

Electoral Omission

Michael Pinto-Duschinsky



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1

Introduction

Elections to the House of Commons are the lifeblood of British democracy. Yet the administration of these elections has long been, and remains, remarkably shoddy. It has become too easy to excuse shortcomings in the way UK elections are run by blaming voter apathy and ‘political disengagement’.

There is a tendency to ignore or to shrug off administrative problems as being minor or trivial and unlikely to affect the result. But, as demonstrated in Tower Hamlets recently, there are severe problems with many aspects of the electoral process. If anything, particularly following the introduction of postal votes, these problems have increased since the creation in 2000 of the Electoral Commission. The latest data published in July 2014¹ indicate that they have worsened further since the Committee on Standards in Public Life issued its critique of the Electoral Commission in its Eleventh Report published in 2007.

“A key problem is that the Electoral Commission has been so anxious to push up voter turnout that it has too often sacrificed efficiency and accuracy in the way elections are run”

A key problem is that the Electoral Commission has been so anxious to push up voter turnout that it has too often sacrificed efficiency and accuracy in the way elections are run. Policy debates in the UK and in other countries have thus wrongly been based on the presumption that there is some kind of trade-off between electoral turnout and measures designed to secure voting integrity.

Electoral administration may seem a technical, even boring topic. Yet, it is crucial. The basic issue is clear: there cannot be democracy without elections; elections cannot be free and fair unless electoral rules themselves are fair and coherent, unless they are properly administered and unless the rules are actively enforced. Failing to address the problems can only damage British democracy.²

The Electoral Commission has been criticised repeatedly on three grounds: alleged incompetence, attempted mission creep, and political bias.³ To some extent, any body that has to act as a referee between political parties and rival candidates is likely to be subject to such high-level pressure. Its roles in investigating charges of electoral misconduct and in carrying out functions such as deciding the wording of referendum questions make it an inevitable target.

Nevertheless, these considerations do not adequately explain the highly adverse review of the Electoral Commission published in January 2007 by the Committee on Standards in Public Life in its Eleventh Report. The Committee on Standards

in Public Life is perhaps the most important ‘constitutional watchdog’ in Britain. It is composed both of respected independent figures and party representatives. The fact that the Chair of the Committee on Standards in Public Life at the time of its damning report, Sir Alistair Graham, was a Labour appointee and former union official made the findings all the more important. The UK Electoral Commission had been a creation of Tony Blair’s Labour Government. Its activities between 2001–07 had been closely aligned with those of the Department for Constitutional Affairs (later named the Ministry of Justice), a Ministry created by New Labour.

The key finding of the Committee on Standards in Public Life in 2007 was that the Electoral Commission would be more successful if it were to concentrate on its core responsibilities and attempted to do less. In short, it should focus on its job as a regulator rather than attempting to influence policy on wider constitutional matters, such as legislation on the funding of political parties, or promoting ‘voter engagement’.

This study reviews progress seven years after the Committee on Standards in Public Life’s 2007 Report and poses five main questions:

1. How inaccurate is the electoral register? To what extent is administrative failure responsible for any inaccuracies that occur?
2. What is the extent of voting fraud in the UK?
3. Has the Electoral Commission implemented the main recommendation of the Committee on Standards in Public Life, that the Electoral Commission should focus on administering elections rather than policymaking and on promoting participation?
4. Are the delays being considered by the Electoral Commission in implementing individual voter registration and in introducing the requirement for voter identification at polling stations justified and acceptable?
5. Are measures being taken by the Cabinet Office to improve the accuracy of the electoral registers for the May 2015 General Election adequate?

The four main conclusions of this report are:

- The administration of elections in the UK remains dangerously inefficient and seriously open to fraud.
- There remains within the various bodies responsible for electoral administration a culture of complacency and denial.
- The Electoral Commission has taken too few meaningful steps to address the recommendation of the Committee on Standards in Public Life that it focus on its regulatory role.
- There is an emerging danger of partisan divisions between the two main political parties about whether or not to tolerate this situation. Too often, a bogus dilemma has been cited between the aims of encouraging voting by members of socially disadvantaged groups and guarding against fraud.

Too little has changed since the Committee on Standards in Public Life published its report into the Electoral Commission in January 2007.⁴ The main

change between 2007 and 2014 is that the headline statistics show that the problems of inaccuracy in the electoral registers, already serious in 1981 and worse in 2007, have continued to amplify.

Good electoral administration is a regulatory matter requiring determined administrative action. Yet the bodies responsible for such administration – local government authorities, the Cabinet Office (currently responsible for electoral matters at central government level), and the Electoral Commission – have too often failed to act. It is too easy to blame sociological factors and voter disengagement for what are administrative shortcomings.

The Chair of the Electoral Commission, Jenny Watson, illustrated the core problem in her evidence of 3 July 2014 before the House of Commons Political and Constitutional Reform Committee when she declared:

“if you ask any of us why we are at the Electoral Commission, I don’t think you would get the answer that it is because we all want to be political regulators.”

Her passion, she said, was “democracy”.⁵

There are two objections to this concept of the mission of the Electoral Commission. First it leads to its straying beyond its remit into politically controversial territory. Second, and even more important, it provides a diversion for the Electoral Commission from its core role as regulator and administrator of the essential nuts and bolts of elections. It is perhaps no coincidence that the Electoral Commission’s attention in recent months to the broad agenda of ‘political engagement’ and to generalised debates about parliamentary democracy have been accompanied by notable examples of regulatory failure.

On 26 March 2014, Jenny Watson, the Chair of the Electoral Commission gave a lecture at University College London as well as a wide ranging piece for *The Guardian*.⁶ She said that the Electoral Commission would explore the ability to register to vote on the day of the election, voters being able to use any polling station in their constituency, the introduction of advance voting, and options such as e-voting.⁷ The Electoral Commission has continued to give soothing statements about the limited extent of electoral fraud.⁸

At the same time, there have been continuing examples of regulatory failure:

Some recent examples of regulatory failure

● Party descriptions on ballot papers

The Electoral Commission allowed Britain First (a breakaway group of former BNP activists that described itself as a ‘patriotic resistance frontline’) to use the description ‘Remember Lee Rigby’ on ballot papers for the elections in May 2014 to the European Parliament. Drummer Lee Rigby was a uniformed soldier who had been murdered in May 2013 near the Royal Artillery Barracks in Woolwich. The Electoral Commission has a statutory responsibility for approving party descriptions on ballot papers and acknowledged its error in permitting what was widely seen as a form of words offensive to the murdered man’s family. By the time the blunder had been spotted, it was too late to amend ballot papers.⁹

- **Failure to control political donations**

In the run-up to the 2005 General Election, the Liberal Democrats received £2.4 million, their largest ever contribution, from a company controlled by Michael Brown, who was later convicted of fraud.¹⁰ In July 2014, the Parliamentary Ombudsman issued a report criticising the Electoral Commission for failing to investigate whether the gift had been valid. The Ombudsman found the Electoral Commission guilty of maladministration. It had fallen “significantly short of what was required... It failed to ask for relevant information without good reason and so failed adequately to discharge its monitoring function under the 2000 [Political Parties, Elections and Referendums] Act.”¹¹ The Ombudsman therefore instructed the Electoral Commission to issue an apology to a complainant but it refused to do this.¹²

- **Problems of election administration in the London Borough of Tower Hamlets**

The mayoral and council election of 22 May 2014 in Tower Hamlets saw greatly delayed vote counts, arrests, multiple complaints and a cross-party election petition. Investigative journalists from newspapers across the political spectrum gave alarming reports of allegedly fraudulent voter registration and other forms of reported abuse. Yet, according to the Electoral Commission’s system of performance indicators, election management by the borough council in Tower Hamlets was of the highest quality.¹³ Various observers saw this not only as an indication that such performance indicators have proved to be a flawed management tool but also as a characteristic example of complacency on the part of the Electoral Commission.¹⁴

One of the strongest recent attacks on the Electoral Commission on grounds of regulatory failure came from the Labour MP Chris Ruane during an evidence session on 4 September 2014 held by the Political and Constitutional Reform Committee of the House of Commons. Referring to the statistics of names missing from the electoral register as “duff figures”, he said to the Electoral Commission’s chair, Jenny Watson “You have had tens of millions of pounds of public money to carry out this function of a complete register and you have failed to do it.” He complained that previous attempts to question what turned out to have been underestimates of the problem had been “rubbished” by the Electoral Commission. Calling what he saw as its failure to tackle the registration problem a “disgrace”, he had the following exchange:

Chris Ruane: *I think this manipulation of figures by the Electoral Commission is absolutely despicable and it shows the priority that the Electoral Commission has given over the past four years.*

Jenny Watson: *We are not manipulating figures and it is extremely important to put that on the record.*¹⁵

2

Historical Background

The background to the UK's current difficulties concerning election administration is the result of a dangerous neglect of this matter over decades. The Home Office, traditionally responsible for managing electoral affairs within Whitehall, limited itself to issuing circulars to local officials but refused to use the powers of direction given to central government by the relevant legislation. (According to Section 52(1) of the Representation of the People Act of 1983, "A registration officer shall comply with any general or special directions which may be given by the Secretary of State with respect to the arrangements to be made by the registration officer for carrying out his functions under this Act").

So neglected were these powers that senior officials both at the Ministry of Justice (the inheritor in 2007 of the electoral role of the Home Office and then of the Department for Constitutional Affairs) and at the Electoral Commission often deny their existence though they are clearly set out in the 1983 Act.

After the 1981 census, solid evidence emerged that the quality of the electoral register had declined since 1966. According to the official statistics agency, the Office of Population Censuses and Surveys (OPCS), the percentage of eligible voters missing from the electoral register increased in England and Wales from 3.2% in 1966 to 6.7% in 1981. A significant cause of this increase was the lowering of the voting age from 21 to 18. There had also been an increase in the percentage of inaccurate ("redundant") names on the register to 7%. OPCS attributed the increase mostly to the practice of some Electoral Registration Officers of retaining on the roll names of electors at addresses from which there had been no response to the annual registration form. In practice, some of these were no longer resident at their previously registered addresses, having moved home.¹⁶

A further factor cited by some was that names were sometimes retained to boost the official number of individuals resident in the relevant local government district since the Rate Support Grant received from central government was dependent on population.¹⁷

In an independent report commissioned by the Home Office in 1986, a series of recommendations for improving the situation were made.¹⁸ Though accepted in principle by the Conservative Government, nothing substantial happened.

One argument in the late 1990s for the creation of an election administration quango – later the Electoral Commission – was that this new body would be more serious about remedying the traditional neglect of electoral registration and other aspects of running elections.¹⁹ After it was created in 2000, the new institution did little better. The Electoral Commission claimed that the Government still

retained direct legal responsibility for the work of local government authorities and that these local authorities remained responsible for electoral registration.²⁰ This would have been more compelling had the new Electoral Commission faced up to the seriousness of the defects in electoral registration.²¹ But, during the 2006–07 inquiry of the Committee on Standards in Public Life, the Electoral Commission appeared to have significantly underestimated the number of names wrongly included on the voter rolls.²² It did this in the face of growing evidence, accepted by the Committee on Standards in Public Life but questioned by the Electoral Commission, that wrongly included names opened the door to considerable voting fraud.²³

The combination of inaccurate voting rolls and of postal voting on demand, a radical measure introduced by Tony Blair’s Government in 2000 to make voting easier, created a greater potential for abuse that was all the more harmful for being too often denied by the Government, by officials in the Ministry of Justice and by the Electoral Commission.²⁴ Before the introduction of postal voting on demand, there had been some excuse for the view that it did not matter much if

the electoral registers included millions of names of electors who had died or who no longer resided at the addresses where they were listed. With the advent of postal voting on demand, the names of such ghost voters could be used by potential fraudsters with far less risk of detection.

It was generally assumed in the 1950s and 1960s that corruption and misconduct were hardly to be found in the UK any longer. The venality and dirty tricks that had characterised British

politics and elections in the eighteenth and early nineteenth centuries had all but disappeared. Academic studies published in 1962 by William B. Gwyn and Cornelius O’Leary recorded the clean-up. O’Leary’s Oxford doctoral dissertation was titled simply and definitively *The Elimination of Corrupt Practices in British Elections, 1868–1911*.

Strong evidence for O’Leary’s theme came from the drastic decline in appeals (“election petitions”) against election results from the 1880s onwards. As late as the General Election of 1880, no fewer than 42 of the results were challenged in election petitions, of which 19 in England were successful; eight led to the appointment of Royal Commissions while seven towns were temporarily disenfranchised.²⁵ In the four General Elections held between 1865 and 1880, no less than 162 election petitions were presented, of which 61 were successful.²⁶ A Corrupt Practices Act became law in 1883. In the four General Elections of 1885–95, the number of petitions presented fell to a total of 30 of which only nine were successful.²⁷ Between 1923 and 1997, electoral offences did not lead to a single Member of Parliament forfeiting his or her seat in the House of Commons.²⁸ The only parliamentary election results found invalid in the past 90 years due to administrative errors or election offences were in Winchester in 1997 and in Oldham East and Saddleworth in 2010.²⁹

“During the 2006–07 inquiry of the Committee on Standards in Public Life, the Electoral Commission appeared to have significantly underestimated the number of names wrongly included on the voter rolls”

The drastic decline in election petitions has led to the working assumption that manipulating of campaign expense limits by candidates and their agents as well as registration and voting fraud do not happen in the modern era.

This assumption has led to a relaxed attitude on the part of some local government officials who act as Electoral Registration Officers and Returning Officers. Some of the Whitehall officials responsible for supervising the system appear to have come to be equally complacent. This attitude has affected the supervision of candidates' expense returns as well as electoral registration.

A reason for administrative inaction in checking either the accuracy of the voter registry or of candidates' returns of campaign expenditure has been the presumption that any errors would be spotted by rival candidates and parties. Though challenges by agents of rival candidates to the invalid inclusion of voters certainly had been common before the First World War and to some extent later, such self-policing of the system by party organisations became much less efficient. This was partly because of informal non-aggression pacts between rival parties in view of the high costs of election petitions and partly because of the gradual decline in local party organisation.³⁰

The culture of loose regulation and non-enforcement is indicated by evidence given by John Turner, a senior official of the Association of Electoral Administrators, to the Committee on Standards in Public Life during its investigation into the funding of political parties. Asked by Professor Anthony King about the duties of Returning Officers (the local officials responsible for the conduct of elections) to scrutinise the expense returns of candidates, he said:

“Certainly they are not onerous, in the sense that we have no statutory duty other than to receive the returns as to election expenses at the appropriate time. We do not even have the burden of having to vet them, in terms of their arithmetic accuracy. Having received the return, save for a parliamentary election – when one must also publish a notice – that is about the limit of the duty that falls on a returning officer. Any vetting is left to opponents of, in particular, successful candidates or to anyone else with an interest in the matter and who takes the opportunity for public inspection. The consequence is that it is very much an administrative process. The return comes in. It is simply put away in a folder and sits there for the statutory length of time, until somebody else decides that it should be destroyed”.

