



House of Commons  
Public Administration  
and Constitutional Affairs  
Committee

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# The Work of the Electoral Commission: Electoral Commission response to the Committee's Second Report

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**Fifth Special Report of  
Session 2022–23**

*Ordered by the House of Commons  
to be printed 7 March 2023*

## Public Administration and Constitutional Affairs Committee

The Public Administration and Constitutional Affairs Committee is appointed by the House of Commons to examine the reports of the Parliamentary Commissioner for Administration and the Health Service Commissioner for England, which are laid before this House, and matters in connection therewith; to consider matters relating to the quality and standards of administration provided by civil service departments, and other matters relating to the civil service; and to consider constitutional affairs.

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### Powers

The committee is a select committee, the powers of which are set out in House of Commons Standing Orders, principally in SO No 146. These are available on the internet via [www.parliament.uk](http://www.parliament.uk).

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### Committee staff

The current staff of the Committee are Gavin Blake (Clerk), Dr Richard Douglas (Committee Specialist), Iwona Hankin (Committee Operations Officer), Gabrielle Hill (Committee Operations Manager), Vanessa Holden (Committee Specialist), Dr Philip Larkin (Committee Specialist), Susanna Smith (Second Clerk), Dr Patrick Thomas (Committee Specialist), and Gina Degtyareva (Senior Select Committee Media Officer).

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# Fifth Special Report

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The Public Administration and Constitutional Affairs Committee published its Second Report of Session 2022–23, [The Work of the Electoral Commission \(HC 462\)](#) on 20 October 2022. The Electoral Commission's response was received on 1 February 2023 and is appended below.

[The Government's response to this report](#) was published on 19 January (HC 1065).

## Appendix: Electoral Commission Response

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### Summary

The Public Administration and Constitutional Affairs Committee's report into the work of the Electoral Commission came at a significant moment of change for electoral law and the Commission. The recommendations build on those made by the Committee on Standards in Public Life in its report on Regulating Political Finance of July 2021. Together they make a powerful argument for further reform to our democratic and electoral system to maintain and build the confidence of voters.

We welcome the views of the Committee, and the invaluable insight provided by key stakeholders on the work of the Commission. We are grateful for the recognition of our “fundamental role in overseeing free and fair elections and referendums, and regulating political finance,” the high levels of satisfaction with our role in supporting the administration of elections, and our robust regulatory approach.

However, we agree that we can further improve the services we deliver. Stakeholders were not unanimous in praising the Commission. We are not complacent, and we are committed to continuous improvement. Noting there are areas of particular concern, we have outlined measures that we are taking to develop the support we provide parties and campaigners, and the vital enforcement role we play, to secure compliance with political finance laws.

### Oversight of elections and delivery of referendums

1. *The Government should prioritise implementing the Law Commission's recommendations to rationalise electoral law and immediately start work towards setting out a long-term strategy, with cross-party support, ahead of the next General Election.* (Paragraph 14)

#### **Electoral Commission response**

The Committee's view concurs with the Commission's long-standing recommendation that the Government prioritise the implementation of electoral reforms, in line with the Law Commission's recommendations.

2. The Committee notes the high levels of satisfaction in the Electoral Commission's role in guiding the practical administration of elections and delivering referendums. Nevertheless, we remain concerned by the challenges that lie ahead for the Electoral Commission in supporting electoral administrators, political parties, campaigners, and voters to understand and navigate the increasing complexity of electoral law and levels of divergence across the UK. (Paragraph 15)

3. *We welcome the Government's recent update that it is taking a staged approach to implementing the Elections Act 2022, which will support the electoral community in preparing to implement the necessary changes. While there is now limited time for the statutory instruments for voter ID to come into force and for the Electoral Commission to finalise its guidance ahead of elections in May 2023, the Committee is somewhat reassured by the Government's assertion that it has shared draft legislation with the Electoral Commission to support them in drafting the relevant guidance and that it expects the statutory instruments to come into force by mid-January 2023.*

