

Written evidence from Professor Toby S. James¹ (TEC 24)

Public Administration and Constitutional Affairs Committee The Work of the Electoral Commission

1. I am an academic whose research expertise focusses on the administration and management of elections. I am the co-convenor of the international Electoral Management Network and author/co-author of works such as *Comparative Electoral Management* (Routledge, 2020) which compares how elections are run throughout the world and draws out best practice.² In 2016-2017 I was the co-investigator of a research project which established a leading dataset on electoral management practices worldwide.³ In 2016 I co-wrote an independent report for the Electoral Commission on their management of the Brexit referendum.⁴ I write in a personal capacity.

2. My submission relates to only the management and administration of elections in the United Kingdom. The Electoral Commission's functions clearly go beyond this – since it plays an important role in the oversight of electoral finance. However, I would refer the committee to the work of colleagues such as Alistair Clark and Justin Fisher for detailed comment on this.

1. The effectiveness of the Electoral Commission in discharging its statutory obligations

It is worth recapping why the Electoral Commission was established. Three concerns were paramount:

- Firstly, there were concerns about the oversight of electoral finance – which is not discussed here.
- Secondly, there were concerns about electoral administration. The Howarth Committee provided a comprehensive and timely review of the way that elections were run in 1999 and concluded that the UK's electoral machinery was Victorian in nature and that that this might be contributing towards a decline in turnout, amongst other problems. According to that report: 'practices which were largely laid down at the end of the 19th century are in need of urgent reform if they are to retain credibility as we move into the 21st century.'⁵ The Electoral Commission was therefore envisaged as a body to keep the running of elections more regularly under review with regular evaluation to avoid practices becoming outdated in the future.
- Thirdly, concerns were later raised about the quality of electoral administration at the local level in the UK, in a highly decentralised system. This led to the Commission being granted powers to set performance standards for Returning Officers (ROs),

¹ Professor Toby S. James, Professor of Politics and Public Policy, University of East Anglia

² Toby S. James (2020), *Comparative Electoral Management: Performance, Networks and Instruments* (Routledge: London and New York).

³ Toby S. James, Holly Ann Garnett, Leontine Loeber and Carolien van Ham (2020) 'Electoral Management Survey', Harvard Dataverse

⁴ Alistair Clark and Toby S. James (2016) '[An Evaluation of Electoral Administration at the EU Referendum](#),' Electoral Commission, September 2016.

⁵ Select Committee on Home Affairs Report (1999) *Final Report of Working Party on Electoral Procedures*. London: HMSO, cited in Toby S. James (2012) *Elite Statecraft and Election Administration* (Palgrave: Basingstoke), p. 138

Electoral Registration Officers (EROs) and Referendum Counting Officers (RCOs) in the Electoral Administration Act 2006.

I have undertaken several studies, either directly or indirectly, on the Commission itself.⁶ These studies show that this has been highly effective in a number of areas, which include:

1. *Proposing new policies.* The Commission provided a policy lead by presenting new ideas about how elections could be run – thereby helping to increasingly modernise UK elections. During the early days this included visions of modernising elections through the piloting of postal voting, early voting and electronic voting. It provided early thought leadership for how individual electoral registration could be introduced in Britain, which was later taken up by political parties and introduced by government.
2. *Holding government to account.* The Commission has shown that it has ‘fearless independence’ in that it will criticise the government of the day when it feels it is appropriate. This is important because this criticism is reported in the media and noted by parliamentarians. It therefore plays an important role in the checks and balances of governing the UK.
3. *Undertaking agenda setting research.* The Commission has published studies which have led policy debate. For example, its work on the accuracy and completeness of the electoral register has provided benchmark statistics which enable public debate about the necessity of reforms to be informed.
4. *Producing economies of scale.* The running of elections is decentralised across the UK which means that many EROs and ROs have historically tended to produce their own resources for voter outreach and similarly important election work. By having one organisation produce these materials cost efficiencies are made at the local level.
5. *Increasing voter confidence.* The Commission is likely to have indirectly increased voter confidence through areas of work such as providing information to the media and, assisting EROs/ROs with legal advice to provide consistency in the running of elections.
6. *Establishing and measuring best practices.* The Commission has established performance standards which have led to the improvement of electoral administration and enabled peer-to-peer learning across EROs and ROs.
7. *Running referendums.* The Commission directly ran two electoral events: the AV referendum in 2011 and the Brexit Referendum in 2016. Research shows that it was effective in doing so – but importantly, it improved in how effective it was between the two events. This shows that developing experience and institutional learning is important. There is therefore a strong case that it should continue this role. Table 1 summarises the views of electoral officials about how the Brexit referendum was run by the Commission.⁷ Only 3.5 per cent of respondents disagreed with the statement

⁶ Toby S. James (2012) *Elite Statecraft and Election Administration* (Palgrave: Basingstoke), p. 138; Toby S. James (2013) ‘Fixing U.K. Failures of Electoral Management’, *Electoral Studies*, 32(4), December 2013, p. 597–608; Toby S. James (2017) ‘The Effects of Centralising Electoral Management Board Design,’ *Policy Studies*, 38(2), pp.130-148; Toby S. James (2019) ‘Better Workers, Better Elections? Electoral Management Body Workforces Worldwide and Electoral Integrity’, *International Political Science Review*, 40 (3) 370-390; (2019) ‘Electoral Management and the Organisational Determinants of Electoral Integrity’, *International Political Science Review*, with Holly Ann Garnett, Leontine Loeber and Carolien van Ham, 40 (3) 295-312; Toby S. James (2020), [*Comparative Electoral Management: Performance, Networks and Instruments*](#) (Routledge: London and New York).

that the Commission had a management structure for the referendum which worked well.

