

Research Briefing

By Neil Johnston

4 May 2022

---

# Elections Bill 2021-22: Progress of the Bill

## Summary

- 1 Introduction
- 2 House of Commons: Second reading
- 3 Instruction
- 4 Commons committee stage
- 5 Public Administration and Constitutional Affairs Committee
- 6 Commons remaining stages
- 7 Lords stages
- 8 Ping pong
- 9 Legislative consent

### Disclaimer

The Commons Library does not intend the information in our research publications and briefings to address the specific circumstances of any particular individual. We have published it to support the work of MPs. You should not rely upon it as legal or professional advice, or as a substitute for it. We do not accept any liability whatsoever for any errors, omissions or misstatements contained herein. You should consult a suitably qualified professional if you require specific advice or information. Read our briefing [‘Legal help: where to go and how to pay’](#) for further information about sources of legal advice and help. This information is provided subject to the conditions of the Open Parliament Licence.

### Feedback

Every effort is made to ensure that the information contained in these publicly available briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated to reflect subsequent changes.

If you have any comments on our briefings please email [papers@parliament.uk](mailto:papers@parliament.uk). Please note that authors are not always able to engage in discussions with members of the public who express opinions about the content of our research, although we will carefully consider and correct any factual errors.

You can read our feedback and complaints policy and our editorial policy at [commonslibrary.parliament.uk](https://commonslibrary.parliament.uk). If you have general questions about the work of the House of Commons email [hcenquiries@parliament.uk](mailto:hcenquiries@parliament.uk).

# Contents

Summary	5
1 Introduction	11
2 House of Commons: Second reading	13
3 Instruction	18
3.1 Debate on the instruction	19
4 Commons committee stage	21
4.1 Evidence sessions	22
4.2 Scrutiny sessions	30
Voter ID	30
Absent voting	33
Undue influence	34
Assistance for disabled voters	34
Provision on Northern Ireland elections	35
Overseas voters	35
EU citizens' voting and candidacy rights	36
Electoral Commission	37
Regulation of expenditure	38
Intimidation of candidates and campaigners	41
Digital imprints	41
New clauses during committee stage	42
5 Public Administration and Constitutional Affairs Committee	45
5.1 Government response	48
6 Commons remaining stages	50
6.1 New provisions	50
6.2 Government amendments	52

6.3	Opposition amendments	54
7	Lords stages	56
7.1	Second reading	56
	Main points in the debate	56
7.2	Committee stage	57
7.3	Report stage	69
7.4	Third Reading	78
8	Ping pong	79
9	Legislative consent	81
9.1	Scotland	82
9.2	Wales	86
9.3	Northern Ireland	89

# Summary

The [Elections Bill](#) (Bill 138 of 2021-22) was introduced in the House of Commons on 5 July 2021. For background on the Bill, see the Library briefing published ahead of the Commons second reading: [Elections Bill 2021-22](#).

The Bill has now completed all its stages and been passed. It received Royal Assent on 28 April 2022. This briefing summarises the Parliamentary stages of the Act up to Royal Assent and is no longer being updated.

The Act makes changes to election law that fulfil Conservative Party manifesto commitments to [“protect the integrity of the UK’s democracy”](#) (PDF).

The provision in the Act will be commenced at a later stage once detailed regulations on how the legislation will operate in practice have been made.

- The Government has indicated the provision on voter ID will be in place in time for local elections in England in May 2023.
- Changes in eligibility to vote for overseas voters, and EU citizens (England and Northern Ireland only) are expected to be in place by spring 2024.

Other elements of the Act include:

- Introducing a requirement for an imprint on digital campaign material - an ‘imprint’ is information added to material that tells potential voters who produced it;
- Introducing a new electoral sanction for people convicted of intimidating a candidate during an election, following increasing levels of abuse faced by candidates;
- Changes to the regulation of third-party campaigners; and
- New measures on the oversight of the Electoral Commission.

The Scottish Government declined to give legislative consent for some measures in the Bill as they relate to devolved elections. In February 2022 the Government committed to bring forward amendments to the Bill during its House of Lords stages to remove all aspects which relate to devolved matters. The Welsh Government had originally declined to give consent to the Bill, but it tabled a consent motion in the Senedd Cymru, which was approved on 29 March 2022. This followed the UK Government commitment

to amend the Bill to remove reference to devolved elections during the Bill's Lords stages.

## Progress of the Bill

### Commons second reading

The Bill was given a [second reading](#) on 7 September 2021.

#### Voter ID

The main point of debate centred around the proposals for voter ID and voter fraud more generally. Opposition MPs criticised the proposals with many focusing on the barriers that requiring ID would create for many voters. Several said voter ID was a solution to something that was not a problem, citing the low numbers of personation convictions. Conservative MPs highlighted types of electoral fraud and generally welcomed the measures in the Bill.

#### Electoral Commission

The measures to create a strategy and policy statement for the Electoral Commission and to alter oversight of the Commission were controversial. Opposition MPs argued it was an inappropriate interference with the independence of the Commission. The Government argued it would improve parliamentary scrutiny of the Electoral Commission's work while respecting its independence.

#### Overseas voters

The Labour Party argued that ending the 15-year limit was a ploy to increase the number of overseas voters who can donate to the Conservative Party. Labour favoured extending the franchise to 16- and 17-year-olds.

The Government argued that all British citizens living abroad should have a vote and a voice in Parliament.

#### Other measures

Measures on digital imprints, accessibility of elections and intimidation of candidates were generally welcomed.

### Instruction to look at local election systems

Following second reading, the House of Commons [agreed an instruction](#) on 20 September. This allowed the Public Bill Committee to consider voting systems for some local election in England and Wales, which had not originally been included in the Bill. Amendments introduced at committee stage would change the voting system for all police and crime commissioners

(PCC), combined authority mayors, and the Mayor of London, from the supplementary vote system to the first past the post system.

## Public Bill Committee

The Committee had four evidence sessions before scrutinising the detail of the Bill. Eight scrutiny sessions were held, beginning on 22 September 2021. The Committee heard evidence on a range of the Bill's measures but in particular voter fraud, the impact of voter ID on participation, and on the perceived threat to the Electoral Commission's independence. It also heard evidence from those that run elections on the potential effects on resources and the risks to running elections additional burdens introduced by the Bill might create.

Only Government amendments were approved. Some were drafting amendments and the main substantive change was a new clause to change voting systems for PCC and mayoral elections.

## Select Committee report

On 13 December 2021, the Public Administration and Constitutional Affairs Committee [published a report on the Elections Bill](#). The Committee were critical of the lack of pre-legislative scrutiny of the Bill and the added complexity to electoral law that would result from it.

The Committee [called for the Government to pause progress](#) on the Bill. The Chair, William Wragg, said: "We feel that the elections bill proposals lack a sufficient evidence base, timely consultation, and transparency, all of which should be addressed before it makes any further progress."

## Commons remaining stages

The report stage and third reading of the Bill were taken on [17 January 2022](#). Opposition MPs were critical of the number of Government amendments being made to the Bill at report stage. Some argued the Bill would have benefitted from pre-legislative scrutiny.

Government amendments were approved to introduce a new online system for requesting an absent vote. Other technical Government amendments were passed to allow for people to apply for a free voter ID card at the same time as registering to vote online and to clarify which photographic travel ID cards were permitted as polling station ID.

Other government amendments extended the new provisions on EU citizens' voting and candidacy rights to City of London elections, and clarified the requirements for digital imprints in campaign material.

## Lords stages

### Second reading

The House of Lords gave the Bill a second reading on [23 February 2022](#). The Government responded to two significant criticisms of the Bill, the proposed strategy and policy statement for the Electoral Commission and the provisions in the Bill that required legislative consent.

The Government rejected the Electoral Commission's assertion that the proposed statement would allow the Government to influence the decisions of the Commission. The Commission's Commissioners had [written an open letter](#) to the Ministers just before the second reading debate in the Lords urging the Government to reconsider its measures on the proposed strategy and policy statement. The Commission argued the statement would "enable a government in the future to influence the Commission's operational functions and decision-making."

On legislative consent, the Government noted that the Scottish and Welsh Governments had declined to give consent on matters relating to devolved elections as both Governments were preparing their own similar measures.

### Committee stage

During the committee stage of the Bill Government amendments were passed that removed relevant references to take account of the devolved governments' decisions on legislative consent.

Several technical Government amendments were agreed. A new clause moved by the Government to alter how candidates addresses in UK Parliament elections could be submitted at nomination was passed.

No other amendments were agreed but a number of probing amendments were discussed to allow peers to explore some of the topics included in the Bill. These focused on voter ID and third-party campaigning issues, particularly the measures related to joint campaigning between third parties and political parties. These are seen by many as disproportionately affecting the Labour Party and its affiliated trades unions.

### Report stage

Report stage was held over two days, [6 April 2022](#) and [25 April 2022](#).

The Government suffered two defeats:

- Voter ID – The House agreed an amendment that extended the permitted range of ID documents to various non-photographic types of ID.

- Electoral Commission strategy and policy statement – the House voted to remove the clauses relating to the strategy and policy statement from the Bill.

Other amendments to the Bill included Government amendments to clause 7 (secrecy of postal ballots) and clause 8 and its associated schedule (undue influence) were agreed without debate or a vote.

The Government accepted an amendment from Lord Holmes. It requires the Electoral Commission to produce statutory guidance to returning officers on the support that should be provided to disabled voters in polling stations, particularly blind or partially sighted voters.

The Government accepted a group of amendments from Lord Hodgson of Astley Abbots to provide statutory guidance for controlled expenditure of third parties.

A group of technical amendments tabled by Baroness Noakes were accepted by the Government and approved by the House without a vote. These related to the assets and liabilities to be provided on application for registration by a new political party and altered the wording of the clause to reflect normal financial accounting practice.

Government amendments that addressed concerns raised at committee stage were approved without a vote. Clause 28 (to regulate joint spending between registered parties and third-party campaigners) was removed from the Bill. Opponents had said this would adversely affect the Labour Party. The power to amend the list of eligible categories of third-party campaigners in PPERA using secondary legislation was amended so that a minister could only act on the recommendation of the Electoral Commission

A new clause was inserted to the Bill to require post-legislative scrutiny of the Act. It requires the Secretary of State to prepare, publish and lay before Parliament a review of the operation of this legislation, not less than 4 and not more than 5 years after it receives Royal Assent.

## Ping pong

The House of Commons considered Lords amendments to the Bill on [Wednesday 27 April 2022](#).

It reinstated the clauses relating to the Electoral Commission but also further amended the clauses to address concerns that had been raised on the perceived interference with the Commission's independence and with a lack of Parliamentary scrutiny.

These would explicitly prevent the strategy and policy statement from including reference to the Commission's investigatory or enforcement

activity or other statutory duties. They also provided that the draft statement would be subject to the [super-affirmative procedure](#), which Erskine May, the most authoritative guide to Parliamentary procedure, describes as “an exceptionally high degree of scrutiny” of delegated legislation.

The Commons also overturned the Lords amendment on additional voter ID documents, restoring the original list containing in schedule 1.

The Lords did not insist on any further changes to the Bill, which was then forwarded for Royal Assent.

# 1 Introduction

The [Elections Bill](#) [Bill 138 of 2021-22] was introduced on 5 July 2021.

The Bill makes several changes to election law. The Bill's [Explanatory Notes](#) (PDF) explain that it fulfils some of the Conservative Party's manifesto commitments to "protect the integrity of the UK's democracy" and to make it easier for overseas electors to vote in UK Parliamentary elections.

The main measures in the Bill as introduced were:

- **Voter ID**  
To introduce the requirement for voters to show photo ID in a polling station before being given a ballot paper. This would be for UK parliamentary elections across Great Britain and for local elections in England. This would aim to prevent the electoral crime of personation – using someone else's vote by pretending to be them in the polling station.
- **Electoral fraud**  
The Bill makes changes aimed at improving the security of absent voting (both postal and proxy voting). This includes banning postal vote harvesting – a type of electoral fraud where campaigners or party workers handle postal voting packs sent to voters, intending to fraudulently influence the vote. It will also clarify the electoral offence of 'undue influence'.
- **Accessibility**  
Measures aimed at improving the accessibility of elections for disabled voters.
- **Overseas voters**  
To remove the 15-year limit on overseas voters being able to register for UK parliamentary elections. This would introduce 'votes for life' for expats and would also reform the eligibility and registration process to include more expats and make it easier to renew registrations.
- **EU citizen voting rights – England and Northern Ireland**  
EU citizens legally resident in the UK before the UK left the European Union would retain their local election voting and candidacy rights in England and Northern Ireland. EU citizens who take up legal residence after the end of the transition period after the UK left the EU would have local voting and candidacy rights based on reciprocal voting treaties between the UK and individual EU countries.

- **Digital imprints**  
An 'imprint' is information added to campaign material during an election or a referendum that tells potential voters about who produced the material. Currently only printed campaign material requires an imprint, except in Scotland, where the rules have already changed to include digital material. The Bill would extend imprints to digital campaign material.
- **Intimidation of candidates**  
A new sanction for those guilty of intimidating a candidate or campaigner. This follows concerns about increasing levels of abuse, threats, or intimidation in elections. The sanction will apply if someone is convicted of one of the offences of an intimidatory nature that are listed in the Bill. This is only if the offence is committed because the victim was a candidate or campaigner. Someone convicted may be served a disqualification order that prevents them from standing for, being elected to, or holding certain elective offices for five years.
- **Electoral Commission**  
  
The Bill would give the Government the power to set the Electoral Commission's strategic priorities in a strategy and policy statement. The new statement would be subject to consultation before being brought forward for parliamentary approval. The Bill would also give the Speaker's Committee on the Electoral Commission the power to assess the Commission's compliance. The Bill also prohibits the Commission from being able to bring prosecutions itself.
- **Campaigning and political parties**  
The Bill makes some changes to the registration requirements for political parties and third-party campaigners. These aim to tighten the rules that prevent foreign money being used in campaigning. It also amends legislation relating to 'notional expenditure' – that is goods and services received by candidates at a discount and that must be declared as spending during an election.

