

Update briefing for the Public Administration and Constitutional Affairs Committee

March 2022

Since our appearance before the Committee in December, the Electoral Commission has continued to make progress in a number of areas. These may be of interest as the Committee considers the concluding report in its inquiry into the work of the Commission.

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Supporting campaigners

Campaigner consultation and regulatory support strategy

As part of our investment in additional support for parties and campaigners, we recently conducted our largest ever survey of the regulated community. This was to understand the challenges our stakeholders face, and how they could be better supported:

- We received 347 survey responses from political parties (79% of respondents), third party campaigners (13%), members associations (3%), unincorporated associations (3%) and regulated donees (2%). We heard from treasurers, leaders and registered responsible people for other types of campaigner. Respondents were from across the UK, with some operating in more than one nation.
- Stakeholders told us they rely on our political finance documents to understand and comply with the rules. Providing guidance is considered by most to be the primary role of the Commission.
- The majority of respondents have a positive experience when contacting us. But the feedback highlighted ways we can improve, such as by ensuring stakeholders can rely on advice that is consistently clear and concise. While the majority do not have a single named point of contact, over three-quarters said it was important to have one – they cited the value of building working relationships in order to improve their understanding of the law and receive clarification on issues more quickly.

We continue to talk to stakeholders to inform our analysis of the survey results and build our plans for responding to the feedback. Our early plans include the following:

- We are developing a **smaller parties strategy**, increasing resources to provide bespoke advice to those parties that do not generally have access to experienced experts, staff or volunteers to help them understand the law. We will have an in-house smaller parties' lead to provide expert and tailored engagement, and we are drawing on the expertise of our Commissioner nominated by smaller parties.
- We are **reviewing the structure of our advice provision**, looking at response time and how we can use current resources to provide a more bespoke service. With over 400 parties and campaigners on the register there are viability questions on having specific 'account managers', but we are actively looking at this. In 2020/21, we responded to 89% of requests for advice within five working days.
- We will increase **consultation with parties and campaigners on our draft guidance** – helping us to better tailor and target our guidance to different sizes and types of party and campaigner. This will ensure our guidance is as clear and helpful as possible, and enhance our evidence base on how the law is applied in practice.
- We will **deliver more training** to support our stakeholders – through videos, seminars and training workshops. Digital online portals have a clear role in helping us to do this effectively, and will ensure we use innovative approaches that reflect what our stakeholders have told us they want. We will work with parties to see if we can also deliver more training at political party events. This will help us reach new audiences, including activists and volunteers, who play a key role in UK elections.

Political Finance Online

We have been working on a project to re-develop our Political Finance Online system – the online portal by which parties can apply to register, maintain registered details and deliver financial returns. The new system will make it quicker and easier for parties and campaigners to register and to report financial information, making it easier for them to comply with their legal obligations. The system incorporates the following features:

- Clear and intuitive explanatory notes throughout the registration process and when inputting financial data.
- More error and data validation messages based on users' input. This will help users understand how to fix issues. For example if a user enters a party description that is too long, or a value below the donation reporting thresholds, an error message will automatically appear.
- Clearer signals for users on their progress through the application process and user friendly prompts on what is left to do to complete an application. For example, the system will show how many officers have authorised an application, and how many still need to do so.
- Regular reminders ahead of statutory deadlines both within the system itself and via auto generated emails.
- Improved security features, and reduced need for parties and campaigners to contact the Commission for technical support.

After experiencing technical and other issues following the departure of the original system developers, we have now rescheduled the release of the new Political Finance Online for political parties. Based on current planning assumptions, it will go live in the second half of the financial year 2022/23.

The system development is being informed by regular engagement with the political parties through the parliamentary parties panels and user groups. There will be an ongoing opportunity to provide feedback on the look and feel of the system, and we will incorporate as much feedback from parties as we reasonably can in advance of each system release. The software is designed to be improved and enhanced over time, and we expect to deliver a routine development schedule with updates and upgrades. This means that stakeholders can continue to shape the system over the long term.

We will offer training prior to parties being expected to use it. That training will be made available to all users of the new system, for example through online sessions.

The legal regime for political donations

Recent events have led to increased public interest and scrutiny around the source of political donations. We and others have highlighted weaknesses in the legal regime for political donations, and recommended solutions.