Table 10.2 Views of the management structure used for the referendum (%)

	<i>Strongly disagree</i>	<i>Disagree</i>	<i>Neither agree nor disagree</i>	<i>Agree</i>	<i>Strongly agree</i>	<i>N</i>
The overall management structure for the referendum worked well	0.4	3.1	14.6	74.0	7.9	254
The overall management structure for the referendum worked better than it does for an election	2.8	26.8	60.2	9.4	0.8	254
The CCO's planning for the referendum was effective	0.8	4.7	19.7	66.1	8.7	254
The RCO's planning for the referendum was effective	–	2.4	11.6	66.9	19.1	251
Rehearsals of the result collation process were useful in helping iron out potential difficulties	2.0	9.9	7.9	62.8	17.4	253

2. What roles and functions within the UK electoral system should the Commission perform?

The function that the Electoral Commission is playing is appropriate and important. It is an indispensable part of the UK's democratic infrastructure.

There have been some debates about whether the Commission should take over the running of elections rather than have a decentralised system. However, the research shows that centralisation can lead to increased costs and lost local knowledge of administrators. EROs and ROs have geographically specific knowledge which means that the status quo is beneficially for electoral integrity and the public purse.⁸ Only if there is a move to a single national electoral register, for which there is little political appetite, would this be worth re-considering.

3. Should the remit of the Electoral Commission be changed?

It should not change with respect to electoral administration and management. There is a case for expanding its role with respect to be able to prosecute breaches of campaign finance legislation – but that is beyond the scope of this submission.

4. What powers should the Electoral Commission have? Should the existing powers of the Electoral Commission be changed?

See question 3.

⁷ Source: Toby S. James (2020), *Comparative Electoral Management: Performance, Networks and Instruments* (Routledge: London and New York), p.235

⁸ Toby S. James (2017) 'The Effects of Centralising Electoral Management Board Design,' *Policy Studies*, 38(2), pp.130-148.

5. The governance of the Electoral Commission

There is significant value in appointing senior officials and commissioners to the Electoral Commission from the electoral practitioner community. Those who have worked as EROs/ROs in other roles ‘at the coal face’ of elections have considerable experience which could help with the running of elections at the Commission. It has often been suggested by some electoral administrators that there is a gap in experience between those who work at the Commission and those who have accumulated experience running elections over many years. There is also scope for making appointments from academia.

The current system of commissioners being appointed by via leaders of the political parties does not facilitate the integration of such personnel. There is a risk, although this has not happened to date, of the appointments being more party political in nature in the future. Some, but not all, appointments of Commissioners could therefore be made via other routes.

6. Public and political confidence in the impartiality and ability of the Electoral Commission

The Commission has always, to the best of my knowledge, operated in an independent and impartial way.

7. The international reputation of and comparators for the UK Electoral Commission

There are a variety of ways in which the running of elections can be spread across organisations within a country. One distinction that can be made is whether elections are run by independent electoral management body, the government under a ministerial department – or a mix of both.⁹

It is not clear, however, that this typology is always helpful in identifying the complexity of each system. In my own work, I have therefore looked at the network of actors that contribute towards the running of elections. The network of organisations that play a role in running elections has become increasingly complex over the past few years. Responsibility for the running of the election remains with ROs, ERO, etc. but there is a role for professional associations, devolved bodies and civil society. In this context, the Electoral Commission has played an important role in the network in achieving the outcomes set out above.

There are no international measures to compare its performance because it is not responsible for running elections itself. However, it is broadly internationally very well respected.

8. What, if any, reforms of the Electoral Commission should be considered?

Few reforms are needed with respect to electoral administration and management. Those which could be considered would include:

- *The formal establishment of an advisory electoral group.* The Electoral Commission has previously established an informal Elections Policy and Co-ordination Group to provide a regular forum for the Commission to meet with practitioners and the Cabinet Office. Civil society groups and academics, however, are less regularly invited. These meetings could therefore be more inclusive.

⁹ Helena Catt et al. (2014) *Electoral Management Design: Revised Edition* (International IDEA: Stockholm)

- *Meeting transparency.* There could be more requirements for more transparent and inclusive decision making. A recommendation of a report published by the British Academy was that meetings held between key stakeholders to adapt elections to covid should be recorded on the public record.¹⁰ To the author's knowledge, this does not seem to have happened.
- *Greater collaboration with the academic sector.* Most Electoral Commission research self-cites the Commission's earlier research and does not build and integrate with the academic research. The Electoral Commission does send representatives to academic conferences, but the effects of this attendance is not clear upon reviewing the Commission's publications.

November 2020

¹⁰ Sarah Birch, Fernanda Buriel, Nic Cheeseman, Alistair Clark, Staffan Darnolf, Susan Dodsworth, Larry Garber, Roxana Gutiérrez-Romero, Tanja Hollstein, Toby S. James, Vasu Mohan and Koffi Sawyer (2020) *How to hold elections safely and democratically during the COVID-19 pandemic* (British Academy: London).