(Oral evidence to the Committee on Standards in Public Life, 30 April 1998)³¹

Since 1918, the task of drawing up the register of electors has been a responsibility of public authorities (in practice, units within district councils) charged with making a “house to house or other sufficient search”. The cost of this activity is met by the relevant local authorities, some of which have been distinctly reluctant to commit the resources needed for the job. If these local authorities are remiss, the minister who heads the Whitehall department responsible for electoral affairs – currently the Cabinet Office – has the power to direct a local authority to improve its performance. But there has been a traditional reluctance to use that power.³²

Resistance against direct action by central government to use its legislative authority to oblige local authorities to improve voter registration was confirmed by the Home Office in 1984:

“The Home Secretary already has the legal power (under section 52(1)) of the 1983 Representation of the Peoples Act to require an ERO [Electoral Registration Officer] to comply with any general or special directions he may give him in connection with the registration of electors. But this power has never, to the Government’s knowledge, been exercised.”³³

These Home Office attitudes were transmitted both to the Department for Constitutional Affairs and then to the Ministry of Justice, which subsequently assumed the election affairs portfolio in Whitehall. They were transmitted also to the Electoral Commission, when it came into existence in November 2000. To some extent, there was a continuity of personnel between the Home Office and the Electoral Commission. Home Office officials had played an important part in setting up the arrangements and in appointing staff. The opportunity to consider afresh the needs of a specialist body for electoral administration was lost. There appears to have been too little consideration of the desirable career backgrounds and technical skills appropriate to the job: it was simply assumed that Whitehall civil servants fitted the bill. The new organisation thus had too few people with direct experience as Electoral Registration Officers and had no full-time personnel with a background in forensic accounting, a qualification needed if the statutory expense returns of parties and candidates were to be scrutinised effectively.³⁴

3

The UK Electoral Registers: 13 to 15.5 Million Errors

A study carried out by the Electoral Commission in 2011 at the time of the census that year revealed that in April 2011, the electoral rolls of England, Wales and Scotland for parliamentary elections contained an estimated 15 million errors.³⁵ Some 8.5 million individuals entitled to vote (17.7%) were not included on the registers for their current addresses drawn up by Electoral Registration Officers (normally local government officials), while the registers included over 6.5 million names of persons who were no longer resident at the registered address, had died or who had been mistakenly or fraudulently included (14.5%).³⁶ Since the voter rolls become progressively more inaccurate following the standard registration date in October of each year, the estimated total of errors in May 2011 (the same month in which the next General Election will take place in 2015) was marginally higher.³⁷ In July 2014, the Electoral Commission published a re-analysis of the figures in which it pushed down its estimates for errors in April 2011 to 7.5 million omitted names and 5 million inaccurately included ones. (See footnote 37.)

When Northern Ireland is included, the error total for the entire UK rises further. A separate study of registration in Northern Ireland found that on 1 April 2012, no fewer than 29% of qualified electors were not registered at their current address (about 400,000 electors) and 22% were included on the register for addresses where they did not live. This raises the error total by over 600,000 making the UK total 13 to 15.5 million.³⁸

On the assumption that no remedial action is taken, the next General Election will be held on the basis of registers with 13 to 15.5 million mistakes. It is unclear whether the imminent introduction of a system of registration (by individuals rather than by “heads of households”) will lead by May 2015 to an improvement or worsening of the situation. The working assumption within Whitehall is that the benefits of Individual Electoral Registration will not be seen until later. There is no concerted plan to reduce the level of errors in the register for the 2015 General Election. In fact, the intention is to carry forward names from the previous register in order to maximise the numbers registered even though this will entail the retention of outdated names. Considerable store is being placed by the Electoral Commission on the introduction in 2014 of online registration.

One key shortcoming is the failure to ensure that, when an elector moves and is registered at his or her new address, their listing on the register at their old address is automatically removed. In an age of computers, this should be a simple

task. In fact, different local authorities use at least four different computer systems that are unable to communicate with each other and some local authorities use further systems still. A plan to set up a single system was abandoned by the incoming Coalition Government since it would have cost £11.4 million to set up and £2.7 million a year to maintain.³⁹ The unresolved problem of multiple, non-communicating computer systems contributes significantly to the error level in the electoral register. The problem is compounded by the failure of many local authorities to conduct a thorough annual door-to-door canvass.

In this digital era, it seems surprising that a list of names and addresses can be so inaccurate. The reasons for the failure to introduce the proposed unified registration database need to be examined with a view to ensuring that they can be overcome.

Interpreting the statistics of 7.5 to 8.5 million missing registrations and 5 to 6.5 million incorrect ones

The fact that research found that in April 2011 7.5 to 8.5 million individuals entitled to vote in British elections (14 to 18% of the total) were not registered at their correct address does not mean that all of them were disenfranchised.⁴⁰ A considerable (though unknown) number were registered at a previous address.⁴¹ Moreover, the system of rolling registration enabled electors who found themselves omitted from the voting rolls to register at any time until 12 working days before an election.⁴² An elector registered at a previous address in practice could still vote at that address.

“An error-filled voting roll is an indication of regulatory failure since a complete and accurate list of those qualified to vote is fundamental to electoral democracy”

Nevertheless, the number of errors on the electoral register cannot be ignored or played down. It undermines the system of elections for candidates in single member House of Commons constituencies and local government wards if individuals vote in places where they no longer live (voting by overseas

residents is a minor exception to this). Moreover, an error-filled voting roll is an indication of regulatory failure since a complete and accurate list of those qualified to vote is fundamental to electoral democracy.

According to the Electoral Commission's 2011 report, the fact that some electors were registered at a previous address reduced the number of qualified electors who were not registered at any address. The Electoral Commission explains: “This study found that the completeness of that register was 82%. This implied that approx. 8.5 million people were not registered at their current address. This does not mean that there should have been 8.5 million more entries on the registers as many of these people may have been represented on the registers at a previous address”.⁴³

The dramatic decline in the quality of the electoral registers between 2006 and 2014

The Electoral Commission claims that the measures it took following the 2007 criticisms of the Committee on Standards in Public Life led to considerable improvements in the registration procedures of Electoral Registration Officers

within local government authorities.⁴⁴ In particular, the Electoral Commission implemented the Committee on Standards in Public Life's recommendation that it should install a system of "performance indicators" to enable it to assess the way in which the Electoral Registration Officers were carrying out their statutory registration duties.⁴⁵

The problem is that, far from showing an improvement or at least stabilisation, the official research shows a dramatic decline in the quality of the UK's electoral registers. The 13 to 15.5 million registration errors revealed in 2011 constituted a far larger sum than the total claimed for 2005 by the Electoral Commission in its evidence in 2006 to the Committee on Standards in Public Life. In 2006, the Electoral Commission even disputed the author's estimate of 7 million errors as an exaggeration.⁴⁶

The author's estimate in evidence to the Committee on Standards in Public Life in 2006 was 3.5 million missing names of those entitled to vote (a statistic based on the Electoral Commission's research published in 2005) plus a similar number of electors wrongly included. It was the latter figure that the Electoral Commission challenged as exaggerated. In the absence of more recent research, the author suggested that the ratio of inaccurate names to missing ones was probably similar to that found in government research carried out following the 1981 census: in 1981, the two numbers had been similar. According to the Electoral Commission, the "figure of 3.5 million mistakes [inaccurately included names] on the electoral register is a considerable overestimate"⁴⁷:

"it is likely that current electoral registers are considerably more accurate than they were in 1981. This is due to two factors. Firstly, in 2001 a provision was introduced via The Representation of the People (England and Wales) Regulations (SI 2001 No. 324) which allowed electoral registration officers to retain individuals who had not responded to the annual canvass for one year, before removing them (the 'carry-forward'). This provision has led to more regular cleansing of the electoral register. Secondly, these regulations also provided for rolling registration, meaning that people that moved during the currency of the register were able to re-register at their new address – thereby improving the accuracy of the register still further."⁴⁸

So how is the increase in the error total from considerably under 7 million in 2005 to between 13 and 15.5 million in 2011 to be explained?⁴⁹

The Electoral Commission chose to give a partly reassuring interpretation of the 2011 findings. Though the Electoral Commission's Chair, Jenny Watson, acknowledged that the research confirmed "the current approach to electoral registration in Great Britain is struggling to achieve historic levels of accuracy and completeness,"⁵⁰ the report itself claimed that "the registration rate appears to have stabilised since 2006."⁵¹

Two technical factors account for a relatively small though significant part of the increase. First, as already explained, the voter rolls become progressively more inaccurate following the standard registration date in October of each year. Electors who move home usually fail to re-register at their new address. As the year proceeds, the register becomes more out-of-date. Since the error statistic for 2011 was for April whereas the 2006 estimates were for the start of the new register of 2005, this could account for about 1 million of the increase of between 5.5 and 8 million errors. Second, the error estimate for 2005 of 7 million was for

England and Wales only while the 13 to 15.5 million error total for 2011 covers Scotland as well. This still leaves a very large increase in the error rate which needs to be accounted for.

Given that the research into the register carried out in 2011 was more thorough than for many previous years, it is likely that either the Electoral Commission grossly underestimated the problems of registration in 2005 or that these problems grew rapidly in the subsequent five years – or both.

According to the Electoral Commission's own figures, the number of names included inaccurately on the registers increased from an estimated 1 million in 1991⁵² to 5 to 6.5 million in 2011.⁵³ In 1991, the 'poll tax' may have given people an incentive to remove their names from the electoral roll. Once the 'poll tax' was replaced with the Council Tax in 1993, there should have been a corresponding improvement in the accuracy of the list whereas the opposite has happened.

The huge increase in names wrongly included on the electoral roll is striking. Since the direct responsibility for registration rests with local government authorities, the Electoral Commission has a partial excuse, that it is not hesitant to use, for disowning responsibility for the situation.⁵⁴

When questioned in 2014 to explain how it could justify its claim that it had successfully improved the process of voter registration while the number of errors had surged since 2005, the Electoral Commission claimed to Policy Exchange in an interview in June 2014 that there would have been even more errors but for its work. It blamed voter disengagement as the key reason for the increasing difficulty in registering electors.

Given the margins of error in all sample surveys, there is room for doubt about the exact total of registration errors. In addition, surveys conducted in different years were not wholly comparable for a variety of technical reasons. What is beyond question, and is admitted by the Electoral Commission itself, is the huge increase in register errors since it came into existence in 2000.⁵⁵

Stress on inclusion rather than accuracy

It has been the policy of the Electoral Commission, under both Labour Governments following the creation of the Electoral Commission in 2000 and under the Coalition Government since 2010 to give preference to the inclusion of electors rather than to the accuracy of the register. The policy was confirmed by the Chair of the Electoral Commission, Jenny Watson, on 3 July 2014 to the Political and Constitutional Reform Committee of the House of Commons:

"All of our voter registration activity... is focused on getting people who aren't registered to register."⁵⁶

She had expressed the same priority in a speech in March 2014.⁵⁷

The desire for inclusion has led to the policy of carrying forward names from the previous register of electors for whom there is no up to date information as to their current address. The carry forward is permitted for one year, though it is unclear whether it is sometimes used for more than a year.⁵⁸

Giving priority to the retention of names over attention to accuracy has an obvious drawback. It is all too likely to provide a rationalisation for lax administrative practice and even for the possibility of abandoning the annual

canvass by Electoral Registration Officers (now mandated by the Representation of the People Act 1983). Soon after its creation, the Electoral Commission's keenness to push up voting turnout led to its advocacy of all postal ballots.⁵⁹ These were introduced on a pilot basis but abandoned following a press outcry about burgeoning election fraud.⁶⁰

International criticism of emphasis on inclusion over integrity

The stress on inclusion and trust rather than accuracy was mentioned in 2010 in a critical report by an international team of election observers led by the former Canadian Chief Electoral Officer, Jean-Pierre Kingsley. The observer team had been sent by the Organisation for Security and Cooperation in Europe (OSCE). The team was particularly concerned about the potential for abuse of the system of late registration (the 'rolling register') that had been introduced by the Representation of the People Act 2000 as a way to allow electors who had failed to register at the time of the annual registration canvass to do so at the last moment.

"In the conduct of elections, a strong emphasis is placed on enfranchisement and voter participation, as well as on trust in the conduct of the process. While the system functions overall well under these conditions, concerns are regularly expressed with regard to the lack of safeguards against possible fraud resultant from a weak system of voter registration and postal voting, compounded by the absence of a requirement to produce identification at any stage of the process. Interlocutors of the OSCE/ODIHR EAM concurred that urgent measures were necessary with regard to the above concerns in order to maintain the trust of the electorate and the integrity of the process..."

[The] OSCE/ODIHR EAM team described the voter registration system as the weakest link of the electoral process due to the absence of safeguards against fictitious registrations. Many argued that the 'rolling registration' is the most open to abuse, in particular when applications are submitted shortly before an election, as this might leave insufficient time to EROs [Electoral Registration Officers] to verify new registrations."⁶¹

Efficient administration of voter registration is preferable to blaming voter disengagement

Whether or not to vote is a matter of individual choice. By contrast, returning voting registration forms is compulsory.⁶² It is a legal duty on a par with making tax returns. Ultimately, it is a matter of administrative efficiency to ensure that all of those entitled to vote are registered and that voter lists are accurate. The only exceptions to this for UK elections are qualified UK citizens living abroad and non-UK citizens living in the UK but entitled to vote in some or all types of election.

The primary method of administering a registration system is by ensuring that citizens complete the annual registration forms. This obligation has until this year been a matter for a "head of household" at each address but from now on will be for every individual.⁶³ Individual Electoral Registration is already in place in Northern Ireland and has worked well as a way to contain electoral fraud there, though not all officials or former officials are convinced of its effectiveness.⁶⁴

The primary means to compile the annual register is to issue forms to each address and to conduct a doorstep canvass of those who fail to respond either to the initial posting or to a reminder. As the Electoral Commission's 2011 study reported, failure to carry out this canvass in some local government districts has contributed to registration errors.⁶⁵ Thus, there needs to be stronger action to compel failing local authorities to improve their performance.

However, there are additional administrative measures that can and need to be taken as set out in the final chapter. These include: (1) the readier use of fines for non-registration, (2) a national computerised register that will ensure that electors who register at a new address are automatically removed from the register at their previous address, (3) use of other encounters between individuals and officialdom (such as applying for a passport or driving licence) for the purpose of voter registration.

With thorough measures to ensure inclusion of qualified electors on the register, it will be possible to remove inaccurate names without causing disenfranchisement. The system needs also to be assured by a procedure for checks on the accuracy of samples of registered electors. Performance indicator questionnaires completed by Electoral Registration Officers are not an adequate substitute for selective checks by an independent body.

The Electoral Commission introduced 'performance indicators' as a method of assessing the conduct of Electoral Registration Officers in response to a recommendation of the Committee on Standards in Public Life. These are based on replies by Electoral Registration Officers to an annual questionnaire administered by the Electoral Commission.⁶⁶ The effectiveness of this method of assessment is called into question by the high rating given by the Electoral Commission to the administrative performance of the electoral services team in troubled Tower Hamlets and may be seen as a powerful sign of the defects of the 'performance indicator' system in general.⁶⁷

4

How Much Voting Fraud Is There in the UK?