Since 2018 we have recommended that some concepts from anti-money laundering regulations could be incorporated, on a risk-based approach, into the donation regime for

political parties. This would help parties to identify foreign money and embed a 'know your donor' culture, similar to the 'know your customer' requirements in financial institutions.

In 2021 the Committee on Standards in Public Life said, in its report on [Regulating Election Finance](#), that it believed that the legal regime should be updated to require parties to have in place appropriate procedures to identify the true source of donations.

As matters stand, the UK Government has not included these measures in the Elections Bill currently before Parliament. However we continue to recommend that they be introduced. This is both in order to build public confidence in the integrity of the UK's political finance regime, and to protect political parties from actual or perceived interference by foreign individuals, organisations or states.

Fair and impartial enforcement of the law

Enhancing enforcement processes

We have recently concluded a major review and enhancement of our enforcement processes, focussing on robust, high quality procedures that ensure proportionate and evidence-based decisions. One area of particular focus has been on the timelines of our investigations, responding to feedback that the process can be perceived as lengthy.

Our priority is always to conduct a fair and thorough investigation, and to conclude investigations as quickly as possible. This is both in the public interest and the interests of those involved. The time it takes to complete an investigation varies on a case-by-case basis. It depends on a range of factors, such as the number and complexity of the potential offences, the volume of evidence to be considered, and the level of cooperation from witnesses and those under investigation.

Changes to our processes include mandatory case reviews if a case approaches six months duration; new evidence trackers to aid disclosure of used evidence when proposing sanctions and to speed up the process of identifying and citing relevant evidence; and a move away from the practice of expanding existing cases when new potential offences arise. These procedures are now in place for new investigations. We will monitor their impact on case duration, to identify any further actions to take.

We have considered recommendations to introduce a fixed time limit on our investigations, however we believe such a move would be disproportionate and could have unintended consequences. The majority of our investigations are currently completed in less than six months (98% in 2020-21). Legally mandated time limits are not in place for investigations by similar regulators, and a time limit could leave the subjects of investigations without a resolution, and unable to address any reputational damage resulting from being under investigation.

Since we were given powers to conduct investigations in 2010, we are not aware of any Electoral Commission investigations that have lasted over 24 months.

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Enforcement Policy

The Commission's Enforcement Policy is our statutory guidance on using enforcement powers. It also sets out our enforcement aims, approach and decision-making process. The Enforcement Policy is settled by the Commission Board, following a consultation with stakeholders. It is due to be reviewed during 2022/23.

The Commission will put forward proposed changes to the Policy for consultation in autumn 2022. When drawing up those proposals we will consider feedback and recommendations already made, including those provided as evidence to the PACAC inquiry, and those made by the Committee on Standards in Public Life, in its [report on the regulation of election finance](#).

Supporting voters

Transparency of digital campaigning

The Commission's public opinion research shows that transparency about who is behind political campaigns online is important to voters. Digital technology offers significant opportunities to engage voters, but must still deliver transparency.

Last year, we launched a campaign to increase public awareness of online political advertising and the regulatory controls that exist. It aims to support people to feel confident about digital campaigning, to understand who is trying to reach them online and why, and to know how to take action if they see something that concerns them. The campaign reached 28.2 million people, and is running ahead of the May 2022 elections.

Political literacy

The Commission has recently refreshed its education and learning work, to promote greater understanding of the democratic process by giving teachers and educators the materials they need to talk about this in the classroom. By providing educators with an impartial set of resources, our aim is that they gain more confidence in teaching political

literacy. We have tested our resources extensively with partners and educators during their development.

Ahead of this year's elections, we have published resources focusing on supporting newly enfranchised young voters, by giving them the knowledge and understanding to cast their vote confidently. We will also continue to provide accessible support and resources in partnership with other organisations working directly with under-registered groups across the UK.

Our learning work will promote greater consistency in political education, increase political knowledge and understanding amongst young people, and increase educators' confidence and understanding of politics.

Supporting electoral administrators

Performance standards for Electoral Registration Officers and Returning Officers

The Commission has the statutory power to set standards and monitor and report on the performance of Electoral Registration Officers (EROs) and Returning Officers (ROs).

Last year we formally launched a new performance standards framework for EROs. The standards are focussed on the outcomes that should be delivered, rather than the processes that are followed, with the objective of helping EROs and their teams to understand the impact of their electoral registration activities and to monitor and manage their own performance.