The Library briefing produced in advance of second reading gives more detail on the provisions in the Bill.<sup>1</sup>

---

<sup>1</sup> [Commons Library Research Briefing CBP-9304, Elections Bill 2021-22](#)

## 2

## House of Commons: Second reading

The Bill was given a second reading on 7 September 2021.<sup>2</sup>

Debate centred around the proposals for voter ID. Opposition MPs criticised the proposals for ID at polling stations, with many focusing on the barriers that requiring ID would create for many voters.

The Opposition repeated the criticism that voter ID was a solution to something that was not a problem, citing the low numbers of personation convictions. Conservative MPs highlighted types of electoral fraud and generally welcomed the measures in the Bill.

The other main areas of debate were those on the Electoral Commission and overseas voters. Measures on digital imprints, accessibility of elections and intimidation of candidates were generally welcomed.

A criticism of the Bill by Opposition MPs was that it was part of a series of steps by the Government to undermine democracy and empower the Executive. Labour and SNP MPs highlighted the Dissolution and Calling of Parliament Bill that will repeal of the Fixed-term Parliaments Act and will allow the Government to decide when an election is held, and the Police, Crime, Sentencing and Courts Bill, which will place some restriction on the right to protest.

The chair of the Public Administration and Constitutional Affairs Committee (PACAC), William Wragg, said it was unfortunate that the Bill did not get pre-legislative scrutiny. He suggested:

the Bill would have benefited from consideration beforehand by a Speaker's Commission, which is a cross-party entity—none of us has the monopoly on virtue when it comes to elections or matters pertaining to them.<sup>3</sup>

Others pointed to the Bill being a missed opportunity to modernise electoral law. Cat Smith (then Labour frontbench spokesperson for Young People and Voter Engagement) quoted the Law Commission 2020 report on modernising electoral law,<sup>4</sup> which identified the:

law governing elections is “voluminous”, “fragmented” and “extremely complex”, with some provisions “dating back to the 19th century”.<sup>5</sup>

---

<sup>2</sup> [HC Deb 7 September 2021 \[Elections Bill\], c198-276](#)

<sup>3</sup> [HC Deb 7 September 2021 \[Elections Bill\], c222](#)

<sup>4</sup> Law Commission, [Electoral law project](#)

<sup>5</sup> [HC Deb 7 September 2021 \[Elections Bill\], c209](#)

She went on to say the Elections Bill makes no progress on modernisation.

## Voter ID

Most debate focused on the plans to introduce voter ID for UK parliamentary elections and local elections in England.

Several MPs referred to the potential for it to be harder to vote for people without suitable ID. Joanna Cherry, an SNP Member of the Joint Committee on Human Rights, highlighted the [Committee's report](#) (PDF) on the ID provisions in the Bill. She told the House:

from the evidence the Committee heard we concluded that the voter ID measures risk making voting less accessible to some people and will have a discriminatory impact on some voters with protected characteristics under the Equality Act 2010, including the disabled, certain ethnic minorities and Gypsy and Traveller communities.<sup>6</sup>

Alex Sobel (Lab/Co-op) questioned why student ID was not listed in the schedule of permissible ID in the Bill, but a bus pass was. He said young people would be disproportionately affected.<sup>7</sup>

Alistair Carmichael (Lib Dem) said the proposals “seek to produce a solution for which there is no obvious problem.” He said the Government should first have provided evidence to show there is a problem but that “they have singularly failed to do so.”<sup>8</sup>

David Davis (Conservative) was a dissenting voice on the government benches. A vocal critic of ID cards in general, he told the House that voter ID was “an illiberal solution...in search of a non-existent problem”.<sup>9</sup>

Ben Lake (Plaid Cymru) questioned the impact on devolved elections if held on the same day as a UK parliamentary election, with voter ID required for one poll but not another.<sup>10</sup>

The Government repeated its concerns that voter fraud was a risk. The minister, Chloe Smith, said that voter ID was simply updating security measures:

People already identify themselves when they go to the polling station, but it is a Victorian test of saying their name and address. The world has moved on, and we need to move with it. Showing photo identification is a reasonable and proportionate way to confirm that a person is who they say they are.<sup>11</sup>

---

<sup>6</sup> [HC Deb 7 September 2021 \[Elections Bill\], c252](#)

<sup>7</sup> [HC Deb 7 September 2021 \[Elections Bill\], c200](#)

<sup>8</sup> [HC Deb 7 September 2021 \[Elections Bill\], c248](#)

<sup>9</sup> [HC Deb 7 September 2021 \[Elections Bill\], c216](#)

<sup>10</sup> [HC Deb 7 September 2021 \[Elections Bill\], c227](#)

<sup>11</sup> [HC Deb 7 September 2021 \[Elections Bill\], c200](#)

The Government also pointed to the research it had commissioned indicating that [98% of voters held some form of photo ID](#) (although this figure includes ID that had expired or where the photo was no longer recognisable) that would be acceptable under the Elections Bill. It also promised a widespread public communication campaign to ensure voters knew of the new requirements.<sup>12</sup>

## Electoral Commission strategy and policy statement

The other main area of contention was the proposals in the Bill that affect the Electoral Commission. Currently, the Commission sets its own strategic priorities, subject to its statutory requirements. It is accountable to Parliament via the Speaker's Committee on the Electoral Commission.

The Speaker's Committee role is recommend candidates to be Commissioners, approve the Commission's five-year corporate plan at the start of each Parliament and to review annual budgets and corporate plans to monitor the Commission's efficient and cost-effective discharge of its statutory functions.<sup>13</sup>

However, the Government quoted Lord Pickles' 2016 report, where he found the "current system of oversight of the Electoral Commission...does not provide an effective third-party check on its performance".<sup>14</sup>

The Minister said it was right that Parliament should have an increased role in scrutinising the Electoral Commission. This was both by allowing the Government to set the newly proposed strategy and policy statement, subject to consultation and parliamentary approval, and by increasing the power of the Speaker's Committee on the Electoral Commission to monitor Electoral Commission compliance with the statement.

The Minister told the House: "Together, the reforms will facilitate parliamentary scrutiny of the Electoral Commission's work while respecting its independence."<sup>15</sup>

Opposition MPs criticised the proposals as inappropriate political interference in the regulation undertaken by the Commission.

Cat Smith quoted Helen Mountfield, QC, a barrister at Matrix chambers, who gave evidence to the Public Administration and Constitutional Affairs Committee on the same day.<sup>16</sup> She told the Committee the measures relating to the Electoral Commission constitute:

---

<sup>12</sup> [HC Deb 7 September 2021 \[Elections Bill\], c200](#)

<sup>13</sup> Speaker's Committee on the Electoral Commission, [Role of the Committee](#)

<sup>14</sup> [HC Deb 7 September 2021 \[Elections Bill\], c205](#)

<sup>15</sup> [HC Deb 7 September 2021 \[Elections Bill\], c205](#)

<sup>16</sup> [HC Deb 7 September 2021 \[Elections Bill\], c214](#)

breaches of the standards of constitutional propriety and perceived fair play that are part of the electoral game as a result of our own unwritten constitutional standards.<sup>17</sup>

Ben Lake (Plaid Cymru) reminded the Minister that the devolved parliaments in Wales and Scotland have a role in funding and scrutinising the Electoral Commission. He called on the Government to make it clear the proposed measures in the Bill would “not undermine the very important relationships that the commission has” with those parliaments.<sup>18</sup>

Joanna Cherry drew the House’s attention to the membership of the Speaker’s Committee on the Electoral Commission. She said:

... for the first time ever, the Speaker’s Committee on the Electoral Commission is now composed of a majority of MPs from the governing party. Accordingly, the independence of the commission and its accountability to Parliament—not to the Government, but to Parliament—is under real threat from part 3 of this Bill.<sup>19</sup>

The [Speaker’s Committee](#) includes the chair of the Public Administration and Constitutional Affairs Committee as one of its members. The current chair, William Wragg (Conservative) also agreed, saying “that the Speaker’s Committee would benefit from having no majority from a particular party”.<sup>20</sup>

## Voter fraud

The Minister briefly outlined the provisions in the Bill, other than voter ID, that would help prevent other types of electoral fraud.

These included changes to absent vote arrangements. Absent votes are those cast by people who cannot attend a polling station. These can be done by post or by appointing a proxy to vote in person on behalf of the absent voter. The changes proposed by the Bill are limits on the number of postal votes that may be handed in by any one person, limits on the total number of electors that a person may act as a proxy for, and preventing party campaigners from handling anyone’s postal vote. It also included the measures aimed to clarify the electoral offence of undue influence.

She said these measures would, “combat the silencing of democratic voices by those seeking to influence or steal an individual’s vote.”<sup>21</sup>

Several Conservative MPs highlighted the case of Tower Hamlets when talking about voter fraud as well as referring to alleged incidences of voter fraud in their own areas. The result of the mayoral election in Tower Hamlets in May 2014 was eventually overturned after an election petition was

---

<sup>17</sup> Public Administration and Constitutional Affairs Committee, [Oral evidence 7 September 2021](#), Q23

<sup>18</sup> [HC Deb 7 September 2021 \[Elections Bill\], c228](#)

<sup>19</sup> [HC Deb 7 September 2021 \[Elections Bill\], c253](#)

<sup>20</sup> [HC Deb 7 September 2021 \[Elections Bill\], c222](#)

<sup>21</sup> [HC Deb 7 September 2021 \[Elections Bill\], c203](#)

lodged. The election court found the winning candidate, Lutfur Rahman, guilty of multiple corrupt and illegal practices in electoral law.<sup>22</sup> Offences included personation, undue spiritual influence, postal and proxy voting offences, false registrations, bribery, and illegal payment of canvassers.

Craig Mackinlay (Conservative) welcomed the provisions to improve the security of absent voting but questioned whether postal voting on demand serves “the good of the democratic process”.<sup>23</sup> Postal voting on demand refers to the ability to request a postal vote in Great Britain for any reason. In Northern Ireland voters may only request a postal vote under certain circumstances. These are disability, and absence as a result of studying or working away from home on polling day.

Damien Moore (Conservative) highlighted the new offence included in the Bill when a person attempts to find out or reveal who an absent voter has chosen to vote for. This extends the secrecy of the ballot to postal voters.<sup>24</sup>

## Overseas voters

The changes to overseas voter registration were discussed. Cat Smith said the Opposition’s preference would be for extending the franchise to 16-and 17-year-olds. She also highlighted that overseas voters often struggle to get their ballots back in time and argued that extending overseas voting was a way of allowing Conservative supporters overseas to donate to the party (overseas voters are allowed to donate to political parties and third-party campaigners because they appear on an electoral register).<sup>25</sup>

Rachel Hopkins (Labour) raised concerns expressed by the Association of Electoral Administrators over the increased administrative burdens resulting from the Bill. This was primarily registering larger numbers of overseas voters on top of administering voter ID cards for domestic voters.<sup>26</sup>

Clive Lewis (Labour) noted the potential increased influence of overseas voters with increased numbers of overseas voters registering.<sup>27</sup>

Sir Roger Gale (Conservative) welcomed the ending of the 15-year limit on overseas voters being able to register for UK parliamentary elections. He highlighted that Harry Shindler, a centenarian member of the Labour Party and long-time campaigner for ‘votes for life’, would be able to vote at the next general election.<sup>28</sup>

---

<sup>22</sup> Queen’s Bench judgement, [\[2015\] EWHC 1215 \(QB\)](#), 23 April 2015

<sup>23</sup> [HC Deb 7 September 2021 \[Elections Bill\], c225](#)

<sup>24</sup> [HC Deb 7 September 2021 \[Elections Bill\], c239](#)

<sup>25</sup> For more information on the barriers to overseas voters returning ballots see Library briefing, [Overseas voters](#)

<sup>26</sup> [HC Deb 7 September 2021 \[Elections Bill\], c251](#)

<sup>27</sup> [HC Deb 7 September 2021 \[Elections Bill\], c232](#)

<sup>28</sup> [HC Deb 7 September 2021 \[Elections Bill\], c228](#)

# 3 Instruction

## Box 1: Instructions to committees

Standing Order No 65 gives a committee on a bill the general authority to amend the bill (even if it means the bill's long title needs to be amended), "provided that the amendments are relevant to the subject matter of the bill".

Instructions are required when amendments fall outside the scope of the bill.<sup>29</sup>

An instruction either empowers a committee to do something which it could not otherwise do (permissive) or defines a course of action it must follow (mandatory).

Permissive instructions may be given to a committee of the whole House or any other committee. Mandatory instructions may only be given to a select committee or to a committee on a private bill.<sup>30</sup>

On 20 September 2021, the House of Commons approved a motion for an instruction to allow the Public Bill Committee for the Elections Bill to consider amendments relating to voting systems for certain elections.

The [Elections Bill](#) as published in July 2021, did not include provisions on voting systems and at the time of the debate on the instruction in the House, the Public Bill Committee on the Elections Bill had already started its work.

The instruction was [approved on division](#), 309 votes to 186. It allowed the committee to make provisions in the Elections Bill about:

the use of the simple majority voting system in elections for

- (a) the Mayor of London;
- (b) an elected mayor of a local authority in England;
- (c) a mayor of a combined authority area; and

<sup>29</sup> [Commons Library Research Briefing CBP-9319, Elections Bill: instructions to the Public Bill Committee, 17 September 2021.](#)

<sup>30</sup> Erskine May, *Parliamentary Practice*, 25th edition, 2019, [para 28.69](#)

(d) a police and crime commissioner.<sup>31</sup>

The Conservative Party manifesto of 2019 said the party would, “continue to support the First Past the Post system of voting, as it allows voters to kick out politicians who don’t deliver, both locally and nationally.”<sup>32</sup>

The Government then announced in March 2021 that the Government planned to change the voting system for all police and crime commissioners (PCC), combined authority mayors, and the Mayor of London, from the supplementary vote system to the first past the post system, when parliamentary time allowed.<sup>33</sup>

On 15 September 2021, the Minister for the Constitution and Devolution, Chloe Smith, announced that the Government’s plans would be taken forward in the Elections Bill 2021-22. She also announced that the method for electing local authority mayors in England would be changed from the supplementary vote system to first past the post.<sup>34</sup>

## 3.1 Debate on the instruction

During the debate on the instruction, Cat Smith, Labour's Shadow Minister for Democracy, questioned why the Government had waited until after second reading to include the measures to scrap supplementary voting system in the Elections Bill, saying:

we have been using this system of voting for the London Mayor for well over two decades, it seems inconsistent for the Government not to have been able to see fit to put this in the Bill before this late stage.<sup>35</sup>

Opposition MPs complained that the public bill committee stage of the Bill had already started. The Committee had already completed the evidence gathering stage of its deliberations, so the Committee was unable to gather evidence on voting systems.