Voting fraud is a significant problem in the UK. It is all the more serious because of what this author considers to be a culture of denial within both the Electoral Commission and the central government authority responsible for electoral matters – successively the Department for Constitutional Affairs, the Ministry of Justice and the Cabinet Office.

Even when there may be compelling evidence that electoral offences are widespread, they are extremely difficult to prove and very costly to prosecute. This means that it is unsafe to assume that the number of cases successfully prosecuted represents the sum total of the fraud that occurs.

The introduction in 2001 of postal voting on demand has facilitated practices that are undesirable and which are not in keeping with fundamental standards of electoral conduct because the secrecy of postal ballots cannot be assured. They are particularly problematic in certain communities, especially those in which some individuals – women in particular – can come under social pressure to sign blank postal voting ballots and hand them to family or communal leaders to fill them out.

Nevertheless, there are sharp differences in opinion about the effects of postal voting on demand, with proponents pointing to the limited number of convictions for postal voting

“Even when there may be compelling evidence that electoral offences are widespread, they are extremely difficult to prove and very costly to prosecute”

fraud. The Labour MP Chris Ruane, a proponent of postal voting, has asked repeated questions in the House of Commons about the number of prosecutions for postal voting offences with a view to showing how infrequent they have been.⁶⁸ On 19 June 2014, he stressed to the Political and Constitutional Reform Committee that there had been one single example of a successful postal voting fraud conviction since 2008.⁶⁹ This had been in Ashford, where a Conservative candidate in a local government election had been convicted of delivering “hundreds” of postal vote applications to the council with forged signatures.⁷⁰ The Electoral Commission, too, claims that such fraud is simply not a major problem and that it peaked in the years after postal voting on demand was introduced in 2001.⁷¹ The Electoral Commission believes that the hastily enacted Electoral Administration Act 2006 addressed the problem by requiring each postal vote application to be signed – along with information on the date of birth of the applicant.⁷²

Yet, there has been no shortage of testimony about the ease and frequency of postal voting fraud from fellow Labour MPs or former MPs such as Ann Cryer; and from senior police officers, judges and local party activists. The shortage of prosecutions may more realistically be attributed to the inherent problems of proving illegal practices and not to the supposition that they occur rarely.

A British Pakistani in Derby described the common abuse of the postal voting system in a BBC interview broadcast in March 2014:

*“Campaigners came to the house and they asked my mum to vote for them, and actually my mum not being able to read English, she didn’t know where to put the cross, so one of the people put the cross in the box for her and said, there you go, now you can just sign it and we will take it off you. It wasn’t free choice. It was more influence, and it was kind of to get rid of them, to make them stop coming back. She just gave in. That’s not you voting, that’s them voting for you, voting for themselves. I was pretty cross with them to be honest with you, because I wasn’t at home when it did happen. It is your right to put that cross where you want to choose, which person or which team you want to vote for, but if someone is coming and physically putting a cross in a box for you, that is your right snatched away from you, isn’t it? So when I knew you was coming to interview me, you know, I asked a few people around the neighbourhood and they did say it was happening to them, but no one was actually willing to speak out onto the radio show”.*⁷³

Abdullah Zaid, a Conservative activist from an Asian community in Nelson, Lancashire, was one of the few people prepared to speak to the BBC about the common abuse of the postal voting system:

*“People are being deprived of their electoral rights through the postal voting. The people have no choice who they want to vote, they cannot vote. The whole family has the postal vote, get the signature and the date of birth on that sheet, leave it on the fireplace, a certain person will come, you just give them. No cross on them, they will be blank, the votes will be blank, the ballot paper will be blank. These influential element, they victimise them, they’re being exploited by this element, hundreds of them, oh yeah yeah, for hundreds of them. But the thing is they have a fear, they won’t come out. This is where evidence is lacking because they don’t dare to come out. You may say Asian people thinking that they fear back home as well, backlash, you know. Here also they fear that this person is already influential and if I won’t go along as he says, if I don’t vote for him or the candidate he is recommending, then I might be victimised”.*⁷⁴

As Labour MP for Keighley, Ann Cryer repeatedly complained that postal voting effectively disenfranchised women in some communities within her constituency and expressed her sadness about the pressure to conceal what was happening. She said that postal voting saw “democracy go through the window”, adding “I don’t want to see democracy set back by people going door-to-door telling people how to vote or people taking ballot papers.”⁷⁵

It sometimes becomes clear that postal voting fraud has occurred – for example when a postal vote has been cast for an elector who subsequently is proved to have died prior to the election. Yet, proving who cast the vote may be impossible. The problem of identifying those guilty of fraud relating to postal voting was illustrated by a failed investigation in Reading. *The Daily Telegraph* reported:

“Postal voting fraud will get worse as offenders realise how easy it is to get away with it, a senior police officer has warned. Chief Supt Dave Murray, of Thames Valley Police, said fraudsters would develop “a feeling of untouchability” because the law made it so hard for them to be successfully prosecuted.

He made his comments in a private letter to the Electoral Commission, leaked to The [Daily] Telegraph, following an investigation into postal voting fraud in local elections in Reading last year.

Thames Valley Police began an inquiry after the Liberal Democrats complained about the results in one ward where three Labour councillors were elected. They looked at 46 applications for postal votes and discovered that only two were authentic.

Of the other 44 voters, 38 did not receive the forms because they were living somewhere else and the other six said that, although their address was correct, part or all of their application for a postal vote was forged.

The police concluded that at least six per cent of postal votes cast in the Redlands ward were bogus. One person acted as a witness for 17 postal vote applications but he claimed that his name had been forged on all the forms where it appeared.

Two voters who allegedly saw him sign their forms were not prepared to testify against him. The Crown Prosecution Service concluded that there was not enough evidence. In his letter, Mr Murray did not suggest that any of the three Labour councillors who were elected in Redlands ward were involved in the fraud. But he was alarmed by how easy it was to abuse the system.”⁷⁶

It is significant that local government officials with direct experience of the working of elections and some judges and lawyers specialising in electoral cases have been far more pessimistic than the Electoral Commission and some MPs about the operation of postal voting on demand. The Chief Executive of Woking Borough Council, Ray Morgan, acknowledged in 2014 to the BBC that “[s]adly, I don’t think any of elections that I’ve personally officiated over since 2006 have been totally fair and honest.”⁷⁷ The Chair of the Association of Electoral Administrators testified in 2006 “postal voting unlocked a Pandora’s box that some unscrupulous people were able to exploit.”⁷⁸ According to Judge Peter Openshaw QC, the postal voting system was “wide open to fraud”⁷⁹ and, in the words of Richard Price QC, editor of *Parker’s Law and Conduct of Elections*, “Postal voting [on demand] shattered... democracy... [and] destroyed the secret ballot... The argument that fraud only occurred in two wards in Birmingham and perhaps a few elsewhere is fallacious.”⁸⁰

Judge Richard Mawrey QC set out in detail the inbuilt fraud-prone character of postal voting on demand in his judgement in 2008 in the Slough case. His analysis was all the more compelling because of the details that unusually had emerged during the legal proceedings:

“Before the introduction of postal voting on demand, the problem of roll-stuffing was containable. Where votes had to be cast in person, anyone wanting to use false names on the Register to cast votes had to produce actual voters who were prepared to go to polling stations to cast the votes.

If the false name being used was that of a person who had once lived at the property but had moved on or died, there was always the risk that someone at the polling station might have known the real voter whose name was being used and who would thus unmask the imposter.

The sheer logistics of this species of personation thus made it impracticable to record more than a relatively small number of bogus votes. If the constituency or ward had a small population and the contest was likely to be very close, this kind of tactic might just be sufficiently viable to justify the risks involved.

... Postal voting on demand swept away all these worries for the fraudster. Gone was the risk that the bogus voter might be recognised at the poll. False names on the Register could be used wholesale to cast bogus votes in their hundreds with only minuscule risk of detection.

Postal voting on demand, therefore, put the roll-stuffers in business in a big way.⁸¹

Mawrey stressed that measures introduced in 2006 to make postal fraud harder had actually made it easier (Paragraph 149).⁸² In 2014, Mawrey stated again that fraud is inherent in postal voting on demand:

“Postal voting on demand, however many safeguards you build into it, is wide open to fraud. And that it’s open to fraud on a scale that will make election rigging a possibility – and indeed, in some areas, a probability. Fraud at polling stations is difficult. It’s very risky, because you have to find people actually prepared to go down and cast these fraudulent votes and they may be detected, and if detected they may face a prison sentence, so it’s a very risky business and it can only be done on a minuscule scale. Postal voting on demand changed all that. It became possible for the first time to manufacture votes on an industrial scale... What I’m simply saying is that if you keep the present system, then however many safeguards you create, fraud and serious fraud is inevitably going to continue, because that is built into the system.”⁸³

Legal barriers to prosecution of voting fraud

Even when there is evidence of misconduct and outright fraud, the barriers against prosecution and of proof are high. There is no legal aid for those wishing to bring an election petition before the courts. The rules are restrictive. Above all, the costs are prohibitively large. Even if a petitioner wins and is then awarded costs, it is uncertain that the losing side will honour its obligation to pay. The investigation

“Even when there is evidence of misconduct and outright fraud, the barriers against prosecution and of proof are high”

in 2014 by BBC Radio 4’s *File on Four* again provided valuable testimony about the practicalities of bringing an election petition by giving the example of the successful case brought by a Labour candidate, Mohammad Ali, after he lost a local government election in Woking in 2012 by 16 votes to a Liberal Democrat.

The case cost nearly £200,000.⁸⁴ The Liberal Democrat was found guilty of corruption and illegal practices and ordered to pay Ali costs of £180,000. According to the BBC, by March 2014, Ali still had not recovered a penny.⁸⁵ Costs on this scale obviously make it extremely risky for a defeated candidate to bring an election petition even with the backing of a local party organisation.

Apart from prohibitively high costs and the risks posed by the intricacies of election law and the complex rules relating to election petitions, there are three further barriers. The first is the wall of silence that too often pervades local communities and deters their members from agreeing to testify against local political bosses. This too was a point that emerged from the *File on Four* investigation. Second, the Electoral Commission has tended to pour cold water on allegations.⁸⁶ Third, police forces have too often proved ineffective in investigating reported illegal and corrupt election practices.

Evidence that election fraud is widespread

There are at least four weighty indications that voting fraud is a widespread problem. These are:

1. The number of proven cases of serious electoral crime that led to convictions in 2013 and before.
2. The large number of fraudulent registrations and votes involved in a number of the cases.
3. Testimony by leading judges and by politicians from all of the main political parties that problems of malpractice are widespread, that the system is open to abuse and that only a fraction of the fraud leads to prosecutions.
4. The continued mistrust of electoral integrity at the time of the most recent local government and European Parliament elections held on 22 May 2014.

1. There are a large number of serious and proven cases

Since 2001, at least 37 people have received jail sentences for electoral crimes in 18 different cases. They have involved proven offences in no fewer than 16 locations in England and Northern Ireland. Individual members of the three main political parties have been involved as well as individual members of the British National Party and the Democratic Unionist Party. Further convictions resulted in fines or sentences of community service. Election courts have overturned the results of local government elections in Birmingham and Woking.

Table 1: Places where people have been jailed, or sentenced to community service and where courts have overturned election results for illegal and corrupt practices, 2001–2013

Year	Location	Sentence
2013	Ashford	One person jailed for 1 year ⁸⁷
2013	Derby	One person jailed for 1 year 2 months and two for 8 months (suspended) ⁸⁸
2013	Wolverhampton	One person jailed for 6 months (suspended) ⁸⁹
2013	Woking	One councillor's election overturned ⁹⁰
2013	Isle of Wight	One person sentenced to community service ⁹¹
2011	Burnley	One person jailed for 1 year and 6 months ⁹²
2010	Bradford	Four jailed for 1 year, 9 months and one for 11 months ⁹³
2010	Walsall	One person jailed for 3 months ⁹⁴
2009	Slough	Six jailed, one for 4 years, 6 months, two for 3 years, 6 months, one for 1 year, 6 months, one for 8 months and one for 4 months ⁹⁵
2008	Coventry	One person jailed for 8 months ⁹⁶
2008	Peterborough	Six jailed, one for 1 year 3 months, one for 9 months, two for 5 months, one for 3 months and one for 2 months ⁹⁷
2007	Oldham	One person jailed for 3 months ⁹⁸
2006	Burnley	Two jailed for 1 year, 6 months ⁹⁹
2006	Coleraine	One person jailed for 4 months ¹⁰⁰
2005	Birmingham	Six councillor's elections overturned ¹⁰¹
2005	Blackburn	One person jailed for 3 years, 7 months ¹⁰²
2004	Bristol	One person jailed for 5 months ¹⁰³
2004	Guildford	One person jailed for 4 months ¹⁰⁴
2002	Burnley	One person jailed for 6 months ¹⁰⁵
2002	Havant	One person jailed for 4 months, one for two months and two fined ¹⁰⁶
2001	Hackney	One person jailed for 6 months and one for 4 months ¹⁰⁷
2001	Oldham	Eleven sentenced to community service ¹⁰⁸

Note: The date indicates the year of conviction.

