there would be regulations on the statute book before the middle of January, so you can start colouring in your chart. It would be very helpful to Parliament and to those who are going to be participating in the campaign, obviously, to have some certainty. There is another question: how happy were you that the Government decided to put designation before naming the date?

Jenny Watson: That relates to something that we wanted to see, which is a longer referendum period. Does one of my colleagues want to pick up the interaction between the referendum period and designation?

Alex Robertson: As I understand it, the way that this will work is the Act will receive Royal Assent. It will be commenced, and then there will be a separate order on the exact timing of the designation process, so we do not yet know when it will fall. When we know

that, we will brief Parliament accordingly. I am not sure there is much more we can say now.

Q119 Chair: How good an idea is it to have the date set after designation?

Jenny Watson: We had previously said that we wanted the referendum period itself to be able to be used by the campaigners to put their arguments as effectively as possible. Under the legislation, as it stands currently, the designation process comes within the regulated period. I think my colleagues may have explained this to you last time so—

Q120 Chair: But now we have a situation where designation may take place and the date is not determined and not determined and not determined. How are the designated campaigns intended to behave during that period when there is no date set?

Jenny Watson: I think it seems unlikely that that is the scenario that would arise but—

Q121 Chair: Could you give some advice on that? All sorts of restrictions apply to the designated campaigns that you may not have intended or anticipated, which could apply to the designated campaigns even though the date has not been set for a long time? That is possible, isn't it? Have I understood this correctly?

Alex Robertson: I am not sure you have, but maybe it is something that we can write on. I do not think what you described is a situation that could actually arise but—

Q122 Chair: The ideal situation is the designation and the naming of the date happen very close together and perhaps you would make that clear in your advice.

Jenny Watson: Yes. It is not my understanding that the scenario that you describe could happen but we need an expert on the designation process, which we do not have with us, so we will ask him to write to you.

Chair: I may be wrong.

Q123 Tom Tugendhat: Coming back to the Chair's points about the military: what efforts are you making to register the homeless, because that is a massively underrepresented group in all elections? I know that some people have worked with shelters and with community groups around the country and I was wondering what you are going to be doing particularly for this.

Jenny Watson: We have a number of different ways. For a start, electoral registration officers would be engaging with organisations locally. We have had a number of different partner organisations in the run-up to the election and that would include charities and other voluntary organisations working with homeless people to do just that to help us reach people.

Q124 Tom Tugendhat: But when you send a leaflet or booklet or whatever it is to every household, will you make sure that you include charities and community groups that deal with homeless people so that they also have access to their democratic mandate?

Jenny Watson: Yes.

Alex Robertson: Very much so. I think it is also worth saying that the most effective way, perhaps unsurprisingly, of targeting homeless people is in the locality that they are through the electoral registration officer and our guidance is very clear about what they need to do there. We would be very much with you on that, I think.

Q125 Chair: Just briefly on the armed forces again: how do you assess the effectiveness of your registration of members of the armed forces if you do not know how many armed forces are registered? How do you resolve that?

Jenny Watson: We would be able to have information from unit registration days and we would be able to have conversations with the Ministry of Defence who are putting that into practice as to how they think that that has gone.

Q126 Chair: So you can give us an assessment of what percentage of the armed forces are registered?

Jenny Watson: No, because if people are registered at their home address, as we have tried to explain, you would not know that they were armed forces registered.

Q127 Chair: Then I do not understand how you can assess the effectiveness of registration of armed forces.

Jenny Watson: You can only do it through the feedback that we get through the Ministry of Defence. Notwithstanding that, we work very hard on that area because, for the obvious reason that you gave earlier, these are people who are prepared to put their life on the line in the service of their country.

Tom Tugendhat: Every military unit I have been in has had an electoral registration poster in it; every joint support service unit has had it.

Chair: You are not giving evidence. Thank you very much though.

Q128 Mr Turner: Just to observe that these 100,000 people overseas, who should be 5 million, are not going to get these leaflets, are they?

Jenny Watson: They would be able to see them online and, given that we know that many people do register online, in fact the change—

Q129 Mr Turner: What proportion?

Jenny Watson: I can't possibly say.

Mr Turner: No, but this is the problem.