Caroline Lucas (Green) called for greater scrutiny of the instruction’s aims:

Extending the use of first past the post, and stripping out the proportional aspects of mayoral and police commissioner elections are not changes that should be bounced on MPs of other parties with no pre-legislative scrutiny or discussion.<sup>36</sup>

---

<sup>31</sup> [HC Deb 20 September 2021 \[Elections Bill \(Instruction\)\], c107-19](#)

<sup>32</sup> [Get Brexit Done Unleash Britain’s Potential: The Conservative and Unionist Party Manifesto 2019, November 2019, p48](#)

<sup>33</sup> [HCWS849, 16 March 2021.](#)

<sup>34</sup> [HCWS289, 15 September 2021.](#)

<sup>35</sup> [HC Deb 20 September 2021 \[Elections Bill \(Instruction\)\], c109](#)

<sup>36</sup> [HC Deb 20 September 2021 \[Elections Bill \(Instruction\)\], c112](#)

The Government rejected the criticism, saying there would be ample opportunity to consider the measures in committee and report stages. The Minister responded to the fact that the committee stage had already commenced by saying: “It is for the usual channels to determine whether further time might be given to the Committee for consideration”.<sup>37</sup> [The usual channels](#) refers to arrangements and compromises about the running of parliamentary business that are agreed behind the scenes.

In December 2021, the Public Administration and Constitutional Affairs Committee published a report on the Elections Bill (see section 6).<sup>38</sup> The Committee was critical of the instruction:

...the manner in which the proposed legislative change was brought about is unsatisfactory. Making changes such as this after the Bill has been introduced and debated at Second Reading is disrespectful to the House.<sup>39</sup>

---

<sup>37</sup> [HC Deb 20 September 2021 \[Elections Bill \(Instruction\)\], c115](#)

<sup>38</sup> Public Administration and Constitutional Affairs Committee, [The Elections Bill](#), 13 December 2021

<sup>39</sup> Public Administration and Constitutional Affairs Committee, [The Elections Bill](#) (PDF), p49

## 4

## Commons committee stage

The Public Bill Committee stages of the Bill were held from 15 September to 26 October 2021..<sup>40</sup> Its first four sessions were given over to evidence sessions on measures included in the Bill as published. It then held eight sessions on line-by-line scrutiny of the Bill.<sup>41</sup>

As noted in the previous section, four evidence sessions had been completed by the time the House of Commons approved the instruction to the Committee.

On the first committee session of 22 September, when it started scrutiny of the contents of the Bill, Cat Smith and Brendan O'Hara (SNP) raised points of order on whether the Committee would be granted extra time to take evidence, namely on the voting system for mayors and police and crime commissioner.

The Chair told the Committee:

it is perfectly in order for the Committee to come to an agreement, either between the usual channels or by way of an amendment, to allow more time.<sup>42</sup>

In the end no additional evidence sessions were scheduled.

The Committee took evidence from a range of witnesses. The two most contentious topics were again voter fraud and the provisions relating to the Electoral Commission.

Discussions on voter fraud tended to focus on previous examples of fraud. Much of this related to postal voting fraud in specific areas, particularly on the case Tower Hamlets and its 2014 mayoral election. There were examples of personation in Tower Hamlets but discussions on voter ID again reflected the view of many that the level of personation did not justify the introduction of voter ID. There was also evidence from electoral administrators on the additional burdens voter ID requirements would place on elections staff.

On the provisions relating to the Electoral Commission, there was general concern that the measures in the Bill were, or could be perceived to be, an unjustified interference with the independence of the Commission. There was also evidence that the Bill as published did not appropriately reflect the role of the Scottish and Welsh parliaments in holding the Electoral Commission to account.

---

<sup>40</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\]](#)

<sup>41</sup> [Committee Debates: compilation pdf of sittings \(PDF\)](#)

<sup>42</sup> [HC Deb 22 September 2021 \[Elections Bill \(Fifth sitting\)\], c124](#)

## 4.1 Evidence sessions

The Committee held four evidence sessions before scrutinising the detail of the Bill. A range of witnesses were asked about the various measures in the Bill. The names and times of those giving evidence were set out in the programme motion agreed at the Committee's first sitting.<sup>43</sup>

### Voter ID

Richard Mawry QC gave evidence on the electoral fraud cases in Tower Hamlets (following elections in 2014) and Birmingham (following the 2004 elections). He noted that in Tower Hamlets most of the fraud detected was by the candidate and in Birmingham and other well-known cases in recent years most of the fraud detected was postal vote fraud. He said:

Voter ID at polling stations, frankly, is neither here nor there. Personation at polling stations is very rare indeed, because it is so dangerous...but postal vote personation, whereby you are voting in the name of a non-existent person or a person who lives somewhere else, is very difficult to detect and to trace.<sup>44</sup>

The pressure of delivering free voter ID cards during an election was highlighted by the Association of Electoral Administrators (AEA). Its chief executive, Peter Stanyon, told the Committee that it is unclear how many people will apply for cards and of those that would it's unlikely many will come forward until the late in the election period. There was also uncertainty at this stage about what the free voter ID application and delivery system would look like.<sup>45</sup>

Peter Stanyon also told the Committee it is "harder and harder" to deliver elections. The AEA has published recent reports that highlight the complexity of delivering elections under the current law.<sup>46</sup> Peter Stanyon told the Committee that other parts of the Bill, not just those on voter ID make it "more challenging".<sup>47</sup> A similar point was made by the returning officer for Birmingham, Rob Connelly.<sup>48</sup>

Louise Round, spokesperson for the Society of Local Authority Chief Executives, which represents returning officers, told the Committee that electoral teams in London boroughs range from three to five people. She said that councils would need to draft in staff from other areas to fulfil their responsibilities to provide voter ID cards:

---

<sup>43</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\], c1](#)

<sup>44</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\], c15](#)

<sup>45</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c43](#)

<sup>46</sup> See for example the AEA statement, [Public Administration and Constitutional Affairs Committee report into the Elections Bill](#), December 2021

<sup>47</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c51](#)

<sup>48</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c56](#)

there is no way they can take on issuing voter ID cards in the middle of an election...returning officers, generally speaking, are senior managers or chief executives in councils, so they will need to mobilise all their colleagues and make sure that everybody puts all hands to the pump.<sup>49</sup>

The Electoral Commission said there must be sufficient time to implement changes to administer the voter ID system effectively. It highlighted that software suppliers need to be involved and the increased numbers of overseas voters would also have an impact.<sup>50</sup> Ailsa Irvine, Director of Electoral Administration and Guidance at the Commission, told the Committee the significant public awareness needed in advance of voter ID being introduced “cannot be overstated”.<sup>51</sup>

When asked about its recommendations since 2014 that voter ID should be introduced, the Commission said there is evidence to suggest that voter ID would increase the confidence of the security of polling stations for some voters. However, it also reiterated its view that effective security measures should “not have an impact on the accessibility of the voting process and that [voter ID] is workable in practice”.<sup>52</sup>

The Chief Electoral Officer of Northern Ireland, Virginia McVea, was asked about the experience of voter ID in Northern Ireland.

Broadly, it would be fair to say that there is a public perception that photographic ID is helpful. We all know that there is a fear of fraud. The data that I hold, and the evidence that is available to me, does not bear out any kind of systemic fraud in Northern Ireland.<sup>53</sup>

Louise Round noted the incidence of personation was very low and said, “There is a question about whether the cost and extra administrative burden of voter ID is strictly speaking necessary.”<sup>54</sup>

Gavin Millar QC was asked about whether the requirement breached human rights standards. In his view, the legislation will inevitably be challenged on whether it is incompatible with the European convention on human rights if it is introduced. He said there was a “strong case” for doing so. He told the Committee:

It is not a problem of any great consequence in our system, and I speak from experience. Personation cases are almost non-existent.<sup>55</sup>

---

<sup>49</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c64](#)

<sup>50</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], 44](#)

<sup>51</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c49](#)

<sup>52</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c50](#)

<sup>53</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c45-6](#)

<sup>54</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c60](#)

<sup>55</sup> [HC Deb 16 September 2021 \[Elections Bill \(Fourth sitting\)\], c107](#)

In his view there was not a problem that needed to be addressed and he could not see that voter ID was a targeted and proportionate way of addressing it.

Disability Rights UK told the Committee that communicating the voter ID requirement to disabled voters with very varied needs would be a communication challenge: a communication campaign would have to start well in advance of it being required.<sup>56</sup>

Disability Rights UK also drew attention to the concerns about obtaining a free voter ID card. People without existing appropriate ID face barriers in obtaining official documents - those reasons could be cognitive, sensory, digital exclusion:

We are asking the most disadvantaged people in our community, who have not got one of those other cards, to go and apply for a card. It just does not make any sense. These are the people who are least likely to apply for a card.<sup>57</sup>

## Voting fraud

Several witnesses talked about the voting fraud in Tower Hamlets and other recent cases, particularly in Birmingham, that led to election petitions.

Richard Mawry QC, who heard both cases, detailed some of the instances of fraud. He highlighted that postal voting measures has been tightened in recent years but that, “Postal voting is going to be open to fraud, however hard you try and however much you do”. He added:

It is difficult now to put a completely fictitious person on the register, but it is not difficult to harvest votes, with or without consent, from real people who live somewhere else.<sup>58</sup>

However, he also noted that resources were an issue. In Slough in 2007, false entries on the register led to 19 bogus voters being added by a candidate. He said that councils cannot check every address to check whether the address is occupied:

It is resources, not the law. The law is quite clear: you cannot be registered unless you are a genuine person, living within the ward or constituency.<sup>59</sup>

Mawry also stated that in the case of Tower Hamlets “a political culture where winning and retaining power was everything” was part of the driving force behind the voter fraud that occurred there.<sup>60</sup>

---

<sup>56</sup> [HC Deb 16 September 2021 \[Elections Bill \(Fourth sitting\)\], c110](#)

<sup>57</sup> [HC Deb 16 September 2021 \[Elections Bill \(Fourth sitting\)\], c113](#)

<sup>58</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\], c11](#)

<sup>59</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\], c9-10](#)

<sup>60</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\], c6](#)

Lord Pickles agreed, telling the Committee, “I think it would be a big mistake to say that this is just about voting, democracy and elections. It is actually about power and money.”<sup>61</sup> Lord Pickles said the measures in the Bill on tackling fraud were moderate and reasonable. He also said that postal voting fraud was not endemic, but that postal voting was vulnerable to fraud, particularly when control of local budgets was at stake.

The returning officer for Birmingham, Rob Connelly, told the Committee that since 2004 a lot had changed, for example individual electoral registration, and personal identifiers for postal ballot (signatures and date of birth to improve the security of postal votes) to make fraud harder. He said that Birmingham has not had any issues with postal ballots recently and working with the local parties and flagging where more than six new postal applications come from a particular household had helped.<sup>62</sup>

He also said that restricting the number of postal votes that you can bring into a polling station may help prevent postal vote harvesting but he questioned what was stopping someone visiting more than one polling station. He also voiced concern that limiting the number might affect an honest voter trying to be helpful and not just the “determined fraudster”.

Councillor Golds, Conservative group leader on Tower Hamlets Council, emphasised the effect on some of the voters who had had their votes stolen and their reluctance to report the matter. He was also critical of the lack police action in Tower Hamlets around voter fraud.<sup>63</sup>

Gavin Millar QC told the Committee that police and prosecutors do not have the resources or expertise to tackle offending under the two main pieces of election law – the Representation of the People Act 1983 and the Political Parties, Elections and Referendums Act 2000. He said, “I am absolutely certain that much goes uninvestigated and unprosecuted at the moment.”<sup>64</sup>

Assistant Chief Constable Gary Cann told the Committee that the Representation of the People Acts, which contain the classic offences in electoral law such as personation, is not a widely known piece of legislation among police officers but in the last 10 years the police have raised awareness of electoral malpractice:

It is taken extremely seriously and we have some extremely capable and knowledgeable people involved in the work, but it is fair to say that it is something of a niche area.<sup>65</sup>

Gillian Beasley, Peterborough City Council’s returning officer, talked about how she has worked with the police to tackle fraud. Peterborough is an area that has had problems with fraud cases and she outlined how cooperation

---

<sup>61</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\], c7](#)

<sup>62</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c59](#)

<sup>63</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\], c19-24](#)

<sup>64</sup> [HC Deb 16 September 2021 \[Elections Bill \(Fourth sitting\)\], c105](#)

<sup>65</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\], c22](#)

with her local force had helped produce an electoral integrity plan to reduce the risk.<sup>66</sup>

## Accessibility

Disability Rights UK told the Committee that it welcomed the attempt to cover a broader range of equipment to assist disabled voters. However, its head of policy, Fazilet Hadi, said more detail of the types of equipment should be specified in guidance and standards. No longer specifying in the legislation the type of tactile voting device (TVD) for blind or partially sighted voters had the potential to be a retrograde step.<sup>67</sup> A similar point was made in [written evidence](#) to the Committee by a joint submission from some of the leading disability charities in the UK:

While we support efforts to improve accessibility for everyone, changes to benefit other disabled voters do not need to replace provisions provided for blind and partially sighted people.<sup>68</sup>

The Association of Electoral Administrators (AEA) told the Committee it welcomed less prescription in how returning officers must provide assistance for disabled voters. Its chief executive, Peter Stanyon said:

The widening of the ability to use alternative methods has to be welcomed, as long as there are base standards that the returning officer is expected to follow. That is not to remove the TVD from polling stations, but to add in additional potential mechanisms that will be of assistance to individual voters.<sup>69</sup>

## Overseas voters

Louise Round (representing returning officers) told the Committee that registering overseas voters takes the most ongoing year-round resource for most election teams. She said the longer period that overseas voters will be registered for (three years instead of one) was welcome.<sup>70</sup>

She cautioned that the obligation to demonstrate eligibility to register may be time consuming:

there is a balance, as in all registration activity, between not wanting to make the requirements so tight that no one can ever be registered and ensuring that we are not registering people who are not entitled to be registered and might be constituency hopping.<sup>71</sup>

---

<sup>66</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\], c21](#)

<sup>67</sup> [HC Deb 16 September 2021 \[Elections Bill \(Fourth sitting\)\], c111](#)

<sup>68</sup> [Written evidence submitted](#) by Royal National Institute of Blind People, Age UK, Business Disability Forum, Leonard Cheshire, Sense & Royal National Institute for Deaf People (EB07)

<sup>69</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c47](#)

<sup>70</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c57-8](#)

<sup>71</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c58](#)

Representatives of the three main UK-wide political parties, Conservatives, Labour and Liberal Democrats' overseas branches welcomed the provisions on overseas voters.