2. Thousands of fraudulent electoral registrations and votes are involved

What has made some of the worst cases so notable has been the large number of votes concerned. As described in Chapter 3, reported offences in Ashford, Blackburn, Bradford, and Slough each involved hundreds of electors – while the total of fraudulent votes in the elections in three Birmingham wards in 2004 was two to three thousand.¹⁰⁹ In the London Borough of Tower Hamlets, where there have been numerous allegations as well as arrests after the May 2014 borough and mayoral elections, an election petition was withdrawn in 2007 because the considerable number of disputed votes would not have affected the result – which sought to rely on expert handwriting evidence that alleged that 13 percent of the

postal votes may have been forged.¹¹⁰ In other instances, such as Coventry, where a number of people were convicted for sample offences, judges reported that these had probably been the tip of the iceberg.¹¹¹

Table 2: Number of reportedly fraudulent entries on electoral registers and/or number of reportedly fraudulent votes involved in some recent cases

Year	Location	Number
2012	Ashford	“hundreds” ¹¹²
2010	Bradford	Detectives examine about 900 suspicious postal voting forms – many from people who did not exist or had no idea an application had been made on their behalf. Up to 50 people involved in making them. One person alone filed filled 114 bogus postal voting applications. ¹¹³
2007	Slough	“[C]ertainly more than... 120” ¹¹⁴
2006	London (Tower Hamlets)	According to evidence from handwriting expert, almost 13% of postal votes in the Tower Hamlets borough had been forged. ¹¹⁵
2004	Birmingham (Bordesley Green)	1,500–2,000 ¹¹⁶
2004	Birmingham (Aston)	At least 1,000 ¹¹⁷
2002	Blackburn	233 postal votes ¹²⁰

3. Testimony of judges, politicians and journalists that prosecutions represent the tip of the iceberg

In some court cases, judges have commented that the prosecuted offences seemed to have been part of a much larger fraud scheme.¹¹⁹ Several Labour, Conservative and Liberal Democrat politicians have given similar testimony, including the Liberal Democrat peer and local councillor Lord Greaves, on the extent of registration discrepancies in Pendle as well as similar statements by fellow Liberal Democrats including John Hemming MP among others. One Liberal Democrat peer told the House of Lords that “the vast majority of crime in this country is unreported – and therefore not prosecuted – and that the recent scandals of postal vote abuse in places such as Birmingham and Slough may be only the tip of the iceberg”.¹²⁰ Lord Greaves has regularly reported widespread but unprosecuted discrepancies in the Lancashire constituency of Pendle.¹²¹ Andrew Stephenson, the Conservative MP for Pendle has made similar complaints, as has his Labour predecessor Gordon Prentice.¹²²

Where fraud takes the form of dubious or false claims that a voter is resident in the relevant ward or constituency, prosecution may also be hampered by the difficulty of disproving residence as a result of inaccuracies in the electoral register. A Metropolitan Police inquiry in 2013 into electoral irregularities in the troubled Tower Hamlets borough during 2012 failed to reach a definitive conclusion for just this reason.¹²³

4. Public perceptions of widespread electoral fraud

There is a widespread public perception that the voting system is open to fraud. A survey in December 2013 found that over one third of respondents (34 percent) reported that they thought electoral fraud was either a very large or fairly large problem.¹²⁴ This popular perception may have been influenced by press reports but they cannot safely be dismissed on this basis – since some of these reports themselves reflected evidence obtained from close observation and from evidence provided by local party activists. Numerous press alarms before the elections in May 2014 in Tower Hamlets were followed by a chaotic poll and a subsequent election petition.¹²⁵

5

The Electoral Commission: Still a Flawed Institution

1. The continuing culture of denial within the Electoral Commission

This report demonstrates that there is a considerable gulf between some of the most qualified outside observers on one side, and the Electoral Commission and Whitehall on the other, when it comes to assessing the administrative quality of elections in the UK. Government ministers of the day have tended to support the Electoral Commission's view, seemingly because they have relied on briefings by officials who continue to reflect an inbuilt Whitehall approach.¹²⁶

Judge Richard Mawrey QC, the lawyer with the greatest experience of the working of the system gained as a result of sitting through many days of testimony in various court proceedings, concluded in his 2008 judgement on the Slough case:

*"The system of registering voters in Great Britain may fairly be described as shambolic."*¹²⁷

He has referred to the scale of fraud resulting from the introduction of postal voting on demand:

*"[T]he opportunities for fraud are enormous, the chances of detection very small..."*¹²⁸

Mawrey's concerns were not only supported by political practitioners from all the three main parties (as detailed in this report). They were also reflected in a 2008 report of an investigation by the Parliamentary Assembly of the Council of Europe:

*"... it is clear that the electoral system in Great Britain is open to electoral fraud. This vulnerability... was exacerbated by the introduction of postal voting on demand... The 2006 changes to the electoral code enhanced the security of the postal voting arrangements, but other shortcomings and vulnerabilities remain. Together with numerous British experts we strongly recommend to eliminate those."*¹²⁹

Commonwealth election observers came to a similar conclusion about the conduct of the 2010 UK General Election. They found that:

*"while the system is not corrupted it is certainly corruptible."*¹³⁰

Yet, the Electoral Commission persists in its view that electoral fraud is not a serious issue. According to its Chief Executive, Peter Wardle, in 2009, fraud is:

“on the decrease and continues to be relatively rare...”¹³¹

In 2014, the Chair of the Electoral Commission, Jenny Watson, asserted:

“[T]here is no evidence to suggest that there have been widespread, systematic attempts to undermine or interfere with recent elections through electoral fraud.”¹³²

The Electoral Commission reached this conclusion by assuming that the cases that have successfully been brought to trial constitute the sum total of the fraud that has been committed.¹³³

Several of the country’s leading investigative journalists have publicly and privately been highly critical of the Electoral Commission. Andrew Gilligan (*The Daily Telegraph*) has called it “hopeless” for what he reported as its claim on the BBC *World at One* in 2012 that “there was no evidence of widespread fraud in Tower Hamlets”.¹³⁴

Gilligan’s views corresponded with the accusation of “shocking complacency” relating specially to the situation in Tower Hamlets made in 2011 by Jerome Taylor (*The Independent*).¹³⁵ Taylor was scathing about a report from the Association of Chief Police Officers and the Electoral Commission in which the two bodies dismissed all but one of the 14 allegations relating to election fraud in Tower Hamlets and concluded that in 2010:

“[t]he majority of cases of alleged electoral malpractice reported, 137 in total, required no further police action. This was because no offence was committed, there was insufficient evidence to bring a prosecution or no offender could be detected.”¹³⁶

Taylor said he had been physically assaulted while carrying out inquiries into voting fraud in Tower Hamlets. He now responded:

“Today’s report from the Electoral Commission is a bizarre exercise in asking Britain’s voters to keep calm and carry on. Its view is that voting fraud is not widespread because almost no one has been prosecuted for it and that even if fraud did occur, it did not have any effect on the outcome of an election. For an organisation that is supposed to safeguard the integrity of our voting system, such complacency is shocking.

Unfortunately, ballot fraud is very easy to do in Britain. But proving it is much harder. Just because police rarely prosecute someone does not mean there are no grounds for an investigation. When I was attacked last year while investigating alleged corruption in East London, I received numerous calls from constituents on all sides of the political divide thanking the newspaper for looking into an issue they felt had been long ignored.”¹³⁷

Concerning the state of the electoral register, the Electoral Commission has consistently disputed or sought to minimise the total error. As described in Chapter 3, in 2006, the Electoral Commission initially questioned the author’s estimate to the Committee on Standards in Public Life of 7 million errors, including

3.5 million wrongly listed names. If it was correct then in suggesting that there were fewer than 7 million errors, the task of explaining why the total had reached 15 million by 2011 (after what it claimed was a period of improved administration) becomes difficult, and all the more so given that the 15 million error total for Great Britain comes from its own research. Instead, it claims that two electoral registration errors may derive from the same person where that person moves and fails to register at a new address. This is because he or she may be wrongly listed at the old address (error one) and fail to be registered at the new address (error two). The number of people to which this double error applies currently is unknown.

2. The limits of recent and proposed reforms

Primarily on the recommendation of the Electoral Commission, a number of reforms have been introduced, are in process of implementation, or have been proposed. However, they do not remove the core problems.

The main changes have been:

- a. the requirement that postal vote applications be signed and include the date of birth of the applicant.¹³⁸ Provided that those wishing to cast bogus postal vote applications themselves sign the original application form, this measure does not detect fraud.
- b. the change now in progress from household to Individual Electoral Registration.¹³⁹ Though this is a welcome and overdue measure that ultimately may reduce the level of inaccuracy in the electoral register, it will not resolve the problem of the non-return of electoral registration forms.
- c. the introduction in 2014 of a civil penalty for failure to return an electoral registration form.¹⁴⁰ Again, this is a welcome measure but its effectiveness will depend on the willingness of Electoral Registration Officers to use it.
- d. the Electoral Commission's proposal of January 2014 that voters be required by 2019 to show a form of identification (as yet to be decided) when casting their ballots at a polling station. This proposal is at an early stage and has not yet become Government policy.¹⁴¹ This proposal is at an early stage and has not yet become Government policy. Moreover, though it will make personation harder, this is not the main form of voting fraud.

These have been designed to meet public concerns with a minimum of change. The Electoral Commission has arguably paid limited attention to the proposals made in 2007 by the Committee on Standards in Public Life. The recommendations in the final chapter of this report therefore return to the findings of that Committee which have not been implemented, together with a number of additional new ideas.

3. Failure to enforce electoral administration laws

The Electoral Commission has tended to use its limited functions and powers as an alibi for defects in the electoral register and in the detection of voting fraud. The electoral register is the direct responsibility of local government at district council level while responsibility for investigating allegations of voting fraud is that of the police.

Moreover, the Electoral Commission has not established as operating procedure the carrying out of detailed spot checks, preferring to wait for allegations from members of the public, candidates or political parties.

Three provisions of the existing laws are habitually regarded as dead letters. Namely:

- that Electoral Registration Officers of local government authorities must make a house to house or other sufficient search to establish the names of those entitled to be registered at each address
- that those failing to return registration forms are liable to be fined
- that the Secretary of State of the Whitehall department responsible for election administration (currently the Cabinet Office) may issue directives to Electoral Registration Officers who fail to carry out the required house to house or other sufficient search.

The power to issue fines to those failing to return registration forms provides a valuable tool to encourage compliance with the legal obligation to complete and return registration forms each year. Yet, in the most recent year for which information is available, only five Electoral Registration Officers (one percent of the total) even initiated any prosecutions.¹⁴²

The powers the relevant Secretary of State has (under Section 52(1) of the Representation of the People Act 1983) to issue directives to local authorities failing to carry out their registration duties to a proper standard, that the Home Office reported in 1984 had never been used (as described in Chapter 2) were said by the Cabinet Office in June 2014 to have remained unused.¹⁴³ So neglected did the statutory powers of direction become that, after the 2005 General Election, senior officials both at the Department for Constitutional Affairs (then the central government department responsible for electoral administration) and at the Electoral Commission denied that the statutory power existed.¹⁴⁴

If local authorities fail to receive responses to the annual registration form, and if their door to door canvass is incomplete, they sometimes carry forward names from the previous year's register on the assumption that the same people are living at the relevant address. Alternatively, they may check names against another, more up-to-date information base, for example, the list of council tax payers. These alternative methods of name checking provide a cheaper alternative to employing canvassers to go from door to door to check on non-responding households. However, economising on doorstep canvassing – convenient and tempting though it might be – contributes significantly to incomplete and inaccurate voter rolls.

4. The Electoral Commission's regulatory failure relating to candidate and party funding

It is not only in the areas of electoral registration and voting fraud that the Electoral Commission has been inactive in ensuring compliance. The same applies to the area of party and candidate funding. The refusal of the Electoral Commission before the 2005 General Election to provide an advisory opinion on the meaning of the Political Parties, Elections and Referendums Act 2000 was thoroughly investigated in 2006 by the Committee on Standards in Public Life.

This inaction of the Electoral Commission was arguably a significant factor in the subsequent inability of New Scotland Yard to bring charges in the ‘loans for lordships’ affair. The Committee on Standards in Public Life was highly critical of what it characterised as the Electoral Commission’s “overly passive approach.”¹⁴⁵

“The evidence suggests that... timidity in its failure to use the significant investigative powers provided for in the [Political Parties, Elections and Referendums] Act meant that the Commission did not investigate the loans when this first came to its attention and any investigation once the issue became a matter of public controversy was overtaken by a separate police investigation. In the Committee’s view taken together this constitutes a regulatory failure.”¹⁴⁶

There was further criticism of the Electoral Commission’s failure to check statutory returns of campaign expenses of election candidates, even when it had been alerted to alleged inaccuracies. The Committee on Standards in Public Life charged the Electoral Commission with having been “too timid in taking hard decisions” and failing to have “the systems in place to ensure effective compliance in some key areas of the regulatory framework” (Paragraph 2.44). Therefore, the Committee on Standards in Public Life recommended the creation of a separate “investigative capacity”, albeit within the Electoral Commission:

“To carry out its regulatory duties the Committee believes that the Commission requires an investigative capability. Therefore, in order to be as effective as possible, a separate compliance unit should be set up to make prompt investigations of possible breaches of the regulatory framework on the basis of prima facie evidence, however received, of possible problems. This unit should have no role in the day-to-day work related to the administration of the regulatory controls. This is an arrangement that we understand is common among comparable regulators of political finance.”¹⁴⁷

Whilst working for the BBC’s *Newsnight* programme, Michael Crick highlighted the ease with which candidates’ expense returns have been manipulated to conceal spending above the legally permitted limits. Some irregularities may be discovered by forensic accountants in field audits. Checks with suppliers of printing materials may show that the declared costs of election publicity do not correspond with market rates. Field audits are carried out in the United States by specially qualified forensic accountants. However, in the UK the Electoral Commission reports that it still has never carried out a field audit.¹⁴⁸ Moreover, its response to the Committee on Standards in Public Life’s recommendation that a separate compliance unit be created to examine breaches of the regulatory framework has been minimal: it employs no one in its political finance unit dedicated solely to enforcement.¹⁴⁹

5. Participation versus integrity: a bogus dilemma

If the names of people who do not respond to the annual questionnaires (Form A) are removed from the register, they will lose the opportunity to cast their ballots. According to this view, it is better to leave existing names of those in non-responding households on the register, at least for a period of time, in order to allow the relevant people to vote. The reality, that some non-response is due

to the fact that people have died or moved, is disregarded so as to prevent large numbers of people from losing their vote.

This argument is complicated by a worry that changes to tackle fraud or improve the accuracy of the list could be driven by those seeking to gain party political advantage. This has certainly been a concern in the USA where a report in 2010 by a group representing two leading US think tanks – the conservative American Enterprise Institute and the liberal Brookings Institution – warned that:

“During this era of extreme ideological polarization of the political parties, it intensifies the politicization of election administration and makes even more difficult the fashioning of nonpartisan improvements. It was no accident that all of the states that chose to increase voter identification requirements were controlled by Republicans and those that opposed such restrictions were governed by Democrats.”¹⁵⁰

It is crucial to resist the ‘participation versus integrity’ premise on practical and empirical as well as political grounds. This may be seen in the matters of voter registration and ‘convenience voting’ measures such as postal voting on demand.

In practical terms, an efficient system of door to door canvassing and related action by local government authorities will ensure both that those entitled to vote are registered and those not entitled are struck off the existing lists. Completeness and accuracy of the register can be achieved by improving the same administrative process.

The assumption that easing registration requirements and other “convenience voting” measures increases voter turnout is itself open to question and requires further research. The AEI-Brookings study comments on the effects of the rapid rise of early, absentee and postal voting in the USA:

“The research to date has found little evidence that these various forms of convenience voting systematically increase turnout. But they hold considerable appeal to election officials seeking . . . ways of reducing costs, to parties and candidates working to get their voters to cast ballots, and to citizens looking for more convenient ways of voting. They are, however, not without costs, such as less secret ballots, opportunities for fraud, the loss of error checking on ballots, missed opportunity to take into account late-breaking campaign events, and the diminishment of the civic character of Election Day.”¹⁵¹

It is vital to avoid as far as possible a dispute between rival UK parties on electoral rules and procedures. The suspicion that one party or other is motivated in proposing reforms by the desire to manipulate the system to its partisan advantage is highly undesirable. The advantage of a focus on radically improved electoral administration is that it addresses concerns about voting fraud while simultaneously meeting genuine fears about the high level of non-registration among some members of ethnic communities and highly mobile groups such as students and young adults.¹⁵² Likewise, the BBC Radio 4’s *File on Four* investigation of 2014 into electoral fraud saw a Conservative backbencher stressing the problems of fraud relating to postal voting while a Conservative Minister, Greg Clark MP, suggested that the problems were insufficient to justify the abolition of postal voting on demand.¹⁵³

6

Recommendations

All public authorities involved in the electoral process need to take the issues of shoddy administration, fraud and inaccurate voter lists far more seriously. While it is possible that the scandal of the May 2014 local elections in Tower Hamlets may act as a catalyst in this regard, it is unlikely that any major reforms will be introduced let alone implemented effectively, without a fundamental change in attitude within central government, within the Electoral Commission and within some failing local government districts towards the running of elections. Unfortunately, the only body that has addressed this issue to date has been the Committee on Standards in Public Life. The Committee on Standards in Public Life summed up the required standard in its Fourteenth Report (para 7.48):

“Voting is too important... to be treated as a run of the mill transaction. The process for registration should be treated with at least equivalent seriousness as that for applying for a passport or driving licence.”