Jenny Watson: I can't say what proportion of those 5 million are eligible because the Government do not hold that data. We will do our best to register as many of them as we can. The changes that have taken place in registration mean that you no longer have to get a paper form that has to be attested. You can register online. That is a big plus and we will be promoting that very heavily. One of my directions, as chief counting officer, is that overseas postal votes will go out as early as they can. The costs order for the referendum will include the cost of reply paid postage from wherever you are in the world, so we are doing everything we can to reach them.

Chair: Thank you.

Q130 Mrs Gillan: I do not want to labour this point, but you provide advice to Parliament and we are part of Parliament and I just want to make sure that you are going to come back to us in writing and give us your view on the potential timetabling and the dates of the referendum and what the issues and problems are. I do not know whether you are going to take up the Chairman's offer to do a traffic light system but I am asking you if we can have that advice and those opinions from you to inform us better.

Jenny Watson: I have already made a commitment that we will write to you setting out in general terms those interactions between different periods and what that might mean. We are very happy to do that. There are a number of other points where we have noted that we will come back to you, so you will get a full exchange of correspondence from us and we are very content to come and talk to you again about that if you want us to do so.

Chair: We are very grateful to you. You are being very helpful. Thank you very much.

Q131 Oliver Dowden: May I turn to the question of electoral fraud? How seriously do you take the allegations of fraud made over the past couple of years in Tower Hamlets, Bradford, Birmingham and other places?

Jenny Watson: We take all allegations of electoral fraud seriously. It is serious; it is also relatively rare. From our data we have identified 18 particular local authority areas—so is it not only those that you mention by any means—where we expect much more from the returning officers and electoral registration officers in those areas. We also expect more from parties and candidates and their supporters because we know when fraud happens it is not voters that commit it. Voters are the victims. We need to see a change in culture from campaigners and supporters. We have a voluntary code of conduct. We encourage returning officers in those parts of the country where there are serious allegations to toughen that code of conduct, but we only have a voluntary code. There are not enforcement mechanisms in place for that.

Q132 Oliver Dowden: Do you see any role for the Electoral Commission beyond just having this voluntary code and drawing people's attention to it? What else do you see as the role of the Electoral Commission in relation to electoral fraud?

Jenny Watson: You will be aware of the review that Sir Eric Pickles is conducting into electoral fraud matters

Oliver Dowden: Yes. I was going to come on to that.

Jenny Watson: We welcome that, not least because it might enable us to get a reply from the Government to a recommendation we made almost two years ago now that we should all need to present photo ID when we go to vote in person. That is a recommendation that we made and we have had no response.

We have also published research, in January this year, in relation to particular sensitivities and vulnerabilities in Britain's south Asian communities where we had heard a lot of first-hand evidence of allegations of fraud. We wanted to get some evidence to help us design better strategies to tackle it. Unsurprisingly, we found that it is the behaviour of candidates and supporters using kinship networks that is the most problematic in those communities, along with a reluctance to report it and sometimes not a very good command of English language, which means you do not understand what fraud is and is not.

We work with the police. We work with the CPS. We have a new system with Crimestoppers to allow people to report electoral fraud anonymously if they do not want to involve the police. It is not really surprising that our response on our own work to Sir Eric's review took up around four pages. We work constantly on this. We are extremely vigilant about it. It needs every part in the system to play its part in preventing, detecting and prosecuting it. We do our job, I am confident, to the best of our ability.

Q133 Oliver Dowden: How much of your resource is taken up by this relative to your other tasks? How big a priority is it?

Jenny Watson: That is a very good question. We were asked this by the Political and Constitutional Reform Committee and we provided them with an answer. From memory, I think we were probably spending about an even amount of resource, possibly slightly more, on tackling integrity than we were at that time on voter registration, but we can go back and revisit those figures and send you an up-to-date costing if you would like to see it. It is a significant part of our work. I can't emphasise too strongly how—I am trying to remain temperate about it. We have one person one vote in this country and nobody should have their vote stolen; nobody should have their vote used for them by someone else. When it happens, it is campaigners and supporters who are at the heart of it. My only disappointment, I think, with Sir Eric's review's terms of reference is that there was not adequate emphasis put on the role that parties play, all parties. It is not a party political point. All the main parties have had people convicted of electoral integrity offences.

Q134 Oliver Dowden: Sir Eric specifically said, "State officialdom is in denial over the real state of electoral fraud in 21st century Britain". What did you take him to mean by that and did you take that as a criticism of the Electoral Commission as well?

Jenny Watson: I am seeing him tomorrow so I might ask him what he meant by it. That would be a conversational opener.

