

Written evidence submitted by The Electoral Commission

The Electoral Commission is the independent body which oversees elections and regulates political finance in the UK. We work to promote public confidence in the democratic process and ensure its integrity. A key part of our role is to provide advice to the UK's parliaments on matters relating to elections.

Overview

1. We welcome the National Security Strategy Joint Committee's focus on this issue and engagement with the Commission on approaches to defending democracy.
2. The Commission is empowered by Parliament to oversee elections and regulate political finance in the UK. As part of our work, we protect elections and promote public confidence in the democratic process, including by monitoring threats to the system. We have a unique insight as the independent, statutory regulator of UK elections.
3. The following evidence outlines key areas which we think could help improve the security and resilience of the system, including where our powers could be improved to ensure we can better protect electoral integrity.

Threats to democracy

What are the actual and perceived threats to the UK's democracy, and from where do those threats originate?

How will threats to UK democracy evolve in the medium and long term, and how prepared is the UK for addressing these threats?

4. The overwhelming majority of people who stand as candidates, set up parties, or campaign in a UK election do so because they want to improve society. Their commitment should be respected, and their ability to campaign should be protected.
5. In keeping with the scope of this inquiry, we have focussed on threats to the integrity and security of elections and our democratic system, and not the risks to elections being well-administered. For ease, we categorise the threats into four types: disruption to elections and the democratic system from physical actions, cyber, information and finances. We will go into more detail on some of these threats later in our evidence.

Physical actions

6. We see the threat of politically motivated abuse and intimidation as high, particularly focused towards candidates. Our research after recent elections shows that significant numbers of candidates experienced abuse and harassment, including online. Many current members of Parliament have also spoken about the abuse and intimidation they have faced, including instances of disruption outside their family homes. Abuse and intimidation of campaigners is totally unacceptable and should never be seen as part of the job of being in the public eye. The risks that arise from this threat include preventing candidates from campaigning due to the fear of attack, and people deciding not to stand as a candidate at all.

7. Physical threats are a particular concern in Northern Ireland. In 2023, half of all candidates who responded to the Commission's research said they experienced threats, abuse and/or intimidation.
8. This can impact any candidate, but certain forms of abuse appear to disproportionately affect women and those from minority backgrounds, impacting on the diversity of those prepared to put themselves forward as candidates for elections. For example, evidence from our 2023 survey with English local candidates found over half (55%) of women said they avoided campaigning on their own compared to 29% of men, and when asked, 37% of respondents from an ethnic minority said they had experienced someone intimidating them or intentionally making them feel unsafe at least once, compared to 23% of white respondents.
9. We work closely with the police to help them respond to instances of abuse. This includes supporting the College of Policing in training officers to respond, and publishing joint guidance with police and prosecutors to help candidates recognise and respond when an incident has gone beyond acceptable political discourse and may be illegal.
10. However, the way to reduce this threat cannot be for potential victims to take preventative action or self-censor. Government, the police, parties and regulators like the Commission, need to work together to understand and challenge the drivers for abusive behaviour, and we will be working across civil society to jointly tackle these threats.
11. We also assess the threat of disruption targeting campaign events as high, for example, when disruption is intended to prevent or disrupt campaigning by opponents. Careful consideration must be given to balancing the freedom of expression of all campaigners while protecting candidates from abuse and intimidation.

Cyber

12. We witnessed first-hand the threat that cyber-attacks pose to UK democratic institutions, when a complex attack took place on the Commission's systems in 2021/22. The administration of the UK's democratic and electoral processes is significantly dispersed across a range of organisations and individuals, and key aspects of it remain based on paper documentation and counting. This means it would be very hard to use a cyber-attack to directly disrupt the electoral process at scale, though this is not to say that disruption cannot be caused. Targeting political parties or campaigners, for example, may disrupt their activities.

Information

13. Voters rely on information shared by parties, candidates and campaigners to make decisions about who to vote for. In a thriving democracy, parties and candidates will debate their interpretation of information, statistics and policy, and what these mean for the future. However, when the information being shared is either false or presented in a misleading way, voters may be influenced to vote in a way they would not have otherwise done, or even put off voting all together.
14. This threat of mis- and disinformation and its ability to undermine voter confidence in elections may be particularly acute when it is carried out by malign actors – either domestic or foreign – campaigning illegitimately.
15. Voters have always needed to look at campaign material with a critical eye. However, our research has shown that the growth of digital campaigning has brought new challenges to public confidence in the political information they see. The very recent rise in the availability of generative artificial intelligence (AI) models capable of generating realistic

images, video or audio brings new opportunities for false or misleading information to be created and shared, for example.

16. The legal framework does not give the Commission the power to regulate the content of campaign material. While imprint laws assist us – and the police – in identifying the source of printed or online campaign material, we cannot enforce those laws on campaigners outside the UK. The same limitation would apply even if the legal framework were extended to the content of campaign material.