*Ahead of this date, the Committee expects to see the draft statutory instrument in order for our comments to be taken into consideration alongside other scrutiny committees. The Committee also recognises that the decision to prioritise voter ID implementation inevitably means that the timetable for implementing other measures under the 2022 Act will be compressed throughout 2023–24. Accordingly, the Government must, as a matter of priority, provide clarity on its timetable for the implementation of the remainder of the secondary legislation envisaged under the Act, so that the Electoral Commission can provide the necessary support and guidance to the electoral community and voters in advance of upcoming elections. Furthermore, in the interests of supporting the Electoral Commission's UK-wide role, we reiterate our call, set out in our Fifth Report of Session 2021–22 on the Elections Bill, for the four governments of the United Kingdom to develop a more coordinated approach to electoral policy and law, which will, in turn, further reduce the complexity of the system. The UK Government should lead this work.* (Paragraph 16)

### **Electoral Commission response**

The Elections Act 2022 represents a significant change for voters, electoral administrators, and campaigners. Since it received Royal Assent, supporting the effective implementation of the Elections Act has been a key priority for the Commission. We are working to ensure that all those involved in our democratic processes have time to understand and prepare for the new measures. The proposed timetable for secondary legislation for the next tranche of changes brings significant risks. Our work has already been affected by knock-on effects from the delays to earlier phases of secondary legislation, including on voter ID. We have highlighted the impact of these delays to the UK Government.

We support voters, administrators and campaigners to understand and comply with the different sets of rules for different election types, within and between different parts of the UK. Whilst differing approaches to electoral policy are a natural feature of devolution, our experience tells us that these differences can create challenges. Reform and modernisation of electoral law would help to provide a stronger foundation for running polls in different scenarios, which would help all involved in the process.

4. **The Electoral Commission should demonstrate greater awareness of the specific nature of referendums, particularly the short-lived existence of many campaign groups and be sensitive to the stressful nature of the duties required to be fulfilled by Responsible Persons or other nominated individuals after such groups have been wound up.** (Paragraph 17)

### **Electoral Commission response**

We agree that the nature and longevity of a referendum campaigner can be different from other campaigners, being focussed on a particular issue leading to a single poll.

The advice and support we continue to provide may ease the burden and reduce the risk of the law being broken inadvertently. Further, the changes we are making to our enforcement approach (see below) reflect our awareness that when an investigation is needed the impact can be highly difficult for those involved.

However, taking up the role of a responsible person carries with it clear legal duties. This is a significant role with significant responsibilities that do not end on the day of the poll, the day a campaign spending return is delivered, or even when a campaign group is wound up.

5. ***The Electoral Commission must ensure it has the institutional knowledge and capacity to support those it regulates equally in both election and referendum contexts, noting their distinct and unique characteristics. There should be comprehensive training for Electoral Commission staff to ensure its guidance and regulatory approach is tailored to each specific poll. We expect the Electoral Commission to report back to the Committee on its implementation of an improved training programme.*** (Paragraph 18)

### **Electoral Commission response**

We recognise the need for improvements to our advice and support work for all campaigners. In 2021 we developed a new strategy of regulatory support which has delivered more proactive advice for parties and campaigners, such as running online training around the 2022 polls, offering online advice surgeries to discuss political finance queries, providing practical support to help with completing returns and engaging with newly registered parties to understand what support they need. We are gathering and analysing feedback from all of these to measure the impact of these initiatives and how they can be further improved. This includes looking at how we can use online tools and building up a bank of case studies.

From February 2023 our advice service—an email and phone service available to all campaigners and the public—will become formally part of that support strategy. We have invested in dedicated staff and created a structure that will deliver high quality and consistent responses. This team will be supported by training in the political finance regime and delivering good customer service and will benefit from upgrades to our customer relationship management system to further boost responsiveness. The team will in turn support internal training for Commission staff more widely who deal with political finance issues or queries.

We would be pleased to report back to the Committee on our progress in this area and welcome a discussion at a suitable time.