Q135 Oliver Dowden: Yes, I suppose we should ask Eric Pickles, but what was your interpretation? Did you agree with that as a broad statement and do you think that reflects on the Electoral Commission as well as part of state officialdom?

Jenny Watson: I can't know if he intended it to reflect on the Electoral Commission. I would say from our perspective that we are not in denial about it. We collect the data; we do the work; we work very closely with those on the ground. We identify the areas where there are problems. We work with the police to make sure they are up to speed. We work with the CPS so that they can prosecute. I think we take it extremely seriously.

What we do not do, and this is a very difficult point to get across, is there is a point where our role finishes and other people's roles start. So you might well think, "You are the Electoral Commission, it is your job to investigate fraud". It is not. In a democracy it is the police's job to investigate allegations of electoral fraud and we need them to do that job, but I think sometimes in the frustration of people reporting crimes perhaps there is a sense of who is picking this up, who is dealing with it. We always make sure, if people bring things to us, that they are reported to the police and we will encourage the police and chase the police to take them seriously.

Q136 Oliver Dowden: Clearly your role is not to investigate, that is for the police, but you do have a regulatory role so you can affect the environment in which this takes place. Do you think there are further steps you should be taking to tighten up that environment? You mentioned political parties but are there any other areas where you think you should be doing more?

Jenny Watson: Yes. We have asked for tougher offences, so that is one concrete step that we have taken. We have asked the Law Commission to bring in simpler and more straightforward offences around this area, which I think would help. As I said, we have a code. We are shortly to write to all the candidates who are declared as standing in the London mayoral elections to ask them to make a personal commitment to the code of conduct and to encourage all their supporters and campaigners to do the same, because that personal commitment and leadership is important from parties. You should never forget that what you do not see below the surface is our extensive guidance to electoral registration officers and returning officers on what they should be doing in checking out suspicious attempts to register or challenging candidates at the poll.

Of course the other part of it is tightening up the registration system. I said to Mr Flynn at the beginning of the hearing that we have been calling for individual electoral registration since 2003. For the first time, that requires that your identity is checked before you are put on to the electoral register. I would have liked that to happen much more quickly. It has happened now, so that is a good thing. We do think that we should all be required to present photo ID when we go to vote in person. That is the next part of the vulnerability in our system and when we looked at our own review of fraud, which was published two years ago now, that was the point that we thought is increasingly vulnerable in light of tightening up the registration system.

So there is a lot that we do and in terms of that feedback loop, we do take what we hear, we do carry out our own reviews and we do make recommendations for change, including in our own behaviour.

Oliver Dowden: Thank you.

Q137 Tom Tugendhat: Given the number of people who now register for postal votes, I am surprised that you do not include postal vote fraud as a significant area of concern. Certainly anecdotally there are stories of postal votes being sold by the bundle and this is a matter of great concern to many of my electors, I know. I was also wondering whether you could talk a little bit about overseas voters in this light. I admit that the numbers you are talking about so far having registered is only 100,000 so it is not significant enough probably to sway any one election. If you are focusing on certain communities having significantly more incidents of voter fraud than others, am I right in assuming that overseas voters normally come from Commonwealth countries and therefore registration in bulk may be exposing the UK to greater preponderance of voter fraud than domestic voting?

Jenny Watson: To take your first point first, we do put postal voter fraud there—that is absolutely there. In my answer to the previous question, where we have called for clearer offences, that is one area where we have called for clearer offences. To give you a very practical example, we would like it to be against the law to handle anybody else's postal ballot. It just should not happen. Period, end of; it should not happen. At the moment it is a more complicated offence than that so that makes the prosecution more difficult.

In our own review of electoral fraud, we did look at withdrawing postal votes or withdrawing them in particular areas where there had been a history of allegations. At the last election there were 7.2 million postal votes sent and the postal voting rates of satisfaction are higher than for those voting in person; 16% of the electorate are currently using postal votes. We will wait to see what the evidence to Sir Eric Pickles' review said but at that time we did not consider that limiting postal voting was the answer, because it penalised voters where in general it works successfully.

On overseas voters registering, you cannot now get on to the register without going through a process of having identity verified. For most people that would be done through a national insurance number. It is very hard to see how people can register in bulk, anyone, on to the current electoral register. That is not to say that you could not; I would not want to be cavalier about it. There may still be people who might try for the purposes of identity fraud, but it would be extremely hard to see how that could happen without a national insurance number.