The representatives highlighted problems with relying on postal services to deliver and return postal votes. They said proxy votes are not always an answer as many people have been away for a long period and will not be able to find someone to act as a proxy. For those newly eligible to register under these proposals, many may not remember the last place they were registered to vote. In part this may be because before individual voter registration was introduced, the head of the household filled in the form.<sup>72</sup>

The Chair of Conservatives Abroad, Heather Harper, refuted the idea that donations to the Conservative Party were one of the drivers of the 'votes for life' policy:

Conservatives Abroad is not an organisation that solicits large donations; our emphasis is on engagement. ...I do not see any significant increase there.<sup>73</sup>

## EU voting rights

Gillian Beasley, returning officer for Peterborough Borough Council, noted the resource and training issues associated with reforming the eligibility of EU citizens to vote in local elections in England and Northern Ireland.

These included the tendency for a surge of voters to register late in the election process and the need to train and resource polling stations. She predicted this causing problems in polling stations because returning officers are finding it more difficult to recruit presiding officers.<sup>74</sup>

## Electoral Commission

Fraser Campbell QC noted [the ministerial statement](#) that gave an example of the new strategy and policy statement to be set by the Government of the day. In the example, the policy statement covered impartiality, accountability, value for money, proportionality and consistency. He told the Committee:

I wonder how useful that would be, because the Electoral Commission... presumably does not think at the moment that it is proper for it to provide poor value for money or be partial, unaccountable, disproportionate or inconsistent.<sup>75</sup>

Professor David Howarth, a former Liberal Democrat MP and a former political appointee commissioner on the Electoral Commission, called the

---

<sup>72</sup> [HC Deb 16 September 2021 \[Elections Bill \(Third sitting\)\], c78-87](#)

<sup>73</sup> [HC Deb 16 September 2021 \[Elections Bill \(Third sitting\)\], c79](#)

<sup>74</sup> [HC Deb 15 September 2021 \[Elections Bill \(First sitting\)\], c18](#)

<sup>75</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c36](#)

new power for ministers to set a strategy and policy statement “outrageous”.<sup>76</sup>

The Electoral Commission told the Committee it had concerns with the proposed changes to oversight in the Bill. Ailsa Irvine, the Committee’s Director of Electoral Administration and Guidance, said that the strategy and policy statement would go “beyond scrutiny and accountability, and potentially into providing guidance about how we carry out our functions on a day-to-day basis.”<sup>77</sup>

She also raised the issue of accountability of the Commission to the devolved parliaments, noting: “we are actually accountable to those legislatures through the Llywydd’s Committee and the Scottish Parliamentary Corporate Body”.<sup>78</sup>

The Bill as published requires ministers from devolved governments to be consulted on the strategy and policy statement. The Commission is accountable to the devolved legislatures in Scotland and Wales rather than to ministers. The Commission thinks it is important that the statutory consultees for the strategy statement should be the legislatures in an equivalent way to the UK Parliament’s Speaker’s Committee and not Scottish or Welsh ministers.

Gavin Millar QC told the Committee, “there is no case here for any of the three main changes proposed in the legislation in relation to the Electoral Commission”. In his view, the Commission’s decision making and its powers to investigate and act, should be framed and guided solely by evidence and the public interest.<sup>79</sup>

The issue of the current Government majority on the Speaker’s Committee for the Electoral Commission was raised by Professor Alan Renwick. Professor Renwick pointed to the 2007 Committee on Standards in Public Life (CSPL) report which noted that a convention existed at the time that there should be no single party majority on the Speaker’s Committee. The 2007 report recommended that convention should be formalised in legislation. Professor Howarth agreed when he gave his evidence.

Professor Renwick also argued that there should have been an independent review of the proposed changes relating to the Electoral Commission. He noted the introduction of the Commission and the significant changes introduced in 2009 were preceded by CSPL reviews and recommendations, saying.<sup>80</sup>

---

<sup>76</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c39](#)

<sup>77</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c45](#)

<sup>78</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c45](#)

<sup>79</sup> [HC Deb 16 September 2021 \[Elections Bill \(Fourth sitting\)\], c105](#)

<sup>80</sup> [HC Deb 16 September 2021 \[Elections Bill \(Fourth sitting\)\], c120](#)

## Notional expenditure

Professor Justin Fisher welcomed the attempt to clarify the rules around notional expenditure but said he had some misgivings about the technical aspects of the drafting of the measure.<sup>81</sup> This was particularly around some of the wording of the provisions. Notional expenditure is goods and services received by candidates at a discount and that must be declared as spending during an election.

For example, the Bills says notional expenditure will be relevant “only if their use on behalf of the candidate is directed, authorised or encouraged by the candidate or the candidate’s election agent”. Professor Fisher’s view was the word “encouraged” leaves a candidate open to misunderstandings and difficulties and it would be better to have a paper trail like the approach with donations.<sup>82</sup>

## Third-party campaigning

Gavin Millar QC told the Committee that the provisions on joint campaigning by third-party campaigners were “very difficult”. He told the Committee even the courts have “struggled with this” and organisations he has advised, “find it very difficult to know what they can and cannot do”.

It will be very difficult for campaigners... to know whether they are on the right or the wrong side of the line.<sup>83</sup>

If they are deemed to be part of a joint campaign he said, “that will dramatically reduce the amount that they will be able to spend.”

Gavin Millar also told the Committee the power of ministers to add or remove categories of campaigners from being permitted to campaign in elections via secondary legislation was reducing parliamentary scrutiny.<sup>84</sup>

Other witnesses agreed. Fraser Campbell QC told the Committee:

As a matter of basic law, judges are naturally much less deferential to secondary legislation, because it has not gone through the rigmarole and process that we are engaged in today.<sup>85</sup>

## Digital imprints

The proposals for digital imprints were generally welcomed.

---

<sup>81</sup> ‘Notional expenditure’ – is goods and services received by candidates and used for campaigning that is received at a discount or for free. See section 10 of the Library briefing on the Elections Bill as introduced, [Elections Bill 2021-22](#), Commons Library Briefing CBP-9304

<sup>82</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c70](#)

<sup>83</sup> [HC Deb 16 September 2021 \[Elections Bill \(Fourth sitting\)\], c102-3](#)

<sup>84</sup> [HC Deb 16 September 2021 \[Elections Bill \(Fourth sitting\)\], c103](#)

<sup>85</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c39-40](#)

Academic Dr Kate Domett questioned how the new regime would be implemented. She also highlighted the vagueness about what it means for an imprint to be included where “reasonably practicable” and the challenge of regulating paid and unpaid material.<sup>86</sup>

Professor Justin Fisher noted the internet falls outside of UK jurisdiction saying, “we can deal with imprints, but it would be very difficult to stop a concerted campaign on Twitter or Facebook by a foreign actor.”<sup>87</sup>

## 4.2 Scrutiny sessions

Scrutiny of the provisions in the Bill commenced on 22 September 2021.<sup>88</sup> Eight sessions were held.

As with second reading and the Committee’s evidence sessions, most of the discussion was on the provisions on voter ID and the Electoral Commission. Opposition amendments to both sections were considered, several were [probing amendments](#) (amendments submitted by backbenchers that are unlikely to be made, but can be used as a way of holding a debate on an issue and establishing the Government’s intentions) but none were accepted.

Provisions on third-party campaigning were more controversial with Opposition parties. They attempted to make changes to what they saw as attempts to limit political participation, particularly from organisations critical of the Government.

The only amendments approved by the Committee were technical and drafting amendments (on EU voting rights and on digital imprints) and the new provisions on voting systems resulting from [the Instruction approved](#) by the House of Commons on 20 September 2021 (see section 3).

### Voter ID

The debate on clause 1, introducing voter ID for UK parliamentary elections and local elections in England, echoed much of what was said at second reading. The Committee voted on whether the clause should stand part of (be included in) the Bill, which was agreed nine votes to six.<sup>89</sup>

Debate then turned to the detailed provisions on voter ID included in schedule 1 of the Bill. The first set of amendments proposed to make the Electoral Commission, rather than returning officers, responsible for administering the free voter ID card needed by electors without any other

---

<sup>86</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c67](#)

<sup>87</sup> [HC Deb 15 September 2021 \[Elections Bill \(Second sitting\)\], c71](#)

<sup>88</sup> [HC Deb 22 September 2021 \[Elections Bill \(Fifth sitting\)\]](#)

<sup>89</sup> [HC Deb 22 September 2021 \[Elections Bill \(Sixth sitting\)\], c163](#)

form of ID. Fleur Anderson (Labour) argued that a centralised system that worked alongside local authorities would provide a consistent approach across the country.<sup>90</sup>

The Government rejected the amendment saying the Commission’s advisory and regulatory role made it unsuitable to undertake the administrative role. The Minister, Kemi Badenoch, said: “How can the commission guide and oversee a process that it participates in the delivery of?” The amendment was pushed to a vote but was defeated.<sup>91</sup>

The next set of amendments, proposed by Cat Smith (Labour), were probing amendments to have lists of where constituents could apply for a free voter ID card. These were local government offices, libraries, GP surgeries and MPs’ constituency offices.<sup>92</sup>

The Government rejected the amendment saying returning officers were best placed to know where in their local areas could be used.<sup>93</sup>

Fleur Anderson proposed an amendment that would have prohibited outsourcing of administration or production of a free voter ID card.<sup>94</sup> The Minister rejected the amendment saying it was raised for “ideological reasons”. She added:

the private sector already plays numerous roles in elections—it prints documents, ballot papers and poll cards; it manufactures equipment such as ballot boxes and polling booths; and it delivers poll cards and postal votes.<sup>95</sup>

The amendment was defeated on division.

The Opposition proposed an amendment to broaden the types of approved voter ID listed in schedule 1 to include a student ID card. Other amendments proposed were to include an 18+ Student Oyster photocard, a National Rail railcard, a Young Scot National Entitlement Card, a firearms certificate granted under the Firearms Act 1968 and certain digital ID (such as the NHS app, EU settled status app or Railcard app).

The Government rejected the amendments on the basis that some of the examples did not require as stringent checks. The Minister cited the Oyster cards as an example, saying that 60+ Oyster applications must be supported with a passport, driving licence or combination of different proofs of age and address. This is not the case for the 18+ Oyster card. She also pointed out that the Bill will allow the list of acceptable identification to be updated through secondary legislation.<sup>96</sup>

---

<sup>90</sup> [HC Deb 22 September 2021 \[Elections Bill \(Sixth sitting\)\], c164-8](#)

<sup>91</sup> [HC Deb 22 September 2021 \[Elections Bill \(Sixth sitting\)\], c168-9](#)

<sup>92</sup> [HC Deb 22 September 2021 \[Elections Bill \(Sixth sitting\)\], c169-72](#)

<sup>93</sup> [HC Deb 22 September 2021 \[Elections Bill \(Sixth sitting\)\], c172-3](#)

<sup>94</sup> [HC Deb 22 September 2021 \[Elections Bill \(Sixth sitting\)\], c178-81](#)

<sup>95</sup> [HC Deb 22 September 2021 \[Elections Bill \(Sixth sitting\)\], c180](#)

<sup>96</sup> [HC Deb 22 September 2021 \[Elections Bill \(Sixth sitting\)\], c195-6](#)

Other Opposition amendments pushed to a vote but defeated covered:

- requiring the Government to publish the details of the free elector IDs at least 28 days before they are laid in Parliament,
- allowing another voter who has provided ID at a polling station to attest to the identity of a voter who does not have a specified ID with them,
- requiring that a female presiding officer or clerk is available to confirm privately the identity of a female voter, if that voter requests (the Bill requires private space to be available but does not specify that a person of the same sex is available),
- Allowing use of poll cards and other types of non-photo ID, and
- Requiring the Government to prepare and publish reports on the effect of the voter ID after the next general election.

Other probing amendments covered the length of time a free voter ID card might be valid for, creating an online application portal on the GOV.uk website, and allowing a voter unable to provide voter ID to cast a provisional vote that could be included in the count once the voter's identity had been confirmed. Some of the issues explored in the probing amendments were subsequently addressed by a Government policy document, [Protecting the integrity of our elections: voter identification at polling stations and the new Voter Card](#), published on 6 January 2022.<sup>97</sup>

The key points about the free Voter Card were:

- It will show the elector's name and photograph, the local authority that issued the card, and a card number. Anonymous voters will be given an equivalent that will be linked to their voter number and not show their name. Anonymous electors voting in person will still need to bring their poll card when voting, as they currently do.<sup>98</sup>
- Cards will not show date of birth as the Government does not intend Voter Cards to be used for demonstrating proof of age or as an ID card more generally.
- Applications will be available online, by post and in person, with an online system provided by the Government, similar to the Register to Vote service that allows an elector to upload their details and a photograph.
- The intention is for voters to be able to apply for a free Voter Card up to the day before a poll. If a permanent card cannot be produced in time for polling day then temporary cards will be issued.

---

<sup>97</sup> [HCWS525, 6 January 2022](#)

<sup>98</sup> See Library briefing CBP-8202, [Anonymous electoral registration](#), for more information on anonymous voters

- Permanent cards are likely to be valid for 10 years and temporary cards will be issued for a single polling day.