Finance

17. Although the UK's political finance system is one of the most transparent in the world, our public opinion surveys have tracked a downturn in voter confidence in transparency. In our 2023 survey, only 24% of people said they believed that party funding is transparent and 58%, over twice as many people, see it as not transparent.
18. We will set out later in this evidence our recommended additional safeguards to the political donation regime.
19. The Elections Act 2022 reduced the amount that individuals and organisations that are not based in the UK or not on a UK electoral register are allowed to spend on election campaigning. The limit is now £700. Digital campaign tools, use of social media, and the accessibility of generative AI models have made it easier and cheaper for people to produce and share information among UK voters from anywhere in the world. This means individuals or organisations in the UK and abroad could legitimately spend up to £700 on a campaign and still reach significant numbers of voters.

Preparation for addressing these threats

20. Some of these threats have existed to a greater or lesser extent for a long time, while others have arisen only recently because of the current global and UK context, and advances in technology.
21. Coordination between different regulators, law enforcement agencies and the Government is needed to protect legitimate campaigning. Other bodies, such as social media companies and political campaigners themselves, should also act to mitigate against these risks, deliver meaningful transparency for voters and encourage respectful campaigning.
22. In considering a UK wide response, particular attention should be given to threats as they relate to elections in Northern Ireland. For example, levels of threat, abuse and intimidation of candidates are higher in Northern Ireland than elsewhere in the United Kingdom. The Commission met with candidates for the Northern Ireland Assembly who had suffered abuse and has since worked with political parties and the police.
23. The Commission is aware of, and to differing extents involved in, work from multiple organisations to coordinate in this way. This includes law enforcement and the Government. We coordinate a forum for regulators to work together both to prepare for responding to disruption to election campaigns, and to ensure voters get clear advice about how to think critically about the campaign material they see. We also speak regularly to political parties, candidates and campaigners to understand their views of these threats, and we are investing in our work to monitor campaigning as it happens, so we can act – within our legal framework – on any issues we see.

Role of the Electoral Commission

What is the role of independent bodies such as the National Cyber Security Centre, Ofcom and the Commission when it comes to foreign interference and are they sufficiently empowered and resourced to undertake that role?

24. The Commission is empowered by Parliament to regulate political finance within the UK, but it is not within our statutory remit to tackle instances of foreign interference. Even if we were given that role, using UK laws to impose civil sanctions on a non-UK entity would be extremely challenging, so we would have to consider options like publicly warning voters.
25. Currently, if we receive intelligence about an entity outside of our remit, we will, where appropriate, pass the details of that intelligence to the police.
26. We have previously recommended that the UK Government consider strengthening the powers of UK regulators, including the Commission, to equip the system for future challenges. This includes expanding our information-sharing powers so that we're able to share information with a wider range of organisations outside an investigation.
27. The Committee on Standards in Public Life (CSPL) conducted a comprehensive review of political finance regulation in 2021. Many of the recommendations we make in this response have been made by the CSPL, including the need to require due diligence checks on party donations and include the cost of directly employed staff within election spending limits.
28. Further recommendations specifically related to strengthening political finance rules are outlined in response to later questions.

Foreign interference in UK elections

How secure and resilient are elections across the UK, when it comes to foreign interference?

29. The dispersed nature of the electoral administration system in the UK – with polls delivered by individual local Returning Officers supported by local authority teams – means that the impact of any threats would most likely be localised.
30. Nevertheless, our reports on recent elections have highlighted that the capacity and resilience of election teams remain a significant concern, particularly looking ahead to the significant polls that are scheduled for 2024 and the further changes from the Elections Act that remain to be implemented.
31. The Government's response to our report highlighted that its implementation of the Elections Act (including the delivery of new digital services) is reviewed by the Infrastructure and Projects Authority, while digital services have also been assessed for accessibility and usability, including by the Central Digital and Data Office (CDDO).
32. We work with electoral administrators to support the running of elections, issuing detailed guidance to them as well as regional support, to ensure the smooth running of elections across the UK.

Generative AI

What role are emerging technologies, such as generative AI, expected to play in upcoming elections?

33. As generative AI becomes more sophisticated, it will be increasingly important for voters to carefully consider the campaign material they see or hear. The Commission is considering and preparing for the impact that this emerging technology may have on future elections in the UK.
34. We have no powers to investigate the accuracy, truth or authenticity of campaign material. However, we encourage parties and campaigners to carry out their role influencing voters in a responsible and transparent manner.
35. If additional regulatory responsibility for campaign material were given to a UK regulator, these powers would need careful consideration to ensure the regulator with responsibility to do so was able to do the job, and that additional regulation did not create undue barriers to campaigning or participation in elections. Regulating the content of campaign material would require a new legal framework and if a role were given to us, the development of new capabilities and capacities.

What can be done to improve public awareness of disinformation, fraud and technological interference such as that through AI or deep fakes?