The standards form a key part of our guidance and support package, which aims to assist EROs with planning for and delivering well-run electoral registration services across Great Britain. We are actively using the standards to support and challenge EROs in their work to maintain the electoral registers in their area.

We have also used the information from this engagement, along with analysis of the data provided to us by EROs, to report on the electoral registers and the registration process. We will report again after the polls in May 2022 on the 2021 annual registers and the canvass process. This will give us the opportunity to highlight key areas of focus and emerging good practice ahead of the start of the 2022 canvass.

Research carried out during 2021 suggests a majority of EROs who have used the new standards find them helpful. Our focus now is to support EROs and their teams with developing relevant and appropriate key performance indicators, taking into account their own local circumstances, to help them set targets and baseline their performance. We have also recently begun work to revisit and update the performance standards for ROs, and will launch a formal consultation in summer 2022. We aim to have the new framework in place by early 2023, so that it can be used to support the effective and consistent implementation of the changes introduced by the Elections Bill.

Working with partners

Other regulators

We maintain close working relationships with other regulators in order to share best practice on areas of common interest. Since 2016, we have convened a senior roundtable to discuss areas of common concern including campaign material and the regulation of digital campaigning. Members include the Advertising Standards Authority, the Committee on Standards in Public Life, the Equality and Human Rights Commission, Ofcom, the Information Commissioner's Office and the UK Statistics Authority and Office for Statistics regulation.

Other work we have undertaken with our regulatory partners includes:

- Work ahead of the 2021 elections on a public awareness campaign on digital transparency (mentioned above) and voter information hub. People are directed to a dedicated section of our website which includes content from regulatory partners.
- Fortnightly meetings of the group ahead of the 2021 elections, to facilitate cross-regulator working during the live election campaign, including sharing issues drawn from public queries or media and monitoring work.
- Chairing a research exchange meeting with a view to improving the information we have and our approach to information accessibility. This included measuring public opinion; measuring and responding to external impacts and pressures; and examining new approaches to stakeholder and public engagement. We will continue to examine opportunities for shared information gathering and collaborative research.

Ahead of the May 2022 polls, we will continue to work with other regulators to understand regulatory changes that will affect our areas of work and the service we provide for the public. The senior-level forum will also consider upcoming legislation affecting individual areas of our work, including the Elections Bill and the Online Safety Bill.

Social media companies

We work with social media and technology companies in several ways:

- We provide support and advice ahead of elections to help ensure the information published about voter registration is accurate.
- We use the information that companies publish in their voluntary libraries of political advertising to inform our regulatory work and our understanding of campaigner activity – we do this with Meta (Facebook/Instagram), Google and Snapchat.
- We share feedback with social media and technology companies about our experience of using the political advertising libraries. We encourage them to make the resources more accessible, useable and provide more granular levels of transparency. This feedback builds on discussions we had in 2017-19 when these

were first developed, when we advised how they could be more effective for a UK context rather than overly based on US model.

- We ensure clear routes of communication in case we need to use our regulatory powers in relation to a social media company in a small range of circumstances:
 - The digital imprints regime for Scottish elections introduced new requirements for social media companies to take down non-compliant material. Before the regime was introduced, we discussed possible scenarios and escalation routes with each company, including in case the Commission wanted to use its formal powers or if a company wanted to ask us for advice.
 - Ahead of the digital imprint changes that will come into force as a result of the Elections Bill, we will explore escalation routes with each company.

Police forces

For many years we have supported the policing of offences under the Representation of the People Act 1983, which do not fall within the Commission's regulatory regime. We have a good working relationship with the National Police Chiefs Council at a national level, and we have single points of contact in every police force across the UK on an operational level, including the Met, with whom we have recently agreed a new Memorandum of Understanding.

In the run up to the May 2022 polls, we have:

- Run the Electoral Fraud Reduction and Prevention annual national seminar with the National Police Chiefs Council, which was well attended and received.
- Supported and contributed to the now well-established City of London Fraud Academy training course on investigating electoral offences, which we helped to create.
- Provided our bespoke advice service for police officers seeking information about the relevant law and past cases, as well as providing support through our new web pages for police officers.
- Worked with the College of Policing in ensuring that their bespoke online guidance for officers on investigating electoral offences is up to date.