The Government intends to consult with stakeholders when testing the application process, including the Government's Accessibility of Elections Working Group.

The written statement announcing the publication of the policy document said:

It is our expectation that voter identification will be in place in Great Britain in time for polls taking place in spring 2023, with the Voter Card system in operation in good time ahead of this.<sup>99</sup>

## Absent voting

Clause 2 and the associated schedule 2 were agreed without division. These require postal voters in Great Britain to make a fresh postal vote application after three years of being registered as a postal voter, if they want to continue to vote by post.

Currently postal voters can apply for a postal vote indefinitely but must refresh their signature, which is used to verify the postal vote is returned by the person who applied for it, every five years.

Labour argued that the change was unnecessary and potentially confusing for voters and would add to the administrative burden of local election staff. Patrick Grady (SNP) echoed the possibility for confusion between different postal voting requirements for UK and devolved elections. However, the clause and schedule were agreed without amendment or division.

Clause 3 introduces a new criminal offence and bans political campaigners from handling postal voting documents issued to others. This is to outlaw the practice known as postal vote harvesting. This was agreed with cross-party support.

Clause 4 allows ministers to make regulations setting requirements for how postal votes are handed in to returning officers and at polling stations. The Minister explained:

We currently envisage that in addition to their own postal vote, an individual will be able to hand in the postal votes of up to two electors, but that will be considered during the process of developing secondary legislation.<sup>100</sup>

A Labour amendment that would have required the Government to consult for at least 28 days before making regulations was rejected on division. Cat Smith argued this could create limits on assistance for some voters, for

---

<sup>99</sup> [HCWS525, 6 January 2022](#)

<sup>100</sup> [HC Deb 19 October 2021 \[Elections Bill \(Seventh sitting\)\], c223](#)

example care home staff wanting to deliver residents' postal ballots. The Minister noted the Government will be required to consult the Electoral Commission on any regulations made under this clause, followed by parliamentary scrutiny under the affirmative SI procedure.<sup>101</sup>

Clause 5 and its associated schedule 3 were agreed to without division. Currently, someone can act as a proxy for up to two electors and an unlimited number of close relatives in any constituency in a parliamentary election or any electoral area at a local election.

The clause introduces a new limit meaning a person can act as proxy for four electors in UK Parliament elections or local government elections in England. Within this figure of four, no more than two may be domestic electors—that is, electors who are not overseas electors nor service voters. All four may be overseas electors or service voters.

Clause 6 extends the requirements in place to protect the secrecy of people voting in polling stations to those voting by post and by proxy. The clause was agreed without division.

Labour agreed with the clause but Cat Smith questioned the Minister on the distinction between someone posting a picture of their ballot online out of pride for voting one way or another and someone taking a photograph of their ballot paper under pressure because to prove they have been unduly influenced to voted one way. The Minister said:

We are trying to prevent failure to maintain secrecy because of undue influence. We will discuss undue influence more generally in the next clause, but this clause ensures that people are not being made to do things that they would not ordinarily do just to prove who they have voted for.<sup>102</sup>

## Undue influence

Clause 7 and its associated schedule 4 were agreed without division. The measures update the existing electoral offence of undue influence. The wording in clause 7 updates the existing wording in electoral legislation to clarify the types of activity that amount to undue influence, including: physical violence, intimidation, damage to a person's property or reputation, or deceiving a person in relation to the administration of an election.<sup>103</sup>

## Assistance for disabled voters

Clause 8 makes various amendments to existing electoral law to improve the accessibility of voting to those with disabilities. The Government says the provision expands and enhances the duties of returning officers and will not

---

<sup>101</sup> [HC Deb 19 October 2021 \[Elections Bill \(Seventh sitting\)\], c220-5](#)

<sup>102</sup> [HC Deb 19 October 2021 \[Elections Bill \(Eighth sitting\)\], c229-31](#)

<sup>103</sup> [HC Deb 19 October 2021 \[Elections Bill \(Eighth sitting\)\], c231-2](#)

diminish the support currently available for blind and partially sighted people.<sup>104</sup>

The existing legislation explicitly provides for a large print version of the ballot paper to be displayed in the polling station and for a tactile voting device (TVD) to allow voters who are blind or partially sighted to vote without any need for assistance. The Bill will remove the explicit reference to the TVD and large print version of the ballot paper and instead require returning officers to provide each polling station with “such equipment as is reasonable to enable, or make it easier”, for disabled voters (including, but not limited to, sight loss) to vote.

Patrick Grady proposed an amendment designed to address concerns of the [written evidence submitted to the Committee by the Royal National Institute of Blind People \(RNIB\)](#). The RNIB supports the Bill’s broader help to voters with disabilities but was concerned that the new wording, which does not explicitly mention a large print example of a ballot paper or the TVD, is “inadvertently reducing the legal protections for blind and partially sighted people”.<sup>105</sup> The amendment would have retained existing wording as well as included the new wording aimed at assisting voters with a wider range of disabilities.

The Government said it was sympathetic to the intention behind the amendment but Minister said being over-prescriptive in the legislation could be an obstacle and it is better to allow returning officers flexibility. The amendment was rejected on division.<sup>106</sup>

## Provision on Northern Ireland elections

Clause 9 makes the same changes in UK parliamentary elections in part 1 of the Bill to Assembly and local elections in Northern Ireland. This includes technical changes to the existing ID requirements in Northern Ireland to allow for a private space for voters to produce their identification should they require it.

The clause was agreed without debate.<sup>107</sup>

## Overseas voters

Clause 10 and schedule 6 alter the requirements for overseas voters to register for UK Parliament elections. The changes will end the 15-year limit on overseas voter registration and introduce the so called ‘votes for life’ provisions.

---

<sup>104</sup> [HC Deb 19 October 2021 \[Elections Bill \(Eighth sitting\)\], c234-5](#)

<sup>105</sup> Elections Bill Public Bill Committee, [Written evidence submitted by the RNIB \(EB04\)](#), September 2021

<sup>106</sup> [HC Deb 19 October 2021 \[Elections Bill \(Eighth sitting\)\], c232-9](#)

<sup>107</sup> [HC Deb 21 October 2021 \[Elections Bill \(Ninth sitting\)\], c243](#)

Several amendments were considered but the clause and schedule were agreed without amendment.

The first amendment, moved by Cat Smith, was a probing amendment to prompt a debate on retaining the 15-year limit with certain exemptions for some categories of British citizens working overseas. The amendment had the support of the SNP.

Cat Smith repeated the Opposition's position that the current 15-year rule strikes the right balance between allowing expats to maintain strong links with the UK and ensuring the integrity of the electoral process. The Labour Party is concerned that increased numbers of overseas voters could lead to more foreign money entering the UK political system (overseas voters are permissible donors to political parties and campaigns as they are on the electoral register).<sup>108</sup>

Other probing amendments included defining and documenting 'residence' and on additional requirements for overseas voters to prove their identity. The Government said that the level of detail in the amendments was not required in the Bill but committed to working with the Opposition and stakeholders on appropriate detail to be included in subsequent secondary legislation.<sup>109</sup>

The final probing amendments were seeking reports from the Government on the awareness of overseas electors on how to participate in elections and on the impact of increased numbers of overseas voters, particularly on constituency boundaries. The Government rejected the amendments.<sup>110</sup>

One amendment that the Labour Party pushed to a vote was on altering the deadline for overseas voters to apply for an absent vote before an election. Cat Smith said this would help address the concerns that overseas voters often do not have enough time to return ballots if they register close to the deadline. The Government rejected the proposal as this would have meant overseas voters could have registered to vote after the deadline to apply for an absent vote had passed.<sup>111</sup>

## EU citizens' voting and candidacy rights

The changes to EU voting and candidacy rights contained in clause 11 and schedule 7 were agreed.

Minor and technical Government amendments to schedule 7 were agreed without a vote. These corrected defects in the drafting of the Bill as published that would have had unintended consequences for the franchise for Senedd and local elections in Wales. The original version would have

---

<sup>108</sup> [HC Deb 21 October 2021 \[Elections Bill \(Ninth sitting\)\], c244-50](#)

<sup>109</sup> [HC Deb 21 October 2021 \[Elections Bill \(Ninth sitting\)\], c251-6](#)

<sup>110</sup> [HC Deb 21 October 2021 \[Elections Bill \(Ninth sitting\)\], c259-66](#)

<sup>111</sup> [HC Deb 21 October 2021 \[Elections Bill \(Ninth sitting\)\], c256-9](#)

changed the entitlement to register for and vote at Welsh local government and Senedd elections. Following discussions with the Welsh Government, the UK Government brought forward these amendments to clarify only reserved elections would be affected, as planned.<sup>112</sup>

The Labour Party disagreed with removing the rights of some EU citizens under the provisions. It believes “anyone who lives in a local area and uses public services should have a say in how they are run.”<sup>113</sup>

The SNP spokesperson recognised that the measures related to election in England and Northern Ireland and had not tabled amendments. However, Patrick Grady expressed disappointment that the provisions were not more generous and noted the provisions for anyone legally resident age 16 or over in Scotland to be able to vote in local elections in Scotland.<sup>114</sup>

## Electoral Commission

Clause 12, relating to the strategy and policy statement for the Electoral Commission was agreed to on division. A Government drafting amendment was accepted.

The Minister told the Committee that the statutory consultation on the statement and the need for Parliament to approve the statement will ensure that the Government must consider Parliament’s views. She concluded by saying this would ensure Parliament “remains firmly in control” of approving any changes to future versions of the statement,<sup>115</sup>

Labour and the SNP both opposed the provision, repeating their contention that the Government’s ability to set a statement for the Commission was inappropriate interference with an independent regulator.<sup>116</sup>

Both the SNP and Labour had tabled amendments to include Scottish and Welsh Parliament approval for a draft statement. The Government rejected the amendments as the provisions already include Scottish and Welsh ministers as statutory consultees in relation to devolved functions of the Commission.

The Minister also pledged to continue to engage with Scottish and Welsh ministers to mitigate any unintended consequences and said, “I am considering what amendments we may need to make to these provisions in

---

<sup>112</sup> [Letter from the Counsel General and Minister for the Constitution to the Chairs of the Legislation, Justice and Constitution Committee and the Local Government and Housing Committee \(PDF\)](#):  
Legislative Consent Memorandum on the Elections Bill - 12 October 2021

<sup>113</sup> [HC Deb 21 October 2021 \[Elections Bill \(Ninth sitting\)\], c267](#)

<sup>114</sup> [HC Deb 21 October 2021 \[Elections Bill \(Ninth sitting\)\], c268](#)

<sup>115</sup> [HC Deb 21 October 2021 \[Elections Bill \(Tenth sitting\)\], c280](#)

<sup>116</sup> [HC Deb 21 October 2021 \[Elections Bill \(Tenth sitting\)\], c281-2](#)

relation to devolved matters”. The SNP amendments was withdrawn but Labour amendment was defeated on a vote.<sup>117</sup>

Clause 13 expands the remit of the Speaker’s Committee on the Electoral Commission to allow it to examine the Commission’s performance in its duty in relation to the strategy and policy statement. The clause was approved with Labour saying it broadly supports the principle of expanding scrutiny of the Commission.

Clause 14 relates to the membership of the Speaker’s Committee on the Electoral Commission. Membership of the Committee is set out [in section 2](#) of the Political Parties, Elections and Referendums Act 2000. The provision in the Bill amends the legislation and allows a Minister to deputise for the Minister for the Cabinet Office at Speaker’s Committee meetings. This measure was uncontroversial and the clause was agreed without amendment.

An amendment was proposed to add lay members to the Speaker’s Committee and another to ensure the governing party does not have a majority on the Committee. The Government rejected these saying having lay members on parliamentary committees was rare and not enough consideration had been given to the idea. On the party-balance of the Speaker’s Committee, the Minister said the Committee does not have an in-built Government majority and that the Commons Speaker already had the powers to appoint five backbenchers “of his choosing”.<sup>118</sup>

Clause 15 was agreed without a vote. It explicitly prevents the Electoral Commission bringing criminal prosecutions directly before the courts. The Minister noted that no such power had ever been used by the Commission but said it has never been explicitly agreed by the Government or Parliament and could risk wasting public money while duplicating the work of the prosecution authorities that are already experts in this domain.<sup>119</sup>

## Regulation of expenditure

Clauses 16-22, in Part 4 of the Bill, were agreed with no divisions. These were largely areas where there was cross-party agreement on notional spending, and registration of parties.

The measures on third-party campaigning were more controversial.

Clause 23 gives a minister regulation making powers to amend the list of eligible categories of third-party campaigners in section 88 of [Political Parties, Elections and Referendums Act 2000](#) (PPERA). The power to amend the list in PERA would be exercised by [the affirmative procedure](#).

---

<sup>117</sup> [HC Deb 21 October 2021 \[Elections Bill \(Tenth sitting\)\], c273-8](#)

<sup>118</sup> [HC Deb 21 October 2021 \[Elections Bill \(Tenth sitting\)\], c286-9](#)

<sup>119</sup> [HC Deb 21 October 2021 \[Elections Bill \(Tenth sitting\)\], c291](#)

Categories of third parties not listed would be limited to a maximum spend of £700, as provided for by clause 22.

Labour proposed amendments that would alter the provision to prevent organisations being removed and that would require the Government to obtain Electoral Commission recommendation before amending the list. The Opposition was critical of the provisions in the clause because:

The Minister may now be able to ban charities that are critical of Government cuts to foreign aid, ban local community groups protesting against planning reforms, ban unions that might work with a political party for workplace rights<sup>120</sup>

The Government rejected the claim and said the provisions will ensure that as new categories of third party emerge, they are not unduly restricted from campaigning and participating in campaigns.<sup>121</sup>

Clause 24 imposes new notification and registration requirements on some third-party campaigners. Third party campaigners must currently register with the Electoral Commission if they spend over £20,000 in England and £10,000 in any of Scotland, Wales, or Northern Ireland for controlled spending during a regulated period. They must then follow rules on spending, donations and reporting

The new requirements will apply to third-party campaigner that do not spend enough to reach the current registration limits but who intend to spend more than £10,000. These third parties will have to register but will not have to follow rules on reporting spending and donations unless they reach the higher threshold.