1. There must be targets for the maximum number omissions of and errors in the electoral register as well as annual checks to measure the results of the annual registration exercise.

The absence of regular measurement of the accuracy of the electoral register has made it possible to underestimate and thus to ignore the problem of poor administration. Instead of measuring the accuracy of the register, the Electoral Commission has merely conducted an annual survey of procedures followed by Electoral Registration Officers in each district.

In order to measure the accuracy of the register more effectively, a detailed door-to-door survey of a sample of residences in different parts of the country is required to check the names of those living at the properties and entitled to vote against the list of those registered at the same addresses. This is most easily done in the year of the decennial census but this report recommends that these

surveys be conducted on an annual basis instead. These annual surveys should make it possible to test progress toward a reduction in errors to, say, three million from the current 15 million over a period of five years (no more than 1.5 million

“The absence of regular measurement of the accuracy of the electoral register has made it possible to underestimate and thus to ignore the problem of poor administration”

qualified electors omitted from the register and not more than 1.5 million names incorrectly included).

However the cost of conducting these surveys is significant. In 2006, the Electoral Commission estimated the cost at between £500,000 and £1 million, and this report recommends that approximately £1 million per annum should therefore be allocated to this task.

2. Incentives and ‘traffic ticket’ fines for failure to complete registration forms should become routine and should be collected automatically in the same way as statutory parking tickets.

Under the Electoral Registration and Administration Act 2013, it will become far simpler to impose small fines on those who fail to complete registration forms.

There is a legal obligation to register though not, of course, to vote. The imposition of a civil ‘traffic ticket’ penalty of £80 for failure to return registration forms should arguably become far more common, or even routine and serious consideration should be given to a suitable method of automatic collection of such fines. This would be likely to have

“The main feature of an improved regulatory system should be the provision of positive incentives: the carrot rather than the (mild) stick”

a dramatic positive effect on the completeness and accuracy of each year’s new register provided that they become a standard part of a new system of electoral administration.

However, the main feature of an improved regulatory system should be the provision of positive incentives: the carrot rather than the (mild) stick. Electors should be nudged into carrying out their legal obligation to complete and return voter registration forms by providing incentives to do so. They might consist of a reduction (say, £5 or £10) in council tax – or even an award of loyalty card points.

Pilot schemes may provide useful evidence about the respective effects of minor carrots and sticks on registration rates.

3. Central government must be prepared to use its powers of direction to oblige failing Electoral Registration Officers to perform.

Local authorities must be required to carry out a comprehensive annual doorstep canvass of addresses from which there has been no response to written electoral registration inquiries. The Secretary of State of the department responsible for elections (currently the Cabinet Office) must be prepared to use the existing statutory powers of direction to ensure compliance.¹⁵⁴ In exceptional cases, Whitehall should be prepared to take over the electoral administration functions of failing local authorities and to charge them for the service.

Funding responsibility for voter registration activities must be clarified. Under the existing system, Whitehall specifies the level of spending on elections themselves but not on voter registration.

4. Creating a single database.

One obvious solution to improving the accuracy of the electoral roll is to create a single, secure cloud-based database accessible by all local authorities. When an

individual moves address, they would be added to the roll at the new location and removed from their previous address. Critically, individual electors could only be on the register at one address in one authority for the purposes of national elections.

Whether an elector with more than one home should continue to be permitted to register at each home for purposes of local elections should be considered as part of the Law Commission's forthcoming review of election law.¹⁵⁵

Concerning data on candidates' declared campaign expenses, this report recommends that declarations for elections at all levels should be made available on the internet by the relevant local government authorities. More broadly, Electoral Registration Officers and Returning Officers should be made subject to the Freedom of Information Act in order to address the current lack of transparency about how they operate.

5. The Electoral Commission must focus on election administration alone.

In its 2007 review of the Electoral Commission, the central recommendation of the Committee on Standards in Public Life was the Electoral Commission should concentrate on its core regulatory responsibilities – something which the Electoral Commission has strongly resisted. This report supports the rationale underpinning the Committee on Standards in Public Life's recommendation which is that the Electoral Commission needs to carry out a limited number of administrative functions well rather than dissipate its energies on policymaking advice (which may easily be viewed as partisan) or on broad 'voter engagement' activities.

6. Enforcement of standards of electoral administration should be assigned to a new, specialist unit separate from the Electoral Commission.

Another key recommendation made by the Committee on Standards in Public Life in its 2007 review of the Electoral Commission was that the Electoral Commission should assign enforcement of election administrative standards to a dedicated internal unit. This report goes further and recommends the creation of a wholly separate body to carry out the enforcement functions that have been neglected.

There is a solid logic for separating administrative from enforcement tasks. They require staff with different qualifications. Moreover, the location of the two functions within a single organisation creates a conflict of interest. An administrative body will not wish to expose its own shortcomings by conducting investigations that highlight these shortcomings.

There are examples of separation of administration and enforcement in other countries: one notable example is the structure of administration and enforcement of campaign finance regulations in New York City.¹⁵⁶

A purpose-built enforcement body could be responsible for the proposed annual surveys of the state of the electoral register, for a pro-active approach to investigation into electoral fraud, and for field audits of campaign finance returns by local government and Parliamentary candidates. The Electoral Commission reports that it has never carried out a field audit of any candidate's expense returns; nor does it employ any in-house forensic accountants.¹⁵⁷

One option might be to abolish the Electoral Commission altogether. This report recommends limiting the Electoral Commission's area of responsibility

and establishing a new external enforcement authority. Such a proposal has no implication for public expenditure since the current budget of the Electoral Commission would be shared with the new enforcement body.

7. The law should be reformed to make it easier to bring election petitions in cases of alleged electoral fraud.

The Electoral Commission's own website does not even include a direct link or information about fraud on its home page; there is no way to report fraud directly on the site at all and the section about reporting fraud redirects people to another website or to their local authority.

Most people would have little idea where or how to register their complaints about fraud. There should be a simple and transparent process to allow people to raise suspicions and bring election petitions via the Electoral Commission website.

8. Every possible effort should be made to achieve cross-party agreement on the electoral 'rules of the game'.

Rival political parties are bound to have regard to their own interests when they consider changes in electoral rules. Yet there is a shared interest in ensuring that elections are run on a basis agreed by all of the main players. There is a danger, both in the UK and internationally, that parties of the political left commit

“There should be a simple and transparent process to allow people to raise suspicions and bring election petitions via the Electoral Commission website”

themselves to 'convenience voting' in an attempt to maximise the participation of members of disadvantaged groups while parties of the political right stress the need for stricter rules. There is a further danger of partisan conflict about rules for the funding of elections and of political parties. Yet there is little if any evidence that reforms designed to make

voting easier, such as postal voting on demand in the UK or internet voting in other countries, have increased turnout from disadvantaged groups.

Whereas formal inter-party negotiations on reform of political funding have failed on two occasions in recent years, there occasionally have been fruitful cross-party discussions on the technicalities of proposed legislation. These have been more productive because they have been informal and because they have brought specialist officials from within the political parties together with outside experts, rather than politicians. It is important that such channels are maintained and developed concerning the problems of election administration.¹⁵⁸

Endnotes

- 1 Electoral Commission (2014b). *Electoral registration in 2011: A study conducted by the Electoral Commission, Office for National Statistics and National Records of Scotland*. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/169890/Electoral-Commission-Census-2011.pdf and Electoral Commission (2014c). *The quality of the 2014 electoral registers in Great Britain: Research into the last registers produced under the household registration system*. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/169889/Completeness-and-accuracy-of-the-2014-electoral-registers-in-Great-Britain.pdf
- 2 See Michael Pinto-Duschinsky (2006a). “Problems of electoral administration in the United Kingdom.” Memorandum of evidence submitted to the Committee on Standards in Public Life, May.
- 3 Committee on Standards in Public Life (2007). Review of the Electoral Commission, Eleventh Report. London: The Stationery Office. Cm 7006. http://www.public-standards.gov.uk/wp-content/uploads/2012/11/11thReport_FullReport.pdf, Mary Ann Sieghart (2007) “Exposed: the electoral body that is failing us”, *The Times*, 19 January <http://www.thetimes.co.uk/tto/opinion/columnists/article2612646.ece>
- 4 The author was the lead witness before the Committee on Standards in Public Life’s inquiry into the Electoral Commission in 2006. His initial submissions to the Committee unfortunately remain relevant, both in their analyses of the problems of electoral administration in the UK and of the culture of complacency that has compounded them. See Michael Pinto-Duschinsky (2006a). “Problems of electoral administration in the United Kingdom.” Memorandum of evidence submitted to the Committee on Standards in Public Life, May and Michael Pinto-Duschinsky (2006b). “Introductory statement to the Committee on Standards in Public Life” 13 June.
- 5 Jenny Watson (2014c) Oral evidence to the Political and Constitutional Reform Committee inquiry into Voter Engagement in the UK, 3 July <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/political-and-constitutional-reform-committee/voter-engagement-in-the-uk/oral/11228.html>
- 6 Jenny Watson (2014a). “The X Factor it isn’t – online voter registration will update our democracy”, *The Guardian*, 26 March <http://www.theguardian.com/commentisfree/2014/mar/26/x-factor-online-voter-registration-democracy>
- 7 Jenny Watson (2014b). Speech at UCL Constitution Unit, 26 March, http://www.electoralcommission.org.uk/__data/assets/pdf_file/0010/166429/JW-to-Constitution-Unit-Speech-26-March-2014-FINAL-2.pdf. At a more trivial level, the Local Government Chronicle even reported in July 2014 that the Electoral Commission was mooting allowing voters to photograph themselves “at or near polling stations in a move that aims to boost turnout.” Mark Smulian (2014). “Elections watchdog moots voting ‘selfies’”, *Local Government Chronicle*, 21 July <http://www.lgcplus.com/briefings/services/elections/elections-watchdog-moots-voting-selfies/5073177.article>
- 8 The Foreword given by Electoral Commission Chair Jenny Watson to the Commission’s 2014 study of electoral fraud declared that “there is no evidence to suggest that there have been widespread, systematic attempts to undermine or interfere with recent elections through electoral fraud.” (Electoral Commission (2014a). *Electoral fraud in the UK: Final report and recommendations*, http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/164609/Electoral-fraud-review-final-report.pdf.) According to the same report (page 3), “Electoral fraud is not widespread across the UK and reports of significant fraud are focused in specific places in England, concentrated in a small number of local authority areas. We do not believe it is likely that fraud has been

attempted in more than a handful of wards in any particular local authority area.” According to the Electoral Commission’s Chief Executive, “There is no evidence to suggest that fraud is widespread or systemic. But, voters are nevertheless worried about fraud, and are looking for reassurance that those of us responsible for the system are making sure their vote is safe.” Peter Wardle (2014). *Speech to SOLACE National Elections Conference*, 16 January, 5. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/164831/Solace-Speech-16-January-2014-Peter-Wardle.pdf

9 For the Electoral Commission’s apology for its “mistake”, see its media statement of 26 April 2014, <http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-donations/media-statement>

10 See Electoral Commission (2009). *Investigation into donations to the Liberal Democrats reported as being from 5th Avenue Partners Limited: Case Summary*, 20 November http://www.electoralcommission.org.uk/_media/executive-summary/5th-avenue-statement-case-summary-11-09.pdf, Rajeev Syal (2014b). “Inquiry that cleared fraudster’s donation to Lib Dems severely criticised.” *The Guardian*, 17 July. <http://www.theguardian.com/politics/2014/jul/17/inquiry-fraudster-michael-brown-donation-lib-dems> and for the BBC’s report of Michael Brown’s conviction at Southwark Crown Court in 2008, see British Broadcasting Corporation (2008) “Top Lib Dem donor stole millions.” *BBC News*, 28 November <http://news.bbc.co.uk/1/hi/uk/7754234.stm>

11 Parliamentary and Health Service Ombudsman (2014). *A report by the Parliamentary Ombudsman on an investigation into a complaint about the Electoral Commission*. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/331671/Complaint_about_the_Electoral_Commission.pdf paragraphs 136 and 153.

12 Electoral Commission (2014) *The Electoral Commission’s response to a report by the Parliamentary Ombudsman on an investigation into a complain about the Electoral Commission*, 17 July http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/169835/2014-07-02-Electoral-Commission-response-to-PHSO.pdf

13 For the Electoral Commission’s report on the delays, see Electoral Commission (2014d) *Delays at the verification and count for the May 2014 elections in Tower Hamlets: Report of the Electoral Commission’s Review*, July http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/169199/Our-report-on-elections-held-in-Tower-Hamlets-in-May-2014.pdf, Electoral Commission (2012) ERO performance 2012 by local authority, http://www.electoralcommission.org.uk/__data/assets/excel_doc/0007/155428/ERO-data-for-Intendence-2012-old-excel-version.xls and Payne (2014b) “Tower Hamlets: more allegations of obfuscation and electoral malpractice”, *The Spectator*, 30 June <http://blogs.spectator.co.uk/coffeehouse/2014/06/tower-hamlets-more-allegations-of-obfuscation-voter-intimidation-and-postal-vote-fraud/>

14 See, for example, Taylor (2011) “‘Shocking complacency’ from a group safeguarding elections”, *The Independent*, 16 February <http://www.independent.co.uk/news/uk/politics/shocking-complacency-from-a-group-safeguarding-elections-2216111.html>, Taylor (2012). “Widespread allegations of electoral fraud in Tower Hamlets”, *The Independent*, 26 April <http://www.independent.co.uk/news/uk/politics/widespread-allegations-of-electoral-fraud-in-tower-hamlets-7682075.html>, Gilligan (2012) “Tower Hamlets electoral fraud: here’s some more evidence”, *The Daily Telegraph*, 26 April, <http://blogs.telegraph.co.uk/news/andrewgilligan/100153760/tower-hamlets-electoral-fraud-heres-some-more-evidence/> Gilligan (2013) “Tower Hamlets: the Met’s new phone-hacking?”, *The Daily Telegraph*, 27 March, <http://blogs.telegraph.co.uk/news/andrewgilligan/100209215/tower-hamlets-the-mets-new-phone-hacking/>, Golds (2014) “Tower Hamlets and Electoral Fraud – a case study in inertia”, *Conservative Home*, 28 January, <http://www.conservativehome.com/localgovernment/2014/01/tower-hamlets-and-electoral-fraud-a-case-study-in-inertia.html>, Payne (2014a) “Tower Hamlets – London’s rotten borough?”, *The Spectator*, 26 May <http://blogs.spectator.co.uk/coffeehouse/2014/05/tower-hamlets-londons-rotten-borough/>, Payne (2014b) “Tower Hamlets: more allegations of obfuscation and electoral malpractice”, *The Spectator*, 30 June <http://blogs.spectator.co.uk/coffeehouse/2014/06/tower-hamlets-more-allegations-of-obfuscation-voter-intimidation-and-postal-vote-fraud/>, and Syal (2014a) “Two arrested over Tower Hamlets electoral fraud allegations”, *The Guardian*, 4 June, <http://www.theguardian.com/politics/2014/jun/04/two-arrested-tower-hamlets-electoral-fraud-allegations>. For the Electoral Commission’s assessment of performance standards for election management in Tower Hamlets in 2012, see