Q138 Tom Tugendhat: This is true, but one of the incidents of voter fraud has been often the patrician in the family voting for the entire family and controlling, therefore, the votes of their dependants, whether it be five or 10 people. If those electors are overseas, completely legitimately, completely legally entitled to vote, your ability to control, in any way at all, is going to be significantly diminished and any punishment you request from Parliament to be enacted into law is going to be unenforceable. Therefore, the possibility of fraud overseas is significantly greater than at home.

Jenny Watson: Let me pick up on your first point first. It is utterly and completely unacceptable that anybody should be casting votes for anyone other than themselves.

Tom Tugendhat: I do not think anybody here disagrees with you.

Jenny Watson: I just want to make that very clear. That is one of the reasons why we set up the partnership with Crimestoppers and it is one of the reasons why political parties changing their approach and engaging with voters as individuals, rather than with supporters who can deliver some kind of block, has to change. Alex, I think, wanted to come in.

Alex Robertson: Yes, just briefly to pick up your point on overseas voters. We could write to you with the information that we have.

Tom Tugendhat: Please do.

Alex Robertson: I am pretty confident, though, that you will find the biggest numbers of overseas electors are in France, Germany, Spain, Australia, not the countries I think that you were mentioning. The other thing I do not think—

Tom Tugendhat: I did not mention any countries.

Alex Robertson: Sorry. Okay. The other thing that we have not mentioned that is relevant to this is we did do some research on electoral fraud in south Asian communities in the UK. We published that two years ago and it was not picked up very widely.¹ I think you asked a question about the context. That is absolutely relevant to the context in which allegations of electoral fraud are taking place. We can send that to the Committee. You can see that. I would encourage you to have a read of it and think about it. One of the things that we identified is the role of parties and how they engage with communities and particularly not assuming that you treat electors as individuals rather than going through someone who you think might get you a whole block. We could send you that and you can have a look at it, but it does get into some of the issues I think you may be alluding to.

Jenny Watson: You present an interesting challenge, which is, given that overseas electors by their very nature are overseas, how else do we find a way for them to vote that is not by post? We do often recommend a proxy vote because that is the way to guarantee that your vote is cast because it is done by somebody here, you do not have to rely on the post. It is one of the reasons we are enthusiastic supporters of the Minister's electoral modernisation—the modernisation of the registration process—and I hope that may eventually spill over into thinking about ways of engaging people with democracy in a more modern way that might be more secure.

Q139 Chair: Kelvin, have we dealt with your question?

Kelvin Hopkins: Yes. You have mentioned photo ID and postal voting, but what specific representations have you made to Sir Eric Pickles' review? What hard, particular points have you made?

Jenny Watson: We can send you our submission, but we have made a number of recommendations. One is for changed offences. We also would like what used to be called ACPO but it is not called ACPO anymore—I can never remember what the acronym is—the National Police Chiefs' Council, to do their own review of how police forces are tackling electoral fraud issues. That should include others like inspectorates—HMIC and

¹ This report was actually published in January 2015.

other inspectorates that might have a role in oversight of that work and can keep them up to the mark on that, as well as us. We have also made a number of recommendations on the electoral petition process, which is not fit for purpose in a modern democracy. It is a private law remedy for a public law function. That also could be modernised and needs to change. All of these are recommendations that we had made to the Law Commission and we have now also made them to Sir Eric's review. We will happily send you that submission.

One of the most difficult areas is the change in behaviour within parties and among campaigners. We have previously said that if the code of conduct as a voluntary code did not bite we would want to explore sanctions around that. Clearly that is a difficult area because political parties have a very legitimate role in engaging voters at election time, but it must be clear where that role starts and stops.

Q140 Kelvin Hopkins: To what extent is impersonation in evidence as well as postal vote fraud? Obviously ID would overcome that, one would hope.

Jenny Watson: Yes, it would. We have reiterated the recommendation that we made two years ago to which we have had no response, that in order to safeguard in-person voting from the fear of impersonation we think there should be a requirement to have photo ID when you go to vote in person. We came up with that suggestion two years ago because we felt that that was an area of vulnerability in the system. That is not to say that there are extensive allegations of impersonation. There are some but they are not large by any means. But it is a vulnerability in the system and if we do not look forward and address that now we could be in a position where there is a decline in trust in our system that would not be helpful. So that, for us, is the purpose of looking forward to pre-empt that.