This new lower registration level is aimed at preventing unregulated spending from foreign third parties.

Amendments tabled by the Labour Party sought to exempt registered charities and Community Interest Companies from notification and registration requirements of Clause 24, as they are already subject to transparency requirements. Fleur Anderson repeated the Electoral Commission warning that Clause 24 would:

not increase transparency about how much is being spent and on what. The added complexity of these changes could deter some from campaigning at elections, or restrict the type of campaigning they can spend funds on.<sup>122</sup>

The SNP said its MPs “have warned repeatedly about the chilling effect that the Bill as a whole will have on political participation.”<sup>123</sup>

---

<sup>120</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c304](#)

<sup>121</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c306](#)

<sup>122</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c307](#)

<sup>123</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c310](#)

The Government rejected this saying, “No exceptions will be made for any special category of campaigner; they will all be subject to the same rules.”<sup>124</sup> The Minister added that the minimal level of regulation was to ensure they are UK based or otherwise eligible to register with the Electoral Commission and meant they would not be subject to some of the other political finance controls in legislation around reporting on donations and controlled expenditure.<sup>125</sup>

Clause 25 extends existing provisions on third-party campaigners working together during a regulated period, to third-parties and registered parties working together. Spending must be reported by all the campaigners in the joint campaign to ensure that third parties cannot avoid their spending limits by registering multiple entities.

The time when those spending limits apply are known as regulated periods and are 12 months long for UK parliamentary elections and four months long for the relevant parliamentary elections in Scotland, Wales, and Northern Ireland. Regulated periods can be longer where they overlap.

Labour rejected the principle of the clause arguing it was an attack on Labour and the trades unions working together at elections times. Fleur Anderson told the Committee, “Let us be clear: this is the third attack on the political voice of trade unions.”<sup>126</sup> The previous ‘attacks’ were references to previous legislation aimed at regulating lobbying and third-party campaigning. Labour also proposed an amendment to the clause.

Labour’s amendment would have limited the regulated periods for UK parliamentary general elections to the period between the announcement of the election and the close of polls. Labour argued that with the repeal of the Fixed-term Parliaments Act there would be confusion about when regulated times would start for UK Parliament elections and third-party campaigners would not know when the 12 months period started if a snap election was called.

The Government rejected the amendment as technically deficient.<sup>127</sup> The Government also rejected Labour’s claims of disproportionately affecting unions. The Minister said:

It is absolutely right that the rules on transparency of joint campaigning should be as similar as possible across all types of campaigners, to ensure fairness and support compliance.<sup>128</sup>

---

<sup>124</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c317](#)

<sup>125</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c317](#)

<sup>126</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c323](#)

<sup>127</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c318-24](#)

<sup>128</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c321](#)

## Intimidation of candidates and campaigners

Part 5 of the Bill includes nine clauses and two schedules. These introduce the new electoral sanction for someone found guilty of intimidating a candidate at an election. It would disqualify someone found guilty from being nominated for election to, being elected to or holding certain elective offices for five years.

The provisions had all-party agreement and passed without amendment.<sup>129</sup>

The SNP tabled an amendment obliging ministers to consult broadly before altering the list of intimidatory offences that would trigger the disqualification. Patrick Grady told the Committee the amendment was based on the written evidence supplied by the Law Society of Scotland and suggested amendments submitted by them:

Schedule 8 provides the list of offences that disqualify offenders for elected office, including offences under the law in Scotland, which in a lot of these areas is determined by the devolved Scottish Parliament, so we think it is pretty simple and appropriate that the clause places a duty on Ministers to “consult with” relevant persons as appropriate before making statutory instruments.<sup>130</sup>

The Government said the amendment was unnecessary as the Secretary of State could consult, “without the need for a legal requirement to do so—this is the normal business of government.”<sup>131</sup>

## Digital imprints

Part 6 of the Bill implements the policy to require imprints on digital campaign material. It requires anyone paying for digital political advertising material to explicitly show who they are, and who they are promoting the material for. Certain campaigners will also be required to include an imprint on their unpaid material if it constitutes digital election, referendum or recall petition material. The Scottish Government has already introduced a similar scheme for devolved elections in Scotland.

The provisions were accepted along with four Government amendments that removed ambiguity around when and how a recipient (such as a digital platform) receives notice that an advert is in contravention of the law.<sup>132</sup>

Proposed amendments from the Labour Party aimed to strengthen the requirement to provide a digital imprint on digital campaign material if it is “reasonably practicable” to do so. Where an imprint does not appear on a piece of digital campaign material, the Bill allows for the digital imprint “that is directly accessible from the material”. This must be only where it is not

---

<sup>129</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c325-32](#)

<sup>130</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c329](#)

<sup>131</sup> [HC Deb 26 October 2021 \[Elections Bill \(Eleventh sitting\)\], c330](#)

<sup>132</sup> [HC Deb 26 October 2021 \[Elections Bill \(Twelfth sitting\)\], c333-50](#)

reasonably practicable to include the imprint on the piece of campaign material.

Cat Smith told the Committee:

As evidenced in Scotland’s recent parliamentary elections, the clause will in practice lead to almost all imprints appearing on a promoter’s website or home page rather than on the actual material. I do not feel that is strong enough.<sup>133</sup>

The SNP also supported the higher threshold. The Government rejected the amendments as they would have removed flexibility for campaigners. The Minister used the example of Twitter:

a text-based tweet on Twitter could constitute material that requires an imprint, but given the character limit, including an imprint would leave little room for anything else. That is why, under our provisions, where it is not reasonably practicable, a promoter could instead comply with the rules by including an imprint in a location directly accessible from the material.<sup>134</sup>

An SNP amendment for the Secretary of State to consult on secondary legislation, similar to the amendment on the disqualification orders in the previous part of the Bill, was rejected by the Government for similar reasons.<sup>135</sup>

## New clauses during committee stage

### Abolishing the supplementary vote voting system

The first new clause was moved by the Minister. It made provision for abolishing the supplementary voting system for police and crime commissioners in England and Wales, and mayoral elections in England, including London mayoral elections. Polls will be held under first past the post if the Bill measure is approved. This was a manifesto commitment from the Conservative Party in the 2019 General Election, with the Minister saying, “this undertaking aligns with our belief that first past the post is robust and secure and provides strong local accountability”.<sup>136</sup>

This measure was included following the instruction to the Committee approved by the House on 20 September 2021.<sup>137</sup>

The Opposition criticised the Government for not including it in the original version of the Bill.

Cat Smith argued that supplementary voting was a fairer way to cast a vote and that the system was now familiar to voters. She argued that in a

---

<sup>133</sup> [HC Deb 26 October 2021 \[Elections Bill \(Twelfth sitting\)\], c337](#)

<sup>134</sup> [HC Deb 26 October 2021 \[Elections Bill \(Twelfth sitting\)\], c338](#)

<sup>135</sup> [HC Deb 26 October 2021 \[Elections Bill \(Twelfth sitting\)\], c348](#)

<sup>136</sup> [HC Deb 26 October 2021 \[Elections Bill \(Twelfth sitting\)\], c351](#)

<sup>137</sup> [HC Deb 20 September 2021 \[Elections Bill \(Instruction\)\], c107-19](#)

referendum to have a London mayor in 1998, voters had chosen to have a mayor under supplementary vote. She acknowledged that in the 2021 London mayoral election 5% of ballots were spoiled but argued:

That was because the ballot paper was designed with two columns, rather than one column, for the first time...It should never have been allowed to go to print.<sup>138</sup>

She also questioned why police and crime commissioner elections were being changed:

It was a Conservative-led Government...who chose the supplementary vote system for those elections, because there was a consensus, which new clause 1 is shattering, on a supplementary vote system.<sup>139</sup>

The Minister rejected the Opposition arguments. She said that the London referendum “was not specifically on the voting style but really about whether or not to have a Mayor”.<sup>140</sup>

On police and crime commissioner elections, the Minister said that after 10 years there had been plenty of time to review the system and “decide whether improvements can be made.”<sup>141</sup>

The new clause was added to the Bill without a vote. This became clause 10 of the Bill as amended in Committee.<sup>142</sup>

Amendment 59, an associated amendment that altered the long title of the Bill to include the voting system measures, was approved without division.<sup>143</sup>

### Other new clauses

Other new clauses that were tabled by the opposition parties but were not added to the Bill covered:

- The establishment of a citizens’ assembly to consider electoral systems in the United Kingdom;
- Automatic voter registration;
- Automatic voter registration for students when they enrol at university;
- Reducing the voting age for UK parliamentary elections to 16;
- Allowing prisoners serving a sentence of 12 months or less to vote in UK parliamentary elections;

---

<sup>138</sup> [HC Deb 26 October 2021 \[Elections Bill \(Twelfth sitting\)\], c353](#)

<sup>139</sup> As above

<sup>140</sup> [HC Deb 26 October 2021 \[Elections Bill \(Twelfth sitting\)\], c357](#)

<sup>141</sup> [HC Deb 26 October 2021 \[Elections Bill \(Twelfth sitting\)\], c351](#)

<sup>142</sup> [Elections Bill 2021-22 \[as amended in public bill committee\], \(PDF\)](#)

<sup>143</sup> [HC Deb 26 October 2021 \[Elections Bill \(Twelfth sitting\)\], c387](#)

- Allowing all legally resident foreign nationals to vote in UK Parliament elections;
- Allowing EU citizens legally resident in the UK to vote in UK Parliament elections;
- Allowing digital absent voting applications;
- Extending emergency proxies to include more than ‘personal medical emergencies’;
- Same day voter registration up to and including polling day;
- Removing overseas voters from the list of permissible donors to political parties and campaigners;
- Increasing the level of fines the Electoral Commission can impose.<sup>144</sup>

---

<sup>144</sup> [HC Deb 26 October 2021 \[Elections Bill \(Twelfth sitting\)\], c359-89](#)

## 5

## Public Administration and Constitutional Affairs Committee

The Public Administration and Constitutional Affairs Committee conducted a short inquiry on the Elections Bill following its publication. On 13 December 2021 the Committee published its report, which mainly focussed on the more controversial measures in the Bill: voter ID and the Electoral Commission.<sup>145</sup>

The Committee was critical of the lack of consultation and pre-legislative scrutiny of the more controversial elements of the Bill:

The Committee takes the view that the Bill should have gone through a pre-legislative scrutiny process, with a draft Bill being scrutinised by a Joint Committee. Given the lack of pre-legislative scrutiny and the significance of the measures contained in the Bill, the Government should place a statutory commitment to undertake post-legislative scrutiny on the face of the Bill.<sup>146</sup>

It also called for additional pre-legislative scrutiny for regulations to be made once the Bill once it receives Royal Assent.

The Committee was also critical of the lack of broader reform and simplification of electoral law, based on the work of the Law Commission, as also highlighted by many in the electoral community. It called on the Government to set out its timetable for a broader review and consolidation of electoral law.

Professor Toby James, of University of East Anglia, told the Committee the Bill “will worsen the problem with fragmented, convoluted electoral law”. The Committee’s view was that the Bill was a “missed opportunity” to simplify and consolidate electoral law. In its view, a consolidation Bill would have received cross-party support and made electoral law easier to understand and comply with, “thereby supporting public confidence in elections”.<sup>147</sup>

The Committee was also concerned at the divergence between rules on how elections are conducted in different parts of the UK. Increasing divergence, it said, will add to the complexity and potentially add to confusion for voters, electoral campaigners, and electoral administrators. The Committee called

<sup>145</sup> Public Administration and Constitutional Affairs Committee, [The Elections Bill](#), 13 December 2021

<sup>146</sup> Public Administration and Constitutional Affairs Committee, [The Elections Bill](#) (PDF), p3

<sup>147</sup> As above, p12

on the four Governments of the UK to develop a more coordinated approach to electoral policy and law.<sup>148</sup>

## Voter ID

The Committee examined the new requirements for voter ID, including the free voter ID card for those without any other suitable ID. It also examined the levels of personation fraud, the possible impacts of requiring voter ID, the impact on elections staff and the overall costs of the proposed scheme.

The Committee concluded that the Government should not introduce voter ID until it publishes its assessment of the impact of introducing the measure, and consulted on the effect of voter ID on groups with protected characteristics, such as disability.<sup>149</sup>

The Committee also called for extending the list of accepted forms of ID and for all secondary legislation made under the Bill to be available in draft before being presented to Parliament, to give stakeholders sufficient time for comment.<sup>150</sup>

The Chair of the Committee, William Wragg, said:

While seeking to secure UK elections from potential voter fraud is a noble cause, we remain unconvinced that the scale of the problem justifies the solutions as they have been put forward.<sup>151</sup>

## EU voting rights

The measures on EU voting and candidacy rights included in the Bill would, in the Committee's view, create a complex system that is likely to lead to confusion and difficulties for electoral administrators, electoral campaigners and voters. The Committee noted people from the same country will have different rights depending when they arrived in the UK.

The Committee recommended that the Government considers further the option of a residency-based approach in future reforms.<sup>152</sup>

---

<sup>148</sup> As above, p17

<sup>149</sup> Public Administration and Constitutional Affairs Committee, [The Elections Bill](#), Summary 13 December 2021

<sup>150</sup> Public Administration and Constitutional Affairs Committee, [The Elections Bill](#) (PDF), p31-2

<sup>151</sup> Guardian, [MPs call for halt to UK elections bill as voter ID could hit turnout](#), 13 December 2021

<sup>152</sup> Public Administration and Constitutional Affairs Committee, [The Elections Bill](#) (PDF), p39

## Electoral Commission

On the proposals for a strategy and policy statement for the Electoral Commission, the Committee noted widespread concerns presented in written and oral evidence that there was no formal or public consultation on these proposals. It also pointed to “a lack of supporting evidence to demonstrate that the proposed measures are both necessary and proportionate.”<sup>153</sup>

The Committee noted it was still undertaking a separate inquiry into the Electoral Commission and that evidence to that inquiry expressed serious misgivings about the conduct and effectiveness of the Commission. During its inquiry on measure in the Elections Bill, it had not received any written submissions or oral evidence supporting the proposed strategy and policy statement and wider changes to the scrutiny of the Electoral Commission.