## Provision of guidance

6. The Electoral Commission invests significant resources into providing guidance to candidates, parties, and non-party campaigners to support their understanding of complex legislation, and this is largely welcomed by those it regulates. However, as a matter of priority, further action is required to address issues such as ambiguous advice, slow responses to requests for information during elections and referendum campaigns, and a gap in support for smaller and newer parties and campaigners. (Paragraph 31)

7. *The Committee welcomes the proposed steps from the Electoral Commission to improve guidance provision, including a strategy to support smaller parties, reviewing response times, exploring the viability of 'account managers', increasing consultation with parties and campaigners on draft guidance, and delivering more training. As part of the training offer, we recommend interactive modules on the relevant legislation and including case studies in the guidance for both parties and non-party campaigners to support volunteers. We recommend the inclusion of the Government's view in the draft Strategy and Policy Statement that the Electoral Commission should be seeking regular feedback from stakeholders when preparing guidance should be maintained in the final iteration of the Statement. Furthermore, stakeholder engagement should extend to parties and campaigners of all sizes, in addition to larger parties through the four party panels, to ensure the training and guidance meets the needs of its users.* (Paragraph 32)

## Electoral Commission response

We agree with the Committee's recommendations. Where new or substantially changed guidance is being drafted, we are seeking stakeholder input. The nature of this input depends on the subject matter of the guidance and the urgency of the need for it, and ranges from consulting the larger parties through to asking all parties for views via our regular bulletin. This allows us to enhance our evidence base on how the law is applied in practice and to help ensure our guidance is as clear and helpful as possible.

8. *The Committee believes, regardless of the complexity of the legislation, it is vital that the Electoral Commission has sufficient internal expertise to clarify ambiguities in the law or guidance in a timely manner, particularly during regulated periods. The Electoral Commission should report back to the Committee on the viability of shortening its response time to within 48 hours in the two months prior to and after an election or referendum, and increasing its response rate outside those periods to 100% within five working days. These improvements should be in place before the next General Election. We would welcome an update on their implementation in April 2023.* (Paragraph 33).

## Electoral Commission response

As set out above, we recognise the need for improvements to our advice and support work for all campaigners and have plans to make changes.

From 1 April 2023, we will have new targets for responses to advice queries. We will aim to respond to 90% of email queries within three working days, and 100% within five working days. We will aim to respond to 90% of telephone enquiries on the same day, and 100% within two working days.

During the upcoming election period we will aim to respond to all enquiries within three working days. Even with investment in the advice service we are not confident that our resources will allow a faster turnaround on every query. However, this will be reviewed after this election period to see how a dedicated team and our other changes can further improve response times. We would be pleased to update the Committee after May's elections.

Whether we can fully address a query in our first response or need to explore it in more detail depends on the complexity of the query. There will be occasions when we need to get more information to provide advice. But each contact with us during that engagement will have the same target response time.

In addition, we will be trialling a process of dedicated points of contact for larger parties. We are exploring how this can work within our resources and want to engage with parties during and after the trial period to see how it went. With around 400 registered political parties we cannot offer a dedicated contact for them all, but we are confident that access to our advice service will provide a responsive and high-quality service for every party. We would be pleased to report to this Committee once we have concluded the trial period.

## Regulating political finance

9. *We welcome the Government's view in the draft Strategy and Policy Statement for the Electoral Commission that the Commission's enforcement of political finance rules should be proportionate to the voluntary nature of political parties' infrastructure. We recommend this is maintained in the final iteration.* (Paragraph 63)

### Electoral Commission response

We recognise the value of volunteers who campaign for political parties, often doing so in order to make a positive difference in their communities. In some parties, those who take on roles with legal duties, such as the registered treasurer, are volunteers; in others, they are paid employees. Either way, our actions must be proportionate. To that end, proportionality is already a fundamental principle of our enforcement action, and we have proposed changes to our Enforcement Policy that set out more clearly what this means in principle and practice.