Q141 Kelvin Hopkins: Two more quick questions if I may. Some people are against postal voting per se. Others would want it to go back to a more restrictive allocation on the basis of age or disability and so on rather than this open access to it. Have you considered any change to qualification for postal votes?

Jenny Watson: Yes. As I was just saying, when we did our review two years ago we did look at it and at that point we did not support changing it. We are going to wait to see what the evidence from Sir Eric's review comes up with.

Q142 Kelvin Hopkins: One more question. These are constituency matters, if I may say, in my own constituency. Intimidation at polling stations by groups of people putting pressure on those going into the polling station is a serious problem that needs policing. If the police cuts come forward and we can't police them properly, isn't that a problem?

Jenny Watson: That should not be happening and the police in your local area should be well aware of that and should be drawing up plans with the returning officer to tackle it. You have both mentioned concerns in individual constituencies. I would appreciate getting more details of those so we can pick those up with the police in your local area.

Tom Tugendhat: Sorry, I was not making any concerns in my constituency. I said it was of concern to my constituents.

Q143 Chair: Thank you for being so proactive. We appreciate that very much. Just on this question of the Pickles review, you said it excludes consideration of what parties are doing. I agree that the call for evidence does not mention political parties but I can't see how it can exclude political parties.

Jenny Watson: I am sorry, I did not say it excluded. I said my one disappointment was that it did not place due weight on the actions of parties.

Q144 Chair: Okay, but that does not stop you submitting evidence about the behaviour of political parties.

Jenny Watson: We have done so and I think you will also find that returning officers have also done so. It is simply to reflect that the terms of reference did not treat that as one of the things that needed to be considered and I think that is disappointing.

Chair: Very good. Moving on, prisoner voting.

Q145 Gerald Jones: On prisoner voting, what are you, as the Commission, doing in responding to the recent judgments on prisoner voting?

Chair: We are talking about the Delvigne case in the European Court of Justice.

Claire Bassett: We do not have a policy position on prisoner voting. That is a matter for Parliament. What we can do is prepare for if it should change. You will be aware that remand prisoners currently have a vote anyway so we would learn from that, take into account the different aspects that go with being in prison and managing that within the process.

Q146 Gerald Jones: In terms of those judgments from the Court of Human Rights and the Court of Justice, are there any other steps that you are suggesting or intending to take?

Claire Bassett: Not at this stage, no.

Jenny Watson: As Claire says, the franchise is a matter for Parliament and we have previously briefed debates on the practical implications of it, such as access to a national insurance number to be able to register yourself or being registered where you live as opposed to where you are detained. But that would be a matter for Parliament to debate and we would just brief at that point.

Q147 Chair: I would like it to be a matter for Parliament but the European Court of Justice has decided it is a matter for it. In your opinion, is there now a legal obligation on the Government to register certain categories of prisoners for voting as a result of the Delvigne case?

Jenny Watson: We have not taken a view on that because the franchise is a matter for Parliament.

Chair: I am very glad you say that. I think that is very reassuring.

Q148 Paul Flynn: Is there any evidence that any potential criminals have been deterred from committing a crime because of the dreadful prospect of losing their vote if they went to prison?

Chair: That is a question for the Justice Committee.

Paul Flynn: I am curious about this. I sit on a body that was horrified by the damage that the stupid decision did to allow prison regimes in other countries to be as wicked to their prisoners as they are traditionally. This is nothing to do with the conditions in British prisons. We were showing a fine example to the world and by taking this line we have encouraged the outrageous states in other countries to continue with treatment of prisoners that is barbaric in many cases. This was just a party political stunt by a few right-wing fanatics in the Tory Party, nothing to do with anything sensible, I don't think.

Jenny Watson: I am not sure that is a question, Mr Chairman.

Paul Flynn: I am giving evidence to you now.

Chair: I do not think we have any further questions.

Q149 Kelvin Hopkins: Two questions. It is not whether or not prisoners should vote but who decides; whether we decide in our Parliament or whether there should be some international agency that decides for us. I might be in favour of prisoners voting but I think our Parliament always decides. That is just a little counter to my colleague.

Chair: You do not need to enter this controversy. The fact is you have told us that the Delvigne case has not given rise to a legal concern that there is any obligation on the Government to register prisoners for voting.

Jenny Watson: We have taken the view that the franchise is a matter for Parliament and we will brief if that should arise.

Chair: Okay. Any further questions? Thank you very much indeed. You have been very forthcoming and we have kept you for a long time. We are very grateful to you.