The Committee said that the clauses on the policy statement and increased scrutiny of the Electoral Commission by the Speaker’s Committee on the Electoral Commission should be removed from the Bill until a consultation on these measures had been carried out and their report on the Electoral Commission had been published.<sup>154</sup>

The Committee reiterated the importance of upholding the actual and/or perceived independence of the regulator. The Committee said that the substantive duty of the Electoral Commission to “have regard to the Statement” should be clarified so that it can:

...depart from the guidance set out in the Statement if it has a statutory duty to do so or if it reasonably believes it is justified in specific circumstances. This amendment is necessary to give effect to the Government’s stated intention that the Statement will not amount to a power to direct the Electoral Commission, and to protect the Electoral Commission’s independence.<sup>155</sup>

The Committee also considered that the consultation process for agreeing a Strategy and Policy Statement should be clarified.

The Committee also noted the stated objective of measures relating to the Electoral Commission were to improve parliamentary scrutiny of the Commission. The Committee recommended that parliamentary approval of the statement should be subject to the ‘[super-affirmative procedure](#)’.

Under the super-affirmative procedure, a minister presents a proposal for a statutory instrument and an explanatory statement. Committees in the House of Commons and the House of Lords consider the proposal and can

---

<sup>153</sup> As above, p43

<sup>154</sup> As above, p53

<sup>155</sup> As above, p44

make recommendations. Then the minister can formally present ('lay') a draft of the statutory instrument under the [affirmative procedure](#).<sup>156</sup>

If the approval was subject to the normal affirmative procedure, the Committee recommended that "at a minimum" the draft statement should be debated in the House of Commons Chamber rather than by a committee.<sup>157</sup>

## 5.1 Government response

The Government response to the report was published in February 2022.<sup>158</sup> The Government acknowledged electoral law was complex but agreed electoral law would benefit from consolidation. However, it also argued it was "understood by those who administer elections and referendums" and reiterated its immediate priority is to deliver on its manifesto pledges.<sup>159</sup>

The Government rejected the Committee's assertion that the Bill lacked pre-legislative scrutiny, citing engagement with the electoral community, civil society, the voter ID pilots held in 2018 and 2019, and previous consultations on accessibility of elections, overseas electors, intimidation and digital imprints.<sup>160</sup>

In response to the Committee's recommendation that the four Governments of the UK should seek to develop a more coordinated approach to electoral policy and law, the Government argued there was already regular contact between the devolved administrations and the UK Government. The UK government also noted devolution meant some degree of divergence was inevitable where devolved governments had taken different policy decisions.<sup>161</sup>

The key responses to other recommendations were:

- **Voter ID** – the Government argued that it had taken its Public Sector Equality Duty seriously and the Government had conducted research and had undertaken "significant amount of engagement" with charities and civil society organisations. It argued this, the availability of the free voter card and "comprehensive, targeted communications campaign and guidance" from the Electoral Commission would mitigate concerns over access to voter ID.<sup>162</sup>

---

<sup>156</sup> MPs' Guide to Procedure, [Super-affirmative procedure](#)

<sup>157</sup> Public Administration and Constitutional Affairs Committee, [The Elections Bill](#) (PDF), p49

<sup>158</sup> [The Elections Bill: Government Response to the Committee's Fifth Report](#), HC 1133 2021-22, 10 February 2022

<sup>159</sup> [The Elections Bill: Government Response to the Committee's Fifth Report](#) (PDF), HC 1133 2021-22, 10 February 2022, p1

<sup>160</sup> As above, p2

<sup>161</sup> As above, p4

<sup>162</sup> As above, pp5-6

- **EU voting rights** – The Government argued that the changes to EU citizens’ voting and candidacy rights appropriately reflect that the UK has left the European Union. It also rejected the extension of the franchise to all residents saying, “right to reside in the UK should not automatically confer the right to participate in our democratic processes”.<sup>163</sup>
- **Electoral Commission** – The Government rejected the Committee’s concerns about the provisions in the Bill relating to the Electoral Commission. The Government argued the provisions do not give the Government the power to direct the Commission’s decision-making. It also argued the method and the timeframes for consulting on the proposed new strategy and policy was sufficiently clearly set out in the Bill.<sup>164</sup>

The Government response noted that the Scottish and Welsh Parliaments have declined to give consent to the measures in the Elections Bill (see section 8 for more on legislative consent).

The UK Government noted that both Governments had expressed support in principle for a number of areas within the Bill and said it was “disappointed by their request to remove all aspects which relate to devolved matters”. However, the UK Government went on to say it would amend the Bill during its House of Lords stages to respect the request.<sup>165</sup>

---

<sup>163</sup> As above, p8

<sup>164</sup> As above, p11

<sup>165</sup> As above, pp3-4

## 6 Commons remaining stages

The report stage and third reading of the Bill were taken on [17 January 2022](#).

At report stage the Government tabled one new substantive clause, with an associated new schedule, and a raft of technical and drafting amendments. The Government's amendments were summarised in a [written statement](#) on 6 January 2022.<sup>166</sup>

Opposition MPs were critical of the number of Government amendments being made to the Bill at report stage. Cat Smith, speaking as a backbencher since she stepped down as a shadow minister, asked the Minister whether the Bill would have benefitted from pre-legislative scrutiny.<sup>167</sup>

Several amendments from opposition parties were discussed, although none were approved. The debate on all amendments was taken at the same time.

Third reading was passed by 325 votes to 234.<sup>168</sup>

### 6.1 New provisions

#### Online applications for absent votes and voter ID cards

The substantive new clause (listed as NC11 on the [amendment paper](#)), with an associated new schedule (listed as NS1), extended powers to change the absent voting applications process. This was by extending the power to make regulations relating to electoral registration that already exist in the Representation of the People Act 1983 (section 53 and schedule 2). These include the power to introduce a new online system for requesting an absent vote. Currently voters can apply to register to vote online, but if they want to vote using either a postal or proxy vote they must fill in paper forms and return them to their local council or the Electoral Office for Northern Ireland.

The new provisions will require identity verification for absent vote applications in Great Britain. Voters requesting absent votes in Northern Ireland must already verify their identity. Absent vote applications in Great Britain do not currently require identity verification. Applications are determined by confirming that applicants are, or will be, registered.

---

<sup>166</sup> [HCWS525, 6 January 2022](#)

<sup>167</sup> [HC Deb 17 January 2022 \[Elections Bill\], c83](#)

<sup>168</sup> [HC Deb 17 January \[Elections Bill\], c162-8](#)

The promised online system will also allow the identity of applicants for absent votes to be verified in real time. The changes will also extend the requirement for identity verification to paper applications for absent votes.

The online system will also allow voters to apply for a free voter card if they do not have another form of approved voter ID to use in a polling station. The Minister, Kemi Badenoch, told the House the new online applications system would enable identity verification of partially completed voter card applications to minimise delays in issuing cards once an application has been properly completed.<sup>169</sup>

The minister said that by extending the online electoral registration already available to other electoral services they would be “as convenient and accessible as possible.”<sup>170</sup>

The Opposition spokesperson, Alex Norris, said if the Government were serious about improving democratic engagement and modernising democracy, “they would extend the franchise to 16 and 17-year-olds”.<sup>171</sup>

The new clause and schedule were agreed without a vote.<sup>172</sup>

## Policy statements

### Absent votes

On 3 February 2022 the Government issued two new policy documents on issues related to the Elections Bill.<sup>173</sup>

One of those related to the new digital service to allow absent votes to be requested online and for ID verification to take place as part of the application process.<sup>174</sup> The policy will apply to all reserved polls.

The Government says that the online facility can be extended to devolved polls in Scotland and Wales if the devolved administrations wish to at a future date.

The paper set out the rationale behind requiring ID verification for all absent vote applications when allowing the system to move online:

Digitising the absent vote application process will enhance accessibility for electors and reduce some burdens on electoral administrators. However, without identity verification it would also increase the risk of fraudulent applications being made at scale by an unscrupulous actor. In order to

---

<sup>169</sup> [HC Deb 17 January 2022 \[Elections Bill\], c83](#)

<sup>170</sup> As above

<sup>171</sup> [HC Deb 17 January 2022 \[Elections Bill\], c91](#)

<sup>172</sup> [HC Deb 17 January 2022 \[Elections Bill\], c142-61](#)

<sup>173</sup> [HCWS584, 3 February 2022](#)

<sup>174</sup> Department for Levelling Up, Housing & Communities, [Policy paper Identity verification for absent vote applications and an online application service](#), 3 February 2022

mitigate this risk and to enhance the security of the absent vote application process, identity verification requirements will be introduced for absent vote applications.<sup>175</sup>

### Overseas voters

The second statement, related to overseas voter applications, confirmed the new provisions relating to online absent votes would align with the new provisions for overseas voters.<sup>176</sup>

The new online facility would allow overseas voters to renew their electoral registration and applications for absent votes at the same time. The new provisions for allowing overseas voters to remain registered for three years before needing renewal would also tie in with the requirement to renew absent vote applications every three years.

## 6.2 Government amendments

All the Government amendments were agreed to without a vote.<sup>177</sup>

### Voter ID

Technical Government amendments would allow voters who do not have one of the approved types of ID for voting in a polling station to apply for a voter ID card at the same time as registering to vote online. An appeal process would also be introduced for people whose application is refused.

People legitimately registered in two places, for example students resident in two places because they spend a similar amount of time at a home and term-time address, but who want a free voter ID card, will only be required to apply to one council.

Amendments to how anonymous voters will be required to show ID at polling stations will ensure that an anonymous elector's identity can still be verified effectively at the polling station without risk of their anonymity being compromised, and that they can be provided with an anonymous elector's document in a convenient way.

There were also amendments to facilitate the production of temporary free voter ID cards for those that need them that would be valid for one polling day only.

The Government also introduced amendments clarifying the categories of concessionary travel passes that would qualify as valid voter ID in a polling

---

<sup>175</sup> As above

<sup>176</sup> Department for Levelling Up, Housing & Communities, [Overseas electors: Delivering 'votes for life' for British expatriates](#), 3 February 2022

<sup>177</sup> [HC Deb 17 January 2022 \[Elections Bill\], c142-61](#)

station. There had been discussion in the committee stage why some concessionary passes for younger people were not included on the approved list. The Government said verification for some younger concessionary passes was not as secure from fraud as those on the approved list (see section 4.2).

The list of government funded concessionary photo ID passes that will be allowed will be:

- UK government funded:
  - Older person’s bus pass
  - Disabled person’s buss pass
  - Oyster 60+ card
  - Freedom pass
- Scottish Government funded National Entitlement Card
- Welsh Government funded:
  - 60 and over Welsh Concessionary Travel Card
  - Disabled person’s Concessionary Travel Card
- Northern Ireland government funded:
  - Senior SmartPass
  - Registered Blind or Blind Person’s SmartPass
  - War Disablement or War Disabled SmartPass
  - 60+ SmartPass
  - Half Fare SmartPass

The provisions for Northern Ireland largely replicate the existing list of Translink SmartPasses already accepted.

A group of amendments also would provide the Chief Electoral Officer of Northern Ireland with the ability to provide confidential lists of dates of birth of voters to polling station staff at all elections in Northern Ireland, including proxies appointed to vote in Northern Ireland elections but registered in Great Britain.

## EU citizens’ voting and candidacy rights

An amendment made changes to City of London elections. Changes to EU citizens’ right to vote in and stand for local elections in England and Northern Ireland were applied to elections to the Court of Common Council of the City of London. The [Court of Common Council](#) is the main decision-making body of the City of London and 100 of its 125 members directly elected. The right to vote and electoral arrangements are unique and to apply the changes planned by the Government for changes in the rest of England required amendment of the City of London (Various Powers) Act 1957.

## Digital imprints

New Clause 12 (inserted into the Bill as clause 40) and associated amendments clarified provisions originally contained in clause 39(3) of the Bill as amended in committee. These made it clear that the need for a digital imprint on digital campaigning material outlined in the Bill covers material in support of parties, candidates and elected office-holders and applies whether or not the material expressly names the party, candidate or elected official. This will also include City of London elections.

Other amendments clarified the enforcement responsibilities of the Electoral Commission and the police. The Government argued this would:

make the provisions easier for campaigners to understand and for the authorities to enforce, while delivering a regime that provides transparency for voters across a wide range of campaigning material.<sup>178</sup>

## Electoral Commission

Technical Government amendments on membership of the Speaker's Committee on the Electoral Commission reflected the transfer of functions for the constitution from the Cabinet Office to the Secretary of State for Levelling Up, Housing and Communities.

They also made it easier for an alternative minister to deputise for the Secretary of State for Levelling Up, Housing and Communities as a member of the Committee. By removing reference to the minister with responsibilities in relation to the constitution the Prime Minister can appoint a minister to attend in the Secretary of State's place without transfer of functions orders. The minister told the House:

It is an unnecessarily burdensome process that could be avoided by future-proofing these provisions against future machinery of government changes or changes in ministerial responsibilities.<sup>179</sup>

## 6.3 Opposition amendments

Several amendments and new clauses from opposition parties were considered.

A new clause moved by the Labour Party that would have lowered the voting age in UK Parliament elections to 16 was defeated 327 votes to 236.<sup>180</sup>

---

<sup>178</sup> [HC Deb 17 January 2022 \[Elections Bill\], c87](#)

<sup>179</sup> [HC Deb 17 January 2022 \[Elections Bill\], c88](#)

<sup>180</sup> [HC Deb 17 January 2022 \[Elections Bill\], c125-8](#)

Another new clause from the Labour Party that was put to the vote but defeated (322 votes to 237) would have prevented overseas electors donating to political parties in the UK.

The only other opposition amendment that was voted on was the Labour amendment to remove the voter ID provisions from the Bill. It was defeated 327 to 234.<sup>181</sup>

Probing amendments discussed but not voted on included extending the right to vote to all legally resident people of voting age, regardless of nationality. This would mirror changes already made in Scotland and Wales, where anyone legally resident (and of voting age) can vote in local and devolved elections. An SNP amendment would also have extended the right to vote to prisoners serving prison sentences of less than 12 months.