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- Payne (2014b) "Tower Hamlets: more allegations of obfuscation and electoral malpractice", *The Spectator*, 30 June <http://blogs.spectator.co.uk/coffeehouse/2014/06/tower-hamlets-more-allegations-of-obfuscation-voter-intimidation-and-postal-vote-fraud/>
- 15 Jenny Watson Evidence to the Political and Constitutional Reform Committee, Voter engagement in the UK, Tuesday 4 September 2014 <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/political-and-constitutional-reform-committee/voter-engagement-in-the-uk/oral/12256.html>
- 16 Information in this paragraph derived from a report by Jean Todd at a Seminar on Under Registration of Electors held at Brunel University on 6 November 1984, see also Jean Todd and Bob Butcher (1982) *Electoral Registration in 1981* (Office of Population Censuses and Statistics).
- 17 Information in this paragraph derived from a report by Jean Todd at a Seminar on Under Registration of Electors held at Brunel University on 6 November 1984, see also Jean Todd and Bob Butcher (1982) *Electoral Registration in 1981* (Office of Population Censuses and Statistics).
- 18 See Michael Pinto-Duschinsky and Shelley Pinto-Duschinsky (1987). *Voter Registration in England and Wales: Problems and Solutions*. London: Constitutional Reform Centre.
- 19 See recommendations in Committee on Standards in Public Life (1998) *Fifth Report: The Funding of Political Parties in the United Kingdom Volume 1*, Chapter 11 'The Election Commission' ; October <https://www.gov.uk/government/uploads/system/uploads/.../volume-1.pdf>
- 20 See for example Electoral Commission (2007). "The Electoral Commission response to the recommendations of the eleventh report of the Committee on Standards in Public Life", 7. The thirteenth recommendation of the Committee on Standards in Public Life was that "The Commission should report to Parliament annually on standards of electoral administration, including any action it is proposing to tackle areas of underperformance in relation to electoral registration, the conduct of elections and minimising the risk of electoral fraud." The Electoral Commission responded in part that "the legislative framework is such that compliance, while required by law, cannot be compelled by the Commission. The Commission also has no specific powers to mandate an improvement programme or similar remedy." http://www.electoralcommission.org.uk/our-work/publications/consultations-and-responses?&&&formtype=&formtypedefault=consultations_responses&&form=subsearch&collection=electoral-commission&profile=_default&formtype=&formtypedefault=consultations_responses&&scope=&start_rank=141&scope=
- 21 The author addressed the point in evidence to the Committee on Standards in Public Life: "Though the Electoral Commission does not currently have a legal authority over voter registration, it does have the function of monitoring and pressuring the relevant authorities. But it has failed to take a pro-active role. I believe that this is partly because it has paid too much attention to the broader and softer tasks of political "education", and partly because it has been keener on encouraging turnout than in assuring that the registration system is protected against fraud. Finally, it is because there appears to be a view inside parts of the Commission that it ought not to express too much independence from the government for fear of endangering its budget. I do not know whether or not there is any basis for this fear but can testify to its existence." Michael Pinto-Duschinsky (2006b). "Introductory statement to the Committee on Standards in Public Life," 13 June, paragraph 11.
- 22 See Chapter 4 below, section on 'The dramatic decline in the quality of the electoral registers between 2006 and 2014' and footnote 36.
- 23 Committee on Standards in Public Life (2007). *Review of the Electoral Commission, Eleventh Report*. London: The Stationery Office. Cm 7006. http://www.public-standards.gov.uk/wp-content/uploads/2012/11/11thReport_FullReport.pdf
- 24 The rhetoric characteristically employed to calm concerns resulting from inaccurate voting rolls and from postal voting on demand has changed slightly since 2000. Between the General Election of 2001 and the General Election of 2005, Ministers and officials often spoke of the rarity of voting fraud. The revelations of 2005 about widespread voting fraud in Birmingham made this wording less convincing and it became normal to justify the status quo by declaring that electoral fraud was limited to particular places, that it was not widespread but that there was no complacency.
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For a collection of statements made in the years to 2007, see Michael Pinto-Duschinsky (2007b). “How much electoral fraud is there in the UK? Has the introduction of postal voting on demand increased electoral fraud?” Handout for presentation at the 20th annual seminar of the Association of Electoral Administrators, Brighton 26 February. http://www.aea-elections.co.uk/annualseminars/downloads/michael_pd_2007.doc

For a typical governmental statement under the Labour Government of 2005–10 see Hansard, *House of Commons Question: Electoral Register*, 5 January 2010, Column 48W <http://www.publications.parliament.uk/pa/cm200910/cmhansrd/cm100105/text/100105w0013.htm#10010539000625> and for soothing statements made under the Coalition see Hansard, *House of Commons Debate: Electoral Fraud*, 1 April 2014, Column 837 http://www.publications.parliament.uk/pa/ld201314/ldhansrd/text/140401-0001.htm#st_0 and Hansard, *House of Commons Debate, Elections: Fraud*, 9 July 2014, Column 295W http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm140709/text/140709w0001.htm#140709w0001.htm_wqn33

25 Cornelius O’Leary (1962). *The Elimination of Corrupt Practices in British Elections, 1868–1911*. Oxford: Oxford University Press, Chapter 5 and Trevor O. Lloyd (1968). *The General Election of 1880*. Oxford: Oxford University Press.

26 Michael Pinto-Duschinsky (1981). *British Political Finance, 1830–1980*. Washington, DC: American Enterprise Institute., p. 28.

27 *Ibid.*

28 Three MPs were disqualified for other reasons. In 1961, Tony Benn lost his seat because his succession to a peerage disqualified him under the existing law. Two MPs forfeited their seats in 1955 on grounds of their convictions for treason felony. Philip Clarke was disqualified as MP for South Fermanagh and Tyrone and Thomas Mitchell as MP for Mid Ulster, both having been convicted of treason felony for their participation in an Irish Republican Army armed raid on Omagh barracks. They had both been sentenced to 10 years of imprisonment in 1954 and were in jail at the time of the 1955 General Election.

29 Isobel White and Charley Coleman (2011). “Postal Voting & Electoral Fraud.” Standard note SN/PC/3667, House of Commons Library, 22 June. <http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-03667.pdf>, p.11–12

30 See Michael Pinto-Duschinsky (2006b). “Introductory statement to the Committee on Standards in Public Life” 13 June, Paragraph 6.

31 Committee on Standards in Public Life (1998). *The Funding of Political Parties in the United Kingdom. Fifth Report, Vol 2: Evidence*. London: The Stationery Office. Cm 4057-II.. https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/261214/volume-2.pdf, Para. 2076. See also Michael Pinto-Duschinsky (2006b). “Introductory statement to the Committee on Standards in Public Life” 13 June.

32 In 1986, as part of the previously mentioned study commissioned by the Home Office, “*Voter Registrations in England and Wales: Problems and Solutions*”, access was provided to detailed information about the procedures carried out by each local authority to register electors. Though restricted by the Official Secrets Act from naming the miscreant authorities, the research showed clearly that some of them had failed to carry out an adequate house to house search or indeed any doorstep canvass at all. By no means all local authorities were at fault. In many of them, local government officers clearly were dedicated and efficient. But there were failures. To help solve the problem of administrative neglect in some places, the Home Office a three stage process was suggested to help improve the performance of the worst local bodies. First, a friendly, private warning to raise genuine concerns. Second, if that failed to produce improvements, the Home Office should issue a firm warning. If that also proved unproductive, the Home Office should use then its legal powers of direction. That recommendation encountered two obstacles. First, the culturally fixed assumptions that Whitehall should leave the issue alone. Second, the policy of some local authorities was to spend as little as possible on electoral registration.

33 Home Office (1984). *Representation of the People Acts: The Government’s reply to the first report from the Home Affairs Committee*, session 1982–83, HC32-I, Cmnd. 9140, January. London: Her Majesty’s Stationery Office.

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- 34 Information provided by email on 12 June on behalf of the Electoral Commission by Warren Seddon.
- 35 Electoral Commission (2011) *Great Britain's electoral registers 2011* http://www.electoralcommission.org.uk/__data/assets/pdf_file/0007/145366/Great-Britains-electoral-registers-2011.pdf
- 36 Electoral Commission (2011) *Great Britain's electoral registers 2011* http://www.electoralcommission.org.uk/__data/assets/pdf_file/0007/145366/Great-Britains-electoral-registers-2011.pdf
- 37 These totals excluded Northern Ireland and were for the registers for parliamentary elections. The number of errors on the registers for local elections was even slightly greater (18.0% incomplete and 14.6% inaccurate). In July 2014, the Electoral Commission published a re-analysis of its 2011 study as well as an estimate of the number of errors on the registers for 2014 based on a new sample survey. (See Electoral Commission 2014b and Electoral Commission 2014c.) The main conclusion of the study of the 2014 register was that the state of the registers had remained unchanged ("stable") between 2011 and 2014. Precise comparison was hindered both by the fact that the 2011 and 2014 studies covered slightly different months of the year and because the 2014 study was based on a sample survey to which the response had been a mere 62.3 percent. (Electoral Commission 2014c, page 76.) The main finding of the 2014 re-analysis was that previously the Commission had greatly overestimated the decline in the accuracy of the registers between December 2010 and April 2011. This technical point was relevant insofar as it showed that the Electoral Commission had, in 2011, underestimated the extent of deterioration in the registers between 2001 and 2011. Concerning the number of errors in April 2011, the 2014 re-analysis also provided a marginally lower estimate but stressed that the difference was within the statistical margin of error and that there was significant difference between the findings published in 2011 and the 2014 re-analysis of those findings which used a new method. *Electoral Omission* cites both the higher error figures given by the Electoral Commission in its December 2011 analysis and the lower error figures given the 2014 re-analysis. (See Electoral Commission 2014b, page 33.)
- 38 Electoral Commission (2012b) *Continuous electoral registration in Northern Ireland* http://www.electoralcommission.org.uk/__data/assets/pdf_file/0004/152626/Continuous-electoral-registration-in-Northern-Ireland.pdf
- 39 Hansard, *House of Commons Debate, Co-ordinated Online Record of Electors*, 18 July 2011, Column 70WS-71WS, <http://www.publications.parliament.uk/pa/cm201011/cmhansrd/cm110718/wmstext/110718m0001.htm>
- 40 Electoral Commission (2011). *Great Britain's electoral registers 2011*. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0007/145366/Great-Britains-electoral-registers-2011.pdf and Electoral Commission (2014b). *Electoral registration in 2011: A study conducted by the Electoral Commission*, Office for National Statistics and National Records of Scotland. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/169890/Electoral-Commission-Census-2011.pdf
- 41 Electoral Commission (2014b). *Electoral registration in 2011: A study conducted by the Electoral Commission*, Office for National Statistics and National Records of Scotland. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/169890/Electoral-Commission-Census-2011.pdf
- 42 About my vote, "Register to vote", http://www.aboutmyvote.co.uk/information_for_voters/home_movers.aspx
- 43 Author's written communication with the Electoral Commission of 13 May 2014.
- 44 Electoral Commission (2010) *Report on performance standards for Electoral Registration Officers in Great Britain: Second analysis of performance* http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/87107/043-ERO-Report-Web.pdf
- 45 Electoral Commission (2008) *The Electoral Commission publishes performance indicators for elections: News release*, 3 June <http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-reviews-and-research/the-electoral-commission-publishes-performance-indicators-for-elections>
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- 46 Electoral Commission, written evidence to the Committee on Standards in Public Life, August 2006.
- 47 Electoral Commission document presented as draft evidence in July 2006 to the Committee on Standards in Public Life.
- 48 Electoral Commission document presented as draft evidence in July 2006 to the Committee on Standards in Public Life.
- 49 The Home Office and the Electoral Commission have taken the lead in setting up successive official studies of the electoral registers. Several other public bodies have also been involved. See “Appendix D: Summaries of previous electoral registration research.” In Electoral Commission (2014b) *Electoral registration in 2011: A study conducted by the Electoral Commission, Office for National Statistics and National Records of Scotland*, http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/169890/Electoral-Commission-Census-2011.pdf
- 50 Electoral Commission (2011). *Great Britain's electoral registers 2011*. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0007/145366/Great-Britains-electoral-registers-2011.pdf, p.1.
- 51 Electoral Commission (2011), *Great Britain's electoral registers 2011*. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0007/145366/Great-Britains-electoral-registers-2011.pdf, Paragraph 2.12.
- 52 Electoral Commission document presented as draft evidence in July 2006 to the Committee on Standards in Public Life.
- 53 Electoral Commission (2011) *Great Britain's electoral registers 2011*. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0007/145366/Great-Britains-electoral-registers-2011.pdf and Electoral Commission (2014b) *Electoral registration in 2011: A study conducted by the Electoral Commission, Office for National Statistics and National Records of Scotland*. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0006/169890/Electoral-Commission-Census-2011.pdf
- 54 See, for example Page 7, Electoral Commission (2007). *The Electoral Commission response to the recommendations of the eleventh report of the Committee on Standards in Public Life* http://www.electoralcommission.org.uk/__data/assets/electoral_commission_pdf_file/0010/18955/CSPLfullresponseFINAL_25069-18596__E__N__S__W__.pdf
- 55 Electoral Commission document presented as draft evidence in July 2006 to the Committee on Standards in Public Life and Electoral Commission (2014c). The quality of the 2014 electoral registers in Great Britain: Research into the last registers produced under the household registration system. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0005/169889/Completeness-and-accuracy-of-the-2014-electoral-registers-in-Great-Britain.pdf
- 56 Jenny Watson (2014) Oral evidence to the Political and Constitutional Reform Committee inquiry into Voter Engagement in the UK, 3 July <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/political-and-constitutional-reform-committee/voter-engagement-in-the-uk/oral/11228.html>
- 57 Jenny Watson (2014). Speech at UCL Constitution Unit, 26 March. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0010/166429/JW-to-Constitution-Unit-Speech-26-March-2014-FINAL-2.pdf. It is worth noting that the Electoral Commission has previously miscalculated the number of incorrectly listed names on the register. For this reason, it is relevant to summarise the dance of argument during the 2006 inquiry of the Committee on Standards. Following the estimate to the Committee in June 2006 by the author of this study of some 3.5 million redundant names on the registers for England and Wales, the Electoral Commission issued a rebuttal. It later sent the rebuttal to the Committee on Standards in Public Life as proposed evidence and the Committee forwarded it to the author. When it emerged that the rebuttal itself was flawed, the Electoral Commission asked the author to help correct and redraft it, which he agreed to do. The author of this study was put in the curious position of helping improve the Electoral Commission's reply to his own testimony before subsequently writing a critique of the revised version.