10. *The Government should commit to reviewing the impact of the lower tier of registration for third party campaigners as part of its statutory review of the Elections Act 2022, due in four to five years' time, to be published and laid before Parliament. Any future reform to the regulatory powers of the Electoral Commission by the Government should consider the potential impact of deterring political engagement. We agree with the recommendations from the Committee on Standards in Public Life that the reporting timelines for parties and campaigners spending over £250,000 should be reduced from six to four months and that the Electoral Commission should publish returns within two months of receipt. However, these timeframes should be kept under review with regular*

*feedback from parties and campaigners. Additionally, it is important that transparency goes both ways and, therefore, the Electoral Commission should ensure it communicates on its website any expected delays in this timeline.* (Paragraph 65)

### **Electoral Commission response**

We agree that 'the Government should commit to reviewing the impact of the lower tier of registration for third party campaigners as part of its statutory review of the Elections Act'. Non-party campaigners are a vital part of an election, providing a diversity of voices and views for voters to consider. It is important, therefore, that they are confident in following the law and are not deterred from campaigning. The changes introduced in this area by the Elections Act bring limited further transparency regarding third party campaigners, but at the cost of complexity. We know from our conversations with stakeholders that they are concerned about how the new provisions could impact upon their campaigning activities.

The Act introduces a duty on the Commission to produce a Code of Practice on the laws relating to third party campaigner spending, including what qualifies as expenses, reporting controlled expenditure and donations, and joint campaigning. We are committed to producing a Code that is as clear and helpful as possible to campaigners, but it has to reflect the law as passed. We have recently concluded a consultation on a draft Code of Practice, and the views of those who campaign and participate in elections are key as we prepare to update the Code. We intend to present the Code to the Secretary of State for Levelling up, Housing and Communities in March for their consideration. The Minister may make modifications to the Code ahead of it being laid. We aim for the Code to be in force by the summer parliamentary recess, subject to parliamentary approval.

We know that voters are interested in who receives money, where it comes from, and how it is spent. But our most recent research shows that only 13% of people think our political finance system is transparent, compared to 37% when we first asked this question in 2011. The quality and timeliness of the political finance data we can publish is therefore important.

Political parties would need to invest appropriately in finance and compliance systems to speed up their collation and submission of spending returns. We would support close engagement with parties to ensure that any reduction in time available to them did not adversely affect the quality of the spending returns we receive.

Currently we set targets for publishing spending returns once we understand the volume of the data to be published. For a UK parliamentary general election, for example, that can mean tens of thousands of lines of data and supporting documents, adding up to millions of pounds. For other parliamentary or assembly elections the volume can be smaller and publication faster. We would therefore urge caution around a single target for publication set without regard to the volume of data, as it could be unrealistic to achieve for higher-spending elections.

A more modern, user friendly online political finance system would make the collation, submission and publication of spending returns more efficient. Our current online platform remains live but is now over ten years old. We are working on a replacement, which will benefit parties, campaigners and the Commission.



As the Committee is aware, in October 2022 we took the decision to halt the Commission's previous work on the new online system. Unfortunately, it had become clear that the project could not achieve its aims in that form and that the system under development would require ongoing and costly support. Given the sums of money involved, it was more cost effective to stop the project, cease work on a new bespoke system and take a new approach.

We have begun a discovery project as a first phase in a new approach to developing an updated system. The purpose of the discovery project is to identify the right products to deliver this system, using where possible off the shelf products rather than building a bespoke system. In the last four months the Commission's IT infrastructure has been migrated to the cloud, which gives us more choice and flexibility with the products we can support.

This project will confirm and update user requirements to ensure the end platform works well for parties and campaigners, and explore the best digital products to build the new system. We will also obtain specialist digital and commercial support to help us identify these products. The discovery project will lead to a delivery project once the right products are identified and tested. We will design the delivery project around the products and stakeholders.

We anticipate this discovery project will take six months, to allow for thorough exploration of options and engaging with political parties after the May polls. The cost is being covered by existing budgets.