36. In order to maintain public trust and confidence, we encourage all campaigners to undertake their role of influencing voters responsibly and transparently. We expect anyone using AI generated campaign material to use it in a way that benefits open and transparent political debate and to label it clearly, so voters know how it has been created. Campaign material, both digital and physical, must also carry an ‘imprint’ telling voters who has published and paid for it.
37. We do however note that the threat in this area may well come from malign actors operating outside the more established regulated sector of parties and campaigners. Technology has dramatically lowered the barriers and cost of use.
38. We want people to be confident about understanding who is targeting them and why. We support voters to be alert to the risks of disinformation in all forms. Our website provides information about who voters can contact if they have concerns about the political advertising they see, including complaints that relate to the remits of other regulators such as the Information Commissioner’s Office, the Advertising Standards Authority and the UK Statistics Authority.
39. As part of our engagement with social media companies, we scrutinise the policies they have in place to handle instances of mis- and disinformation related to electoral processes. Many promote and link to the Commission’s website and resources within information banners attached to posts related to elections, as well as on their own campaigns encouraging registration and voting, to ensure voters have access to authoritative and accurate information about voting processes.
40. We have good existing links with electoral regulators and authorities in many democracies. Many have elections this year. We will continue and enhance discussion with them on the threats and challenges they face to learn from their experience. These threats, and possible effective responses, are novel – so we aim to learn as much as possible from others. We will make recommendations based on this evidence if needed.

Legislative framework

How effective is the UK's legislative framework for defending democracy, including the new powers under the National Security Act 2023?

How does the Foreign Influence Registration scheme strengthen the resilience of the UK political system against covert foreign influence?

41. The Government's stated objective for the National Security Act, and Foreign Influence Registration scheme, is to strengthen the resilience of the UK's political system against foreign influence. We welcome the Government's focus on this area and on defending democracy more broadly.
42. The National Security Act did not give the Commission any additional roles or powers.
43. We have recommended for some time that the controls around political donations should be strengthened to improve the resilience of the UK political system against foreign influence.
44. Although parties and campaigners are already required to check that a donation is from a permissible source, two further changes would help to provide assurance that money from impermissible donors – including from foreign sources – cannot be used to influence registered political parties and non-party campaigners in the UK.
45. First, registered political parties and non-party campaigners should be required to carry out risk assessments and enhanced due diligence checks to ensure they know where donations have come from. The principles of risk assessment and enhanced due diligence are well-established in many sectors where organisations accept funds from donors or customers.
46. Second, existing controls on donations should be strengthened so that parties and campaigners can only accept donations from companies that have made enough money in the UK to fund the amount of their donation. Currently, a company can donate to a UK political party or campaigner if it is registered at Companies House and is 'carrying on business' in the UK. There is no requirement for the company to show that it has made enough money in the UK to give or lend to campaigners.
47. The Commission has also highlighted weaknesses in the transparency requirements for political donations by unincorporated associations.
48. Unincorporated associations are not required to ensure that those who donate to them are permissible donors. This means that they could legitimately make donations using funding from otherwise impermissible sources, including from overseas. There are also no transparency requirements in law for unincorporated associations which donate to candidates, rather than to political parties or campaigners.
49. The improvements outlined in paragraphs 45 and 46 to the existing controls on donations and loans are not intended to limit or prevent political parties and campaigners from accepting donations from permissible sources. They would provide further assurance that parties and campaigners have taken appropriate steps to fully understand the source of donations and would also help to protect the reputation of the party or campaigner organisation.
50. These recommendations were supported and reiterated by the Committee on Standards in Public Life in their 2021 Regulating Election Finance report.

Defending Democracy Taskforce

What are the objectives, working methods and resources of the Defending Democracy

Taskforce? What has it achieved since its creation in November 2022?

Is there more that the Defending Democracy Taskforce could do before upcoming elections to protect political parties, elected officials and core electoral infrastructure?

51. The Commission has met with members of the Defending Democracy Taskforce secretariat, and held discussions with the Security Minister, and the Elections Minister, on preparedness to respond to threats to elections. We stand ready to support the taskforce in its work and encourage it to ensure approaches to protecting electoral integrity and security are managed in a comprehensive and joined-up way.

Democracies abroad

What does the UK do to support democracy abroad and how should the Government work with non-governmental organisations to contribute to defending democracy?

How can the UK work better with other democracies to tackle foreign interference and uphold democratic values?

52. We engage extensively with organisations abroad, maintaining close contact with other electoral commissions, as well as international non-governmental organisations.
53. We attend the annual Four Countries Conference, alongside the Australian Electoral Commission, the Electoral Commission of New Zealand and Elections Canada, to share information about our respective approaches to ensuring electoral integrity.
54. We often brief international delegations on our approach to overseeing elections and regulating political finance and have in recent years met representatives from the Malaysian Electoral Commission, Consulate General of Peru, and the Dutch Ministry of the Interior and Kingdom Relations.

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