- 58 See 2012:http://www.electoralcommission.org.uk/__data/assets/excel_doc/0008/155429/Final-data-2012.xlsx
2011:http://www.electoralcommission.org.uk/__data/assets/excel_doc/0011/148754/ERO-electoral-registration-data-2011-to-publish.xlsx
2010:http://www.electoralcommission.org.uk/__data/assets/excel_doc/0011/146468/ERO-electoral-registration-data-2010.xls
2009:http://www.electoralcommission.org.uk/__data/assets/excel_doc/0007/87442/Master-FINAL-PUBLISHED11updated.xls
2008:http://www.electoralcommission.org.uk/__data/assets/excel_doc/0005/87440/Datacollectionspreadsheet-UPLOADED-TO-WEB-03-03-10i111.xls
- 59 Electoral Commission (2004) *The cycle of local government elections in England: Report and recommendations* http://www.electoralcommission.org.uk/__data/assets/electoral_commission_pdf_file/0015/16125/cycleoflocaelecfinal_11595-9056__E__N__S__W__.pdf and Local Government Chronicle (2003) “Electoral Commission Backs All-Postal Voting”, 31 July <http://www.lgcplus.com/electoral-commission-backs-all-postal-voting/1259304.article>
- 60 In August 2004, the Electoral Commission published *Delivering democracy? The future of postal voting*, in which it recommended that all-postal voting should not be pursued for use at UK statutory elections, see Electoral Commission (2004) *Delivering democracy? The future of postal voting* http://news.bbc.co.uk/nol/shared/bsp/hi/pdfs/27_08_04_deliveringdemocracy.pdf and for an example of allegations of “burgeoning electoral fraud”, see Isobel White (2012) *Postal voting and electoral fraud 2001–2009* <http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-03667.pdf>
- 61 Organisation for Security and Cooperation in Europe, Office for Democratic Institutions and Human Rights (2010) *United Kingdom of Great Britain and Northern Ireland General Election 6 May 2010: OSCE/ODIHR Election Assessment Mission Report*, 9 July <http://www.psa.ac.uk/conference/2014-conference/epop-electoral-integrity-1>
- 62 “Electoral registration: Penalties for providing false information or refusing to provide information.” Standard note SN/PC/06940, House of Commons Library, 16 July. <http://www.parliament.uk/briefing-papers/SN06940/electoral-registration-penalties-for-providing-false-information-or-refusing-to-provide-information>
- 63 Modernising our voting system – Individual Registration, 29 November 2013 <https://www.gov.uk/government/policies/reforming-the-constitution-and-political-system/supporting-pages/modernising-our-voting-system-individual-electoral-registration>
- 64 See for example Ros Baston (2012). “Individual electoral registration is not the answer to electoral fraud” *Left Foot Forward*, 11 May. <http://leftfootforward.org/2012/05/individual-electoral-registration-is-not-the-answer-to-electoral-fraud/>
- 65 Electoral Commission (2011). *Great Britain’s electoral registers 2011*. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0007/145366/Great-Britains-electoral-registers-2011.pdf
- 66 Electoral Commission (2008) *The Electoral Commission publishes performance indicators for elections: News release*, 3 June <http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-reviews-and-research/the-electoral-commission-publishes-performance-indicators-for-elections>
- 67 See Electoral Commission (2012) ERO performance 2012 by local authority, http://www.electoralcommission.org.uk/__data/assets/excel_doc/0007/155428/ERO-data-for-Intendence-2012-old-excel-version.xls
- 68 Hansard , *House of Commons Debate, Absent Voting: Fraud*, 10 March 2014, Column 79W <http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140310/text/140310w0003.htm>
- 69 Chris Ruane MP to the Political and Constitutional Reform Committee, Inquiry into Voter engagement in the UK, Thursday 19 June 2014 <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/political-and-constitutional-reform-committee/voter-engagement-in-the-uk/oral/10927.html> The categorisation of convictions as being about postal

voting fraud or not itself is unclear. Ashford was not the only election fraud conviction since 2008 involving postal voting practices. However, Ruane's point about the scarcity of convictions is valid. His conclusion that postal voting is safe from abuse is more questionable.

70 Isobel White (2014). "Electoral offences since 2010". Standard note SN/PC/06255, *House of Commons Library*, 6 May. <http://www.parliament.uk/briefing-papers/SN06255.pdf>

71 Electoral Commission (2013b) *Guidance on preventing and detecting electoral malpractice* http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/153836/Guidance-on-preventing-malpractice-web.pdf, p. 3.

72 Electoral Commission (2013b) *Guidance on preventing and detecting electoral malpractice* http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/153836/Guidance-on-preventing-malpractice-web.pdf, p. 3.

73 British Broadcasting Corporation (2014). "Election Fraud." *File on Four*, 11 March. BBC Radio 4 Transcript http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/11_03_14_fo4_electionfraud.pdf

74 *Ibid.*

75 See, for example, Patrick Wintour (2005). "Ministers talk tough as fears of electoral fraud grow." *The Guardian*, 6 April. <http://www.theguardian.com/society/2005/apr/06/localgovernment.politics1> and Simon McGee (2004). "PIN plan to foil postal voting fraud." *Yorkshire Post*, 7 August. <http://www.yorkshirepost.co.uk/news/main-topics/local-stories/pin-plan-to-foil-postal-voting-fraud-1-2547621>

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77 British Broadcasting Corporation (2014). "Election Fraud." *File on Four*, 11 March. BBC Radio 4 Transcript http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/11_03_14_fo4_electionfraud.pdf

78 Committee on Standards in Public Life (2007). Review of the Electoral Commission, Eleventh Report. London: The Stationery Office. Cm 7006. http://www.public-standards.gov.uk/wp-content/uploads/2012/11/11thReport_FullReport.pdf, Para. 5.25.

79 BBC News, "Vote-rigging ex-councillor jailed", 8 April, <http://news.bbc.co.uk/1/hi/england/lancashire/4425519.stm>

80 Michael Pinto-Duschinsky (2007b). "How much electoral fraud is there in the UK? Has the introduction of postal voting on demand increased electoral fraud?" Handout for presentation at the 20th annual seminar of the Association of Electoral Administrators, Brighton 26 February. http://www.aea-elections.co.uk/annalseminars/downloads/michael_pd_2007.doc

81 Richard Mawrey QC (2008). Judgement: *Simmons v Khan*. High Court Election Petition [2008] EWHC B4 (QB). (Slough Postal Voting Fraud 2007.) <http://www.baillii.org/ew/cases/EWHC/QB/2008/B4.html>, paragraphs 146–51.

82 *Ibid.*

83 British Broadcasting Corporation (2014). "Election Fraud." *File on Four*, 11 March. BBC Radio 4 Transcript http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/11_03_14_fo4_electionfraud.pdf and http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/11_03_14_fo4_electionfraud.pdf

84 *Ibid.*

85 *Ibid.*

86 See, for example, the statements in Footnote 86 and the Foreword given by Electoral Commission Chair Jenny Watson to the Commission's 2014 study of electoral fraud declaring that "there is no evidence to suggest that there have been widespread, systematic attempts to undermine or interfere with recent elections through electoral fraud." (Electoral Commission (2014a). *Electoral fraud in the UK: Final report and recommendations*, 1. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/164609/Electoral-fraud-review-final-report.pdf.) According to the same report (page 3), "Electoral fraud is not widespread across the UK and reports of significant fraud are focused in specific places in England, concentrated

in a small number of local authority areas. We do not believe it is likely that fraud has been attempted in more than a handful of wards in any particular local authority area.”

87 Isobel White (2014). “Electoral offences since 2010”. Standard note SN/PC/06255, *House of Commons Library*, 6 May. <http://www.parliament.uk/briefing-papers/SN06255.pdf>

88 *Ibid.*

89 Electoral Commission (2014e) *Analysis of cases of alleged electoral fraud in 2013: Summary of data recorded by policy forces*, http://www.electoralcommission.org.uk/__data/assets/pdf_file/0004/166459/Analysis-of-cases-of-alleged-electoral-fraud-2013.pdf

90 Ali v Bashir and Others (2013). [2013] EWHC 2572 (QB). (The Woking case.) <http://lexisweb.co.uk/cases/2013/july/ali-v-bashir-and-another>

91 Isobel White (2014). “Electoral offences since 2010”. Standard note SN/PC/06255, *House of Commons Library*, 6 May. <http://www.parliament.uk/briefing-papers/SN06255.pdf>

92 *Ibid.*

93 *Ibid.*

94 *Ibid.*

95 Isobel White and Charley Coleman (2011). “Postal Voting & Electoral Fraud.” Standard note SN/PC/3667, *House of Commons Library*, 22 June. <http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-03667.pdf>

96 Electoral Commission (2013) *Electoral fraud in the UK: Evidence and issues paper*, May http://www.electoralcommission.org.uk/__data/assets/pdf_file/0004/155335/Electoral-fraud-evidence-and-issues-paper-revised.pdf

97 Isobel White and Charley Coleman (2011). “Postal Voting & Electoral Fraud.” Standard note SN/PC/3667, *House of Commons Library*, 22 June. <http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-03667.pdf>

98 *Ibid.*

99 *Ibid.*

100 *Ibid.*

101 *Ibid.*

102 *Ibid.*

103 Electoral Commission (2013) *Electoral fraud in the UK: Evidence and issues paper*, May http://www.electoralcommission.org.uk/__data/assets/pdf_file/0004/155335/Electoral-fraud-evidence-and-issues-paper-revised.pdf

104 *Ibid.*

105 *Ibid.*

106 *Ibid.*

107 *Ibid.*

108 Committee on Standards in Public Life (2007) *Review of the Electoral Commission* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336901/11thReport_FullReport.pdf p. 81.

109 Judge Mawrey QC (2005) *Fraud at the Elections* Spokesman: Nottingham

110 Angela Saini (2007) “Councillors cleared of ballot fraud”, *BBC News*, 30 January http://www.bbc.co.uk/london/content/articles/2007/01/29/election_fraud_feature.shtml

111 Isobel White and Charley Coleman (2011). “Postal Voting & Electoral Fraud.” Standard note SN/PC/3667, *House of Commons Library*, 22 June. <http://www.parliament.uk/documents/commons/lib/research/briefings/snpc-03667.pdf>

112 Isobel White (2014). “Electoral offences since 2010”. Standard note SN/PC/06255, *House of Commons Library*, 6 May. <http://www.parliament.uk/briefing-papers/SN06255.pdf>, p. 20.

- 113 Electoral Commission (2013) *Electoral fraud in the UK: Evidence and issues paper*, May http://www.electoralcommission.org.uk/__data/assets/pdf_file/0004/155335/Electoral-fraud-evidence-and-issues-paper-revised.pdf
- 114 Richard Mawrey QC (2008), *Judgement: Simmons v Khan*. High Court Election Petition [2008] EWHC B4 (QB). (Slough Postal Voting Fraud), <http://www.bailii.org/ew/cases/EWHC/QB/2008/B4.html> para. 127.
- 115 Angela Saini (2007) "Councillors cleared of ballot fraud", *BBC News*, 30 January http://www.bbc.co.uk/london/content/articles/2007/01/29/election_fraud_feature.shtml
- 116 Judge Mawrey QC (2005) *Fraud at the Elections* Spokesman: Nottingham.
- 117 Judge Mawrey QC (2005) *Fraud at the Elections* Spokesman: Nottingham.
- 118 Committee on Standards in Public Life (2007) *Review of the Electoral Commission* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/336901/11thReport_FullReport.pdf p. 81.
- 119 See for example the comments in the Coventry case by Judge Richard Griffiths-Jones QC, *Coventry Telegraph* (2008) "We can't say fraud was masterminded", 16 January <http://www.coventrytelegraph.net/news/coventry-news/cant-say-fraud-masterminded---3102828>.
- 120 Hansard, *House of Lords Debate, Elections: Postal Voting*, 3 April 2008, Column 1137 http://www.publications.parliament.uk/pa/ld200708/ldhansrd/text/80403-0001.htm#80403-0001.htm_snew18
- 121 See, for example, Chris Adams (2014). "Greater risk of poll fraud' in East Lancashire." *Lancashire Telegraph*, 9 January. <http://www.lancashiretelegraph.co.uk/news/10925331.print/> and British Broadcasting Corporation (2014). "Election Fraud." File on Four, 11 March. BBC Radio 4 Transcript http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/11_03_14_fo4_electionfraud.pdf and http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/11_03_14_fo4_electionfraud.pdf
- 122 Hansard, *House of Commons Debate, Electoral Registration and Administration Bill*, 23 May 2012, Column 1172–1244 <http://www.publications.parliament.uk/pa/cm201213/cmhansrd/cm120523/debtext/120523-0002.htm> and Patrick Wintour (2008) "Election fraud: Labour failed to act, say MPs", *The Guardian*, 2 May <http://www.theguardian.com/society/2008/may/02/localgovernment.ukcrime>
- 123 See Electoral Commission (2013) *Allegations of Electoral Fraud in Tower Hamlets in 2012: Report on the outcome of investigations*, http://www.electoralcommission.org.uk/__data/assets/pdf_file/0019/154531/Tower-Hamlets-report-2013.pdf.
- 124 See the summary of the Electoral Commission's presentation by Phil Thompson at the annual meeting of the Political Studies Association, panel on Electoral Integrity titled "The public's view of fraud and what to do about it". <https://sites.google.com/site/electoralintegrityproject4/events-1/manchester-14-16-apr-2014>. The summary contrasts the high levels of public concern with "the traditionally low levels of reported fraud" and shows from "qualitative research" that "concerns expressed in surveys are not as durable when considered further and in depth." Gary Streeter MP, replying in the House of Commons on behalf of the Electoral Commission on 29 January 2014, gave details about the "qualitative research". The implication was that public concern was unfounded and liable to diminish once members of the public discovered the facts. "The Electoral Commission... contracted the agency Define Research and Insight to carry out qualitative research with the public into perceptions of electoral fraud. The research was carried out in two phases between January and May 2013, and included a combination of group discussions and individual depth interviews undertaken in a range of locations across the UK. The evidence from this research suggests that people do not have a deep understanding about electoral fraud but they do have a general concern about the possibility of fraud taking place. Views are rarely influenced by first-hand experience of electoral fraud and are more likely to be based on cases reported by the media and people's own assumptions about fraud, some of them unfounded." Hansard, *House of Commons Debate, Electoral Register: Fraud*, 29 January 2014, Column 622W http://www.publications.parliament.uk/pa/cm201314/cmhansrd/cm140129/text/140129w0004.htm#140129w0004.htm_wqn66