**11. Although the Electoral Commission has an overall strong record in relation to monitoring, investigations and enforcement, we were concerned by the individual cases of extremely lengthy investigations and poor communication raised throughout this inquiry. The Electoral Commission has said it will factor in the conclusions from this inquiry into its updated Enforcement Policy, due for consultation in the coming months, and we expect the issues raised by these individuals to be considered. We welcome the reforms the Electoral Commission has set out to its regulatory approach to date, including mandatory case reviews if a case approaches six months in duration; new evidence trackers to aid disclosure of used evidence when proposing sanctions; accelerating the process of identifying and citing relevant evidence; and moving away from the practice of expanding existing cases when new potential offences arise. However, it is disappointing that the Electoral Commission has resisted calls to impose fixed time limits on investigations. (Paragraph 68)**

**12. *We agree with the Committee on Standards in Public Life that investigations under the Political Parties, Elections and Referendums Act 2000 should be opened within 12 months of the date of the potential offence being committed or, from the date the Electoral Commission was aware of the potential offence, with ability to be extended by application to a court. There should also be a 12-month limit on the duration of investigations, with the possibility of a court extension where appropriate. Throughout investigations, the Electoral Commission should improve its communication and explain clearly to those being investigated all actions and decisions. The Electoral Commission should report back to this Committee within a year setting out its progress in implementing its proposed changes to its regulatory approach. (Paragraph 69).***

## **Electoral Commission response**

We welcome the Committee's acknowledgement of our strong record in monitoring, investigations and enforcement. We are seeking to improve our already robust processes and to bring greater focus to the impact of investigations on those directly involved in them.

We are currently consulting on a new edition of our Enforcement Policy. We have:

- Revised how we explain our approach to enforcement. This makes it clear how the enforcement policy sits within a wider context.
- Revised how we explain our approach and added direct references to impartiality. We have made it clear that we will only take enforcement action when it's necessary and proportionate.
- Included recognition of the impact investigations can have on those involved, and that we will be sensitive to this. We have also included reference to our commitment to recognise and take account of diversity.
- Introduced a review of any investigation approaching 12 months in duration, by someone independent of the investigation, to determine whether it remains in the public interest to continue the investigation.

The consultation runs until 31 March 2023 and we intend the new Enforcement Policy to be in place after the May 2023 polls.

We recognise the importance of assurance that decisions to investigate are taken promptly, and lengthy investigations are conducted fairly and effectively and remain in the public interest to pursue.

The nature of the potential offence affects when we may become aware of it occurring. Many investigations, for example, follow from our review of donation returns, which are submitted once a quarter, or spending returns, which may not be submitted until six months after a poll. Generally, we then take a decision whether to investigate quickly, applying the process set out in our Enforcement Policy. It is highly unusual for that entire process to take longer than 12 months, and when it does it is usually because of exceptional circumstances where it is important that we have the discretion to act if appropriate.

In our new draft Enforcement Policy, currently under consultation, we propose a review of investigations approaching 12 months by a senior member of Commission staff independent of the investigation, to determine if it remains in the public interest to pursue the investigation. This mirrors the independent review that already exists for final sanction decisions.

Putting such changes in legislation risks fettering our discretion to pursue investigations in the public interest. While it is highly unusual for our investigations to last for 12 months or longer, when they do they are usually complex investigations. Closing them without a determination on outcome could lead to investigations important in the public interest being left unresolved. This would be to the detriment of voters, and the parties or individuals involved.

We have also taken action to ensure that we improve our communication to those being investigated. In our new draft Enforcement Policy, we propose to commit to more regular communication with those under investigation. We will also continue to ensure we explain determinations on offences and decisions on sanctions clearly, so those impacted understand our decisions and can, if necessary, challenge them. We cannot however provide a running commentary on all actions during an investigation, as that may compromise the fairness of the investigation to all involved and in extremis could hinder our ability to collect evidence.

**13. We believe the Electoral Commission should be sensitive to the role of volunteers in campaigns and the potential for inadvertent reporting errors to occur. We welcome the Electoral Commission's proposed changes to the Political Finance Online platform to support individuals to input their financial returns accurately. We agree with witnesses to our inquiry that the current maximum sanction of £20,000 for breaches of the Political Parties, Elections and Referendums Act 2000 may not act as an effective deterrent for well resourced political parties and non-party campaigners. However, we also believe a larger fine would need to be carefully enforced to ensure it does not disproportionately impact smaller groups. (Paragraph 70)**

*14. We agree with the House of Lords Democracy and Digital Technologies Committee, and the Committee on Standards in Public Life, that the maximum fine the Electoral Commission can impose for breaches of Political Parties, Elections and Referendums Act 2000 should be increased to £500,000 or 4% of total campaign spend, whichever is higher. Equally, we believe that regulated individuals, parties, and campaigners should have the opportunity to amend minor, administrative reporting errors before civil sanctions are imposed, and that there should be consistency in making and a clear explanation for sanctioning decisions. This should be factored into the updated Enforcement Policy expected in the coming months. (Paragraph 71)*

### **Electoral Commission response**

With regard to sanctions, the current maximum fine that has been available since 2009 as a civil penalty for offences under PPERA is not proportionate for the most serious instances. A maximum fine of £20,000 is unlikely to act as a deterrent for inadequate compliance by campaigners dealing with donations and spending which can involve tens of millions of pounds.

The maximum fine should be raised to provide us with greater flexibility to respond proportionately to the range of offences we regulate. We only impose the maximum fine in serious cases that would impact on public confidence, such as a breach of the spending limit or omissions of tens or hundreds of thousands of pounds of spending from a campaigner's report. But a maximum £20,000 fine is not a proportionate deterrent for serious offences, and does not incentivise all campaigners to invest in robust compliance procedures.

It is currently the case that regulated individuals, parties and campaigners have the opportunity to amend minor, administrative errors before civil sanctions are imposed. We carefully consider the seriousness of potential offences before deciding to open an investigation, and often resolve issues in dialogue with parties and campaigners without the need for enforcement action at all. Where we do open investigations, we always provide

an opportunity for any breaches of the law to be rectified alongside establishing why the breach occurred, and many parties and campaigners take this opportunity. Action to rectify a breach is a factor considered in any decision to impose a sanction and what that sanction might be. This is set out in our Enforcement Policy. Along with the other factors listed in the Policy, we have a consistent and transparent framework for taking sanction decisions. We always look at the evidence in each individual case within that framework and set out this evidence in full to the recipient of a penalty notice.

## Adapting to the digital age

**15. *The responsibilities of multiple regulators in the digital space interlock with the Electoral Commission's role to regulate money spent on political campaigning. The Government's draft Strategy and Policy Statement for the Electoral Commission encourages cooperation between regulators to avoid duplication but does not provide any detail on how this can be achieved. We recommend the Government puts forward proposals and if necessary legislates through the Online Safety Bill to enable digital regulators, such as the Information Commissioner's Office, Ofcom, the Electoral Commission and Advertising Standards Authority, to formally share appropriate levels of information to support their regulatory duties and create a coherent regulatory system. We recommend that Ofcom, as the prospective online safety regulator, should be given a power to set minimum standards for advert libraries and advert labelling to provide maximum transparency and consistency across these databases.*** (Paragraph 85).

### **Electoral Commission response**

This concurs with a long-standing recommendation of the Commission to provide us with a formal power to share information and will benefit cross-regulator working.

Combined with the new laws brought in by the Elections Act 2022 for parties and campaigners to include imprints on digital political campaign material, this would increase transparency for voters about who is targeting them online.

Our research shows that voters have concerns about the regulation of digital campaigning, and that further reform could have a positive impact on voter confidence. Following the 2019 UK General Election, less than a third of people said they could find out who had produced the information they saw online, and nearly three quarters agreed it was important to know who produced that information.

The Committee notes that the law regulating political campaign spending during elections and referendums has not kept pace with the growth and methods of digital campaigning. Further, much of the current transparency arises from databases of political adverts compiled and published voluntarily by some social media platforms.

**16. *As recommended in our Fifth Report of Session 2021–22 on the Elections Bill, acknowledging the need for legislation to keep pace with rapid technological changes, the Government should commit to monitoring and conducting regular reviews of the digital imprints scheme, to ensure effectiveness in the monitoring and enforcement of the legislation and to prevent any unintended consequences or loopholes arising or***

*emerging. We suggest particular consideration is given to whether the scope of material that requires an imprint should be widened and whether the rules are being effectively enforced.* (Paragraph 87)

### **Electoral Commission response**

We agree with this recommendation. Some measures do not go far enough and the risk of a transparency gap for voters remains. Transparency could be further improved by extending the imprint laws to cover all digital material from unregistered third-party campaigners, regardless of whether they had paid to promote the material.