- 125 Rajeev Syal (2014) "Watchdog tells of chaotic Tower Hamlets poll count", *The Guardian*, 1 July <http://www.theguardian.com/politics/2014/jul/01/tower-hamlets-election-poll-count-poorly-resourced>
- 126 See footnote 21
- 127 Richard Mawrey QC (2008), *Judgement: Simmons v Khan*. High Court Election Petition [2008] EWHC B4 (QB). (Slough Postal Voting Fraud), <http://www.bailii.org/ew/cases/EWHC/QB/2008/B4.html> para. 127.
- 128 Huffington Post (2012) "Local Election Fraud Potential 'Enormous', Warns Judge Mawrey", 26 April, http://www.huffingtonpost.co.uk/2012/04/26/local-election-fraud-potential_n_1455711.html.
- 129 Council of Europe, Parliamentary Assembly (2008). *Application to initiate a monitoring procedure to investigate electoral fraud in the United Kingdom: Opinion for the Bureau of the Assembly prepared by the Committee on the Honouring of Obligations and Commitments by Member States of the Council of Europe (Monitoring Committee)*. Strasbourg: Council of Europe, http://www.assembly.coe.int/CommitteeDocs/2008/electoral_fraud_UK_E.pdf. The report had itself been triggered by concern expressed by a UK Member of Parliament.
- 130 Isobel White (2014). "Electoral offences since 2010". Standard note SN/PC/06255, *House of Commons Library*, 6 May. <http://www.parliament.uk/briefing-papers/SN06255.pdf>, p. 12.
- 131 Wired-Gov (2009). "Stay vigilant for electoral fraud, says Electoral Commission", 4 December. <http://www.wired-gov.net/wg/wg-news-1.nsf/0/F291515A09C36ECC80257682004F6148?OpenDocument>
- 132 Electoral Commission (2014a). Electoral fraud in the UK: Final report and recommendations. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/164609/Electoral-fraud-review-final-report.pdf p. 1.
- 133 Electoral Commission (2014a). Electoral fraud in the UK: Final report and recommendation http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/164609/Electoral-fraud-review-final-report.pdf p. 1
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- 136 Association of Chief Police Officers and Electoral Commission (2011). *Analysis of cases of alleged electoral malpractice in 2010: Association of Chief Police Officers and Electoral Commission analysis*. London: The Electoral Commission, February. http://www.electoralcommission.org.uk/__data/assets/pdf_file/0013/109012/Integrity-report-FINAL-no-embargo.pdf p. 1.
- 137 Jerome Taylor (2011). "Shocking complacency' from a group safeguarding elections." *The Independent*, 16 February. <http://www.independent.co.uk/news/uk/politics/shocking-complacency-from-a-group-safeguarding-elections-2216111.html>
- 138 Electoral Administration Act 2006 <http://www.legislation.gov.uk/ukpga/2006/22/contents>
- 139 Modernising our voting system – Individual Electoral Registration, 29 November 2013 <https://www.gov.uk/government/policies/reforming-the-constitution-and-political-system/supporting-pages/modernising-our-voting-system-individual-electoral-registration>
- 140 Electoral Registration and Administration Act 2013 <http://www.legislation.gov.uk/ukpga/2013/6/contents/enacted>
- 141 Electoral Commission (2014) *ID needed at polling stations, recommends independent watchdog* <http://www.electoralcommission.org.uk/i-am-a/journalist/electoral-commission-media-centre/news-releases-reviews-and-research/id-needed-at-polling-stations,-recommends-independent-watchdog>

142 See http://www.electoralcommission.org.uk/__data/assets/excel_doc/0008/155429/Final-data-2012.xlsx

143 The Whitehall department responsible for electoral administration under the terms of the Representation of the People Act 1983 has varied. At first, it was the Home Office. Under the Labour Government elected in 1997, the responsibility moved to the Department for Constitutional Affairs and to its successor department, the Ministry of Justice. Under the terms of the Coalition Agreement of May 2010, the Deputy Prime Minister became responsible for electoral administration and the team of officials specialising in electoral administration moved from the Ministry of Justice to the Cabinet Office.

144 Author's personal information and written correspondence with the Electoral Commission, 16 May 2006.

145 Committee on Standards in Public Life (2007). *Review of the Electoral Commission, Eleventh Report*. London: The Stationery Office. Cm 7006. http://www.public-standards.gov.uk/wp-content/uploads/2012/11/11thReport_FullReport.pdf, Paragraphs 2.21 and 2.41.

146 Committee on Standards in Public Life (2007). *Review of the Electoral Commission, Eleventh Report*. London: The Stationery Office. Cm 7006. http://www.public-standards.gov.uk/wp-content/uploads/2012/11/11thReport_FullReport.pdf, Paragraph 2.39.

147 Committee on Standards in Public Life (2007). *Review of the Electoral Commission, Eleventh Report*. London: The Stationery Office. Cm 7006. http://www.public-standards.gov.uk/wp-content/uploads/2012/11/11thReport_FullReport.pdf, Paragraph 2.44.

148 Policy Exchange asked the Commission if it had "carried out any field audits of expense returns of any candidates in parliamentary or other elections? If so, any information about the frequency of such field audits will be helpful" The Commission responded via email on 12 June 2014: "No. The responsibility for investigating and offences arising is for the police and prosecutory bodies. However, in the run-up to major elections we carry out campaign monitoring, and that covers candidates as well. This work has three purposes: (1) Raising awareness of the rules and the need for compliance (2) obtaining information that we may use when reviewing parties', non-party campaigners and candidates' spending returns, and (3) identifying emerging issues and opportunities for us to offer proactive advice to those we regulate. In accordance with our risk policy, we focus our resources on areas and campaigners where non-compliance will have the largest impact on public trust in the integrity of the rules. Neither our own work nor allegations we are aware of indicate a significant level of possible breaches of candidate spending rules."

149 The Commission reported in an email sent on 12 June that the enforcement unit within its Party & Election Finance Directorate reports to the Legal Counsel. Enforcement tasks are carried out also by its regional offices. "The Enforcement team works to a published Enforcement Policy – Our enforcement policy – and documented procedures to ensure proportionate and appropriate regulation, and works closely under agreed protocols with police and prosecutory authorities." (Email communication of 12 June 2014.) In reply to Policy Exchange's question: "What are the specialist skills of its members (e.g. is there any forensic accounting expertise?)" the Commission response was "Legal and investigatory. Forensic accounting expertise is externally procured as required." In a further email on 20 October 2014, the Electoral Commission clarified the position concerning enforcement capacity as follows: "we have an Enforcement Team Manager whose job is focussed on enforcement issues. As per the org chart, they also have a team of two investigators and two case workers working to them who are dedicated to working on cases as they come up. As you will appreciate both for this team and others across the Commission, however, as we are committed to working flexibly across teams I wouldn't say that anyone is working 100% on enforcement as it depends on the volume of cases at any given time and whether we need to allocate more or less capacity to enforcement and case work or if we can give staff the opportunity to work on other projects. This core team of 5 is the best point to for public purposes at this point, however, I would also add that we have also added another investigator and caseworker to the core team as we move towards the UK Parliamentary General Election. In addition, as mentioned, Bob Posner, who was previously Legal Counsel and Head of Enforcement as just been made the Director of Party and Election Finance. This area of the business is likely to be reviewed to reflect this so things will likely change in the coming months in any case". The question of policy is whether "working flexibly across

teams” meets the recommendation of the Committee on Standards in Public Life for a separate enforcement capacity. Also see Committee on Standards in Public Life (2007). *Review of the Electoral Commission, Eleventh Report*. London: The Stationery Office. Cm 7006. http://www.public-standards.gov.uk/wp-content/uploads/2012/11/11thReport_FullReport.pdf

150 John Fortier, Thomas Mann and Norman Ornstein (2010). *Hope and Experience: Election Reform through the Lens of the AEI-Brookings Election Reform Project*. Washington DC: AEI-Brookings Institution. <http://electionreformproject.org/Resources/a61cd831-f274-43bd-8d37-2adc290caa00/r1/Detail.aspx> p. 17.

151 John Fortier, Thomas Mann and Norman Ornstein (2010). *Hope and Experience: Election Reform through the Lens of the AEI-Brookings Election Reform Project*. Washington DC: AEI-Brookings Institution., <http://electionreformproject.org/Resources/a61cd831-f274-43bd-8d37-2adc290caa00/r1/Detail.aspx> p. 14–15.

152 Controversy is not always between political parties. It occurs within parties, too. It is notable that government ministers of all three main parties tend to absorb the prejudice of their officials that electoral administration is working well and that abuses are rare, while backbench MPs are far more likely to voice criticisms. See for example the hearing before the House of Commons Public Administration Select Committee on 29 April 2008 when the then Chair, Dr Tony Wright MP, and Gordon Prentice MP challenged a Minister at the Ministry of Justice, Michael Wills MP about the greater need for the integrity of electoral registration while the Minister stressed the need for measures that encouraged voter participation. <http://www.publications.parliament.uk/pa/cm200708/cmselect/cmpubadm/499/8042908.htm>

153 British Broadcasting Corporation (2014). “Election Fraud.” *File on Four*, 11 March. BBC Radio 4 Transcript http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/11_03_14_fo4_electionfraud.pdf

154 See footnote 90.

155 The Law Commission expects to publish its report into “reforming electoral law” in summer 2015 <http://lawcommission.justice.gov.uk/areas/electoral-law.htm>

156 For a general discussion based on international practice of whether a separate “specialty” institution should be responsible for enforcement or whether the main electoral management body should be responsible, see the section of Chapter 5 on “Finding the Right Structure for the Regulatory Body” in Magnus Ohman, editor (2013). *Training in Detection and Enforcement (TIDE) Political Finance Oversight Handbook*. Washington, DC: International Foundation for Electoral Systems. <http://www.ifes.org/~media/Files/Publications/ManualHandbook/2013/TIDE%20Political%20Finance%20Oversight%20Handbook.pdf>. The case for a specialty enforcement unit separate from the main electoral management body is made for the Canadian case by Senator Linda Frum in a speech in 2014 on the Canada Elections Act (C-23) http://www.lindafrum.ca/Statement_on_Bill_C-23.html. On the New York City Campaign Finance Board, see <http://www.nycfb.info/about/>

157 Information provided by email on 12 June on behalf of the Electoral Commission by Warren Seddon. See Michael Pinto-Duschinsky (2014). “Written evidence submitted by Policy Exchange (VUK 83).” *Inquiry into political engagement*, House of Commons Political and Constitutional Reform Committee, Paragraph 4. <http://www.parliament.uk/business/committees/committees-a-z/commons-select/political-and-constitutional-reform-committee/inquiries/parliament-2010/agement-in-the-uk/?type=Written#pnlPublicationFilter> Given the competitive nature of elections, there will always be a tendency for proponents of different political parties and interests to propose rules which will work to their advantage. Such conflict needs to be minimised if the overall integrity of the electoral process is to be safeguarded. Thankfully, there have been times when ministers of the government of the day in the UK have gone out of their way to make concessions to achieve a measure of consensus. David Mellor as a Home Office minister in Margaret Thatcher’s administration and Jack Straw as Lord Chancellor under Gordon Brown are examples which, unfortunately have not always been followed.”

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APPENDIX

Extract from the Panel Report of the Oldham Independent Review on the city's 2001 riots

Electoral irregularities

One issue which surprised the Panel was the discovery that in recent years there had been a number of irregularities in the electoral process in Oldham, focused on certain inner city wards. The worst example appears to have been the May 2000 local elections which resulted in a Police investigation and a number of prosecutions. The issue has been raised with us as a source of tension and concern within the Borough and we therefore felt it necessary to look into it as potentially within our terms of reference.

We have seen the letter sent by the Chief Superintendent of Police to the Council's Chief Executive following the Police investigation and in this he dealt with a number of issues on which there was insufficient evidence for prosecution but which nevertheless had compromised the holding of a fair election. From this letter, from the successful prosecutions which did take place, and from other comments made to us the key issues seem to be as follows:

Registration process

- a. Virtually no checks are made on the validity of information submitted on electoral registration forms – Form As. Indeed, the Council's performance target set by the government is to achieve 95% coverage of eligible residents on the register, so there is a disincentive to challenge suspect entries. In any event, the Council claims that its funding from Government for managing the electoral process is not enough to cover any real checking.
- b. There do appear to be a number of suspect entries, eg. multiple registrations at particular addresses owned by private landlords which have later been found to be empty properties. The Police say that they have been unable to get to the root of this partly because the Council do not retain the Form As once they have been processed.
- c. Some registrations have been made in the name of dead people. Although the Council delete from the register the names of people who die in year, following notification by the Registrar of Births, Marriages and Deaths, they do not have the resources to check that people already dead may have been included on the register in the first place.

Some of these irregularities could be sorted out by more rigorous application of current rules or (in the case of f. above), greater cultural awareness. In the Council's view, the job of polling station clerk can be lonely and intimidating

on occasions, and is not well paid, but some of the abuses recorded above nevertheless should have been prevented, and in our view there would be merit in discussions between the Council's Assistant Chief Executive (Legal and Democratic Services) and her equivalents in one or two comparable authorities to see where best practice can be learned. Accordingly, we recommend that the Home Office facilitate such discussions, in view of the crucial importance to democracy of maintaining a fair electoral process. We recommend additionally a detailed discussion between the Council and the Police on how future allegations of electoral fraud are to be pursued since there is an issue between them as to the importance of retaining Form As as an aid to pursuing subsequent claims of fraudulent registration.

We recommend that the Home Office review with the Local Government Association whether the current Standards Spending Assessment regime for local authorities creates a perverse incentive for local authorities not to carry out checks on Form As, for example, on a sample basis in view of the link between coverage on the register and Council funding.

We recommend that the issue of proof of identity when voting be re-examined. For all the obvious problems, and the wish not to make voting a more difficult experience, there remains a considerable doubt about the integrity of the process in parts of Oldham and it is hard to see how else it will be dispelled other than by requiring such proof.

Voting

- a. There has been considerable abuse of the proxy voting system with a number of people finding, on arrival at the Polling Station, that their votes had already been cast by people who had fraudulently obtained proxy votes in their name.
- b. Some people have been registered to vote at more than one place and voted in respect of each address. This evidence comes from detailed analysis of votes by a Labour Party member who gave evidence to us.
- c. Personation of voters has also been a serious problem. In one case the Clerk at a Polling Station saw the same man vote three times but did not challenge him. Other cases were observed and reported to the Police. A number of cases were discovered in which men had voted in the names "Bibi" and "Begum" which are always female.
- d. Polling clerks have found it difficult to prevent men from entering the voting booths when their wives were voting.

Some of these irregularities could be sorted out by more rigorous application of current rules or (in the case of f. above), greater cultural awareness. In the Council's view, the job of polling station clerk can be lonely and intimidating on occasions, and is not well paid, but some of the abuses recorded above nevertheless should have been prevented, and in our view there would be merit in discussions between the Council's Assistant Chief Executive (Legal and Democratic Services) and her equivalents in one or two comparable authorities to see where best practice can be learned. Accordingly, we recommend that the Home Office facilitate such discussions, in view of the crucial importance to democracy of maintaining a fair electoral process. We recommend additionally a

detailed discussion between the Council and the Police on how future allegations of electoral fraud are to be pursued since there is an issue between them as to the importance of retaining Form As as an aid to pursuing subsequent claims of fraudulent registration.

We recommend that the Home Office review with the Local Government Association whether the current Standards Spending Assessment regime for local authorities creates a perverse incentive for local authorities not to carry out checks on Form As, for example, on a sample basis in view of the link between coverage on the register and Council funding.

We recommend that the issue of proof of identity when voting be re-examined. For all the obvious problems, and the wish not to make voting a more difficult experience, there remains a considerable doubt about the integrity of the process in parts of Oldham and it is hard to see how else it will be dispelled other than by requiring such proof.

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