*17. We agree with the Electoral Commission that each of the four governments of the UK should amend the rules for reporting spending to provide greater transparency on the money being spent on digital campaigns in their jurisdictions. There should be a separate category for digital campaigning to be included in spending returns. We recommend that this is implemented before the next General Election.* (Paragraph 88)

### **Electoral Commission response**

We welcome the Committee's support for our recommendations on these matters. These changes would give voters additional transparency over a growing area of campaign spending.

## **Governance and Accountability**

*18. The Electoral Commission has an effective governance structure. Commissioners, including those who are nominated by political parties, play a useful role in the governance of the organisation. However, this system only works if Commissioners abide by the clear standards of behaviour set out in the Board Code of Conduct and refrain from public activity that may damage their perceived impartiality, particularly in and around electoral events. The Electoral Commission should be mindful of the fact that any detriment to public trust in its independence and impartiality could diminish the perceived legitimacy of elections and the democratic process as a whole.'*(Paragraph 104)

*19. It is vital that the impartiality and independence of the Electoral Commission is maintained at all times. Commissioners must act in accordance with the Board Code of Conduct and refrain from expressing any personal opinions that may suggest political bias. In the event of a future referendum, the Electoral Commission should produce specific guidance for Commissioners on how biases can and will be managed, and impartiality maintained.* (Paragraph 105)

### **Electoral Commission response**

The Commission Board will continue to govern the Commission as an independent and impartial body. We agree, however, that further guidance will both signal our intent and build confidence in the actions and decisions of the Commissioners and can do so sooner than in the event of a future referendum. We are currently working out the best way to develop such guidance.

20. **The Committee believes that periodic parliamentary scrutiny of the work of the Electoral Commission, in the form of inquiries such as this, dovetails effectively with the ongoing oversight by the Speaker's Committee on the Electoral Commission.** (Paragraph 106)

21. **Operational independence is a fundamental aspect of the Electoral Commission. The Government's ability to set the strategic direction of the Electoral Commission through the issuance of a Strategy and Policy Statement, as set out in the Elections Act 2022, significantly alters the Electoral Commission's relationship to Government as an independent body.**

We welcome the three-month statutory consultation period for the draft Strategy and Policy Statement and will continue to take an active interest in this area of constitutional significance, supporting the statutory consultees where appropriate. Following the consultation, it is vital that the Statement is afforded appropriate scrutiny through super-affirmative parliamentary scrutiny. As highlighted in our Fifth Report of Session 2021–22 on the Elections Bill, the Speaker's Committee on the Electoral Commission, as the body that will scrutinise the Electoral Commission's compliance with the Statement going forward, must be seen to exercise its powers impartially, with cross-party support. We note the support from witnesses to our inquiry that no single party should exercise a majority on the Speaker's Committee. (Paragraph 107)

22. *We welcome the timetable provided by the Government to scrutinise the draft Strategy and Policy Statement and recommend a commitment is made that the same timeframe should apply to future Strategy and Policy Statements.* (Paragraph 108)

23. *The Committee welcomes that the Strategy and Policy Statement for the Electoral Commission will be subject to super-affirmative parliamentary procedure, in line with our previous recommendation. The Government must now ensure a motion is tabled for the draft Statement to be debated on the floor of both Houses, before it is brought forward for final approval.* (Paragraph 109)

### **Electoral Commission response**

As the UK's political finance regulator and the body that oversees free and fair elections, the way the Commission works and its decisions must remain independent, and its independence must be clear for voters and campaigners to see. This underpins fairness and trust in the electoral system, as well as public and cross-party confidence in the Commission's work. It is fundamental to maintaining confidence and legitimacy in our electoral system that an electoral commission remains independent from governments and acts impartially and with integrity to fulfil its duties. The introduction of a mechanism such as a strategy and policy statement—by which a government can guide the work of an electoral commission—is inconsistent with that role.