Other amendments that were discussed but not voted on included increasing the level of fines the Electoral Commission can impose, introducing proportional representation for House of Commons elections, and preventing voters from registering in more than one local authority area, and amendments aimed at tightening rules preventing foreign money being donated to UK election campaigns.

---

<sup>181</sup> [Division 162: held on Monday 17 January 2022](#)

---

# 7 Lords stages

The Bill has completed its committee stage in the House of Lords and is due for report stage on Wednesday 6 April 2022.

During the committee stage the House of Lords approved a range of technical Government amendments. These were mostly to remove reference to devolved elections from the Bill. This followed on from the decision of the Scottish and Welsh governments on legislative consent (see section 8). The Scottish Government declined to give consent and the Welsh Government agreed to give consent only after the UK Government had committed to remove provisions relating to devolved elections.

## 7.1 Second reading

The House of Lords gave the Bill a second reading on [23 February 2022](#).<sup>182</sup> The second reading passed without a vote and the House agreed a motion to commit the Bill to the Committee of the Whole House. This included the order in which the Committee would consider the clauses and schedules in the Bill.<sup>183</sup>

### Main points in the debate

Lord True, Minister of State at the Cabinet Office, opened the debate. He outlined the provisions in the Bill, including the important changes introduced at the committee stage in the Commons: the change in voting system for English mayoral elections and the introduction of an online method of requesting absent voting arrangements (postal and proxy).

As well as outlining the provisions of the Bill, the Minister also responded to two significant criticisms of the Bill, the proposed strategy and policy statement for the Electoral Commission and the provisions in the Bill that required legislative consent.

The Electoral Commission's Commissioners wrote an open letter to the Government just before the second reading debate in the Lords. The letter

---

<sup>182</sup> [HL Deb 23 February 2022 \[Elections Bill\], c227-318](#)

<sup>183</sup> [HL Deb 23 February 2022 \[Elections Bill\], c318-9](#)

was signed by all the Commissioners except for the Commissioner nominated by the Conservative Party, Lord Gilbert of Panteg.

The letter urged the Government to reconsider its measures on the proposed strategy and policy statement. The Commissioners stated:

If made law, these provisions will enable a government in the future to influence the Commission's operational functions and decision-making.<sup>184</sup>

The Commissioners noted the Bill's requirement to have regard to the statement, including the Government's strategic and policy priorities and any guidance issued by the Government relating the Commission functions, would give the governing party's ministers the ability "to shape how electoral law is applied to them and their political competitors."

Lord True rejected the statement made by the Commissioners saying:

The provisions of the Bill do not allow the Government of the day to direct the commission's decision-making, nor will it replace or undermine the commission's other statutory duties.<sup>185</sup>

On legislative consent, Lord True noted that the Scottish and Welsh Governments had declined to give consent on matters relating to devolved elections as both Governments were preparing their own similar measures (see section 8). He told the House that as a result the Government was preparing amendments to the Bill, to be brought forward at committee stage, to remove reference to devolved elections in the Elections Bill.<sup>186</sup>

## 7.2

### Committee stage

The Committee of the Whole House considered the provisions of the Bill in the order set out in the motion of instruction, agreed after second reading.<sup>187</sup>

#### Electoral Commission

The first measure considered were those relating to the Electoral Commission (Part 3 - clauses 14 to 17 in the Bill, as amended in the Commons).

---

<sup>184</sup> Electoral Commission, [Letter from Commissioners: Strategy and Policy Statement measures in the Elections Bill](#), 21 February 2021

<sup>185</sup> [HL Deb 23 February 2022 \[Elections Bill\], c230](#)

<sup>186</sup> [HL Deb 23 February 2022 \[Elections Bill\], c232](#)

<sup>187</sup> [HL Deb 23 February 2022 \[Elections Bill\], c318-9](#)

## Strategy and policy statement

Technical Government amendments were agreed that removed reference in the strategy and policy statement to the Electoral Commission's devolved Scottish or Welsh functions. These flowed from the Scottish and Welsh Governments' decisions to refuse legislative consent.<sup>188</sup> Government amendments were also agreed to change the lead select committee to be consulted on the strategy and policy statement to the Department for Levelling Up, Housing and Communities. This reflects the machinery of government changes that had moved elections to.<sup>189</sup>

The provision for the Government to set a strategy and policy statement for the Electoral Commission (clause 14, as amended) was agreed without a vote.

During the debate on the amendments to clause 14 and the subsequent debate that the clause should stand part of (be included in) the Bill, the Government again rejected the idea that it was seeking to unduly influence the Commission as a "mischaracterisation" saying it was "not seeking to direct" the Commission.<sup>190</sup>

Support for the strategy and policy statement was expressed by Baroness Noakes (Conservative) who noted other regulators were required to follow similar statements and that "reaction to Clause 14 has been disproportionate."<sup>191</sup>

Baroness Fox of Buckley (Non-affiliated) highlighted allegations that the Electoral Commission had been biased during the 2016 EU referendum saying, "At the very least, therefore, it is important that we look at the role of the Electoral Commission critically and seriously."<sup>192</sup>

Lord Hayward (Conservative) relayed his experiences of the Commission, saying it was "institutionally arrogant" and "will not admit its failings". However, he expressed his view that "I believe there are problems with the Electoral Commission...but I do not believe that these clauses solve the problem."<sup>193</sup>

Peers from all sides expressed concerns about the influence of the Government over the independence of the Electoral Commission.

---

<sup>188</sup> [HL Deb 10 March 2022 \[Elections Bill\], c1571-83](#)

<sup>189</sup> [HL Deb 10 March 2022 \[Elections Bill\], c1615-9](#)

<sup>190</sup> [HL Deb 10 March 2022 \[Elections Bill\], c1569-70](#)

<sup>191</sup> [HL Deb 10 March 2022 \[Elections Bill\], c1626](#)

<sup>192</sup> [HL Deb 10 March 2022 \[Elections Bill\], c1562](#)

<sup>193</sup> [HL Deb 10 March 2022 \[Elections Bill\], c1632-3](#)

Lord Cormack (Conservative) questioned whether the Conservative benches would have “thought it appropriate that a Corbyn Government should have the power to dictate to an Electoral Commission?”<sup>194</sup>

Baroness Hayman of Ullock (Labour) rejected the argument that other regulators had similar statements, saying it was a “completely false analogy...The Electoral Commission regulates the people and parties that make up the Government and Parliament.” Rather than delivering Government policy.<sup>195</sup>

Lord Stunell (Liberal Democrat) referred to his comments at second reading “that practically every outside body that had expressed an opinion on these changes had strongly advised against them”.<sup>196</sup>

Lord Judge (Crossbench), a former Lord Chief Justice of England and Wales, argued a statement set by a Secretary of State on the strategic and policy priorities of the Government and how the Electoral Commission should enable the Government to meet those priorities, would increase the influence of the executive. He said, “You do not need to look much further to see where undue influence is likely to be increased”, adding, “I thought the priority of most Governments was to win elections”. He also commented on the Government’s argument related to the consultation process. He said:

The obligation is to consult. There is no requirement for concurrence or agreement. Obviously, everyone can make non-binding suggestions, but they provide absolutely no form of protection for the Electoral Commission.<sup>197</sup>

Closing the debate on whether the clause should be approved (known as a stand part debate), Lord Judge, argued that the strategy and policy statement was the wrong way to go about dealing with perceived shortcomings of the Electoral Commission:

If there are problems with how the Electoral Commission is doing its job, or problems with the extent of its job and the ambit of its responsibilities, what we should do is reform the Electoral Commission. We do that in primary legislation before both Houses, not by a ministerial statement.<sup>198</sup>

He concluded by saying the Minister had not demonstrated that the proposed measures were necessary and proportionate and said the House would return to the issue at report stage.

Clause 15 and 16 on empowering the Speaker’s Committee to monitor the Electoral Commission’s compliance with the new strategy and policy statement and on membership of the Speaker’s Committee (allowing a substitute minister) were agreed without debate or vote.

---

<sup>194</sup> [HL Deb 10 March 2022 \[Elections Bill\], c1560](#)

<sup>195</sup> [HL Deb 10 March 2022 \[Elections Bill\], c1637-43](#)

<sup>196</sup> [HL Deb 10 March 2022 \[Elections Bill\], c1554-7](#)

<sup>197</sup> [HL Deb 10 March \[Elections Bill\], c1619-24](#)

<sup>198</sup> [HL Deb 10 March \[Elections Bill\], c1646-7](#)

## Prosecution power

Clause 17 explicitly prevents the Electoral Commission from developing the capability to bring prosecutions in England, Wales, or Northern Ireland (Scottish law already prevents the Commission from bringing prosecutions there).

The clause also restates the existing position that the Commission may not borrow money. Baroness Hayman of Ullock talked to a probing amendment to establish if there was a need for the provision preventing the Commission borrowing money. The Minister, Viscount Younger of Leckie, said that annual funding for the Commission was voted on by Parliament and it is the view of the Government that the Commission therefore does not need to borrow money.<sup>199</sup>

In a short debate on whether clause 17 should stand part of the Bill the Government repeated its view that the ability to develop prosecution powers, which the Commission had been looking to develop, has never been explicitly agreed by any Government or Parliament. The Minister also noted the Committee on Standards in Public Life report of July 2021, on campaign finance and regulation, had said it was not clear that there was broad support for the Electoral Commission developing a criminal investigation aspect to its role.<sup>200</sup>

Lord Stunell, a member of the CSPL, argued against including clause 17 and the “Electoral Commission needs the backstop power to institute proceedings” if the system is to function effectively. He argued the evidence given to CSPL suggested, in England, “different police forces have very different levels of expertise in election law and offences. They were often very hesitant to get involved”.<sup>201</sup>

Lord Khan of Burnley (Labour) quoted the Public Administration and Constitutional Affairs Committee report that said the Government should set out how it will “support the police as necessary to enforce electoral regulation proactively and effectively”.<sup>202</sup>

Two probing amendments to insert two similar new clauses to allow an increase in the amount of fines the Commission could levy were discussed together. Neither were not supported by the Government.

## Accessibility of elections

The House then considered a probing amendment, from Lord Holmes of Richmond, to require the Electoral Commission to publish a plan to ensure the accessibility and inclusivity of elections within three months of the Bill passing. The House also considered two amendments tabled by Lord Holmes

---

<sup>199</sup> [HL Deb 10 March \[Elections Bill\], c1647-9](#)

<sup>200</sup> Committee on Standards in Public Life, [Regulating Election Finance](#) (PDF), p106

<sup>201</sup> [HL Deb 10 March \[Elections Bill\], c1650](#)

<sup>202</sup> [HL Deb 10 March \[Elections Bill\], c1652](#)

on provision for assistance to blind or partially sighted voters at the same time.

The debate centred on the provision in the Elections Bill to require polling stations to have equipment to allow blind, partially sighted or voters with another disability (clause 9 of the Bill as amended by the House of Commons). In particular, the [concerns of the RNIB](#), the Royal National Institute of Blind People, that removal of reference in electoral law to specific equipment, known as the tactile voting device (TVD), to assist blind and partially sighted people, could prevent them from being able to vote independently and in secret.

The Minister told the House he recognised the concerns raised and said, “I remain open to conversations between now and Report”. All the probing amendments were withdrawn.<sup>203</sup>

## Regulation of campaign expenditure

The House then considered part 4 of the Bill (clauses 19-28)

### Notional expenditure

Clauses 18 to 20, were agreed as amended. The provisions in these clauses had generally been welcomed. The amendments were Government amendments and removed reference from the clauses to devolved elections. This followed the decision of the devolved governments not to give legislative consent. Probing amendments on the precise wording of the clause 18 and the need for guidance on what notional spending is led to discussion on how the provision would provide clarity on notional spending for campaigners and candidates.<sup>204</sup>

### Registration of political parties

Clauses 21 to 23 were agreed without amendment. Probing amendments covered the level at which assets and liabilities should be declared (over £500 on registration) by a party applying to register. The Minister replied this had been the level recommended by the Electoral Commission. Ministers were also asked about the assets that might be subject to sanctions, with the Government replying that the current law relating to sanctions would already prevent assets being used to the benefit of political parties.<sup>205</sup>

### Third-party campaigning

Lord Hodgson of Astley Abbots (Conservative), who had conducted an independent review of third-party campaign regulation in 2015,<sup>206</sup> spoke about his probing amendments on reducing the period before an election

---

<sup>203</sup> [HL Deb 15 March \[Elections Bill\], c177-91](#)

<sup>204</sup> [HL Deb 15 March \[Elections Bill\], c192-225](#)

<sup>205</sup> [HL Deb 15 March \[Elections Bill\], c225-33](#)

<sup>206</sup> [Third party election campaigning: getting the balance right](#), March 2016

when third-party campaigners' campaign spending is regulated. He wanted it reduced to four months before polling day rather than 365 days before polling day.

He argued it would reduce the burden on campaigners and the evidence he had heard was that regulated spending rarely happened up to a year in advance of a poll.<sup>207</sup> The Government rejected the amendments on the basis that it could "allow unregulated, uncapped spending and provide less transparency for the electorate".<sup>208</sup>

Debate on clauses 24 and 25 focused on third-party campaigning more generally, particularly the power granted in clause 25 for ministers to alter the list of organisations that can operate as third-party campaigners.

Baroness Meacher (Crossbench), a member of the Lords Delegated Powers and Regulatory Reform Committee, drew attention to the Committee's report that said the power to add new types of third party may be justified. It concluded that "in the absence of a convincing explanation, the powers to remove and vary entries in the list are inappropriate".<sup>209</sup>

In responding, the Minister said the Government acknowledged the concerns and said he would consider further what safeguards could be introduced to prevent an abuse of the power, saying:

I undertake to have further, constructive discussions on that line to come to a solution, because the Government accept that what is in the Bill at the moment arouses concerns that we need to address.<sup>210</sup>

Clauses 24 and 25 were agreed, as amended by Government to remove reference to devolved elections.<sup>211</sup>

Lord Hodgson of Astley Abbots led a short debate on a probing amendment to require registered non-party campaigners to disclose their status as such on a prominent place on their websites. He said this would increase transparency for the public. The Minister argued "the current rules, supplemented by new rules in the Bill, will provide for that" but said he would "consider further how we can ensure that this good practice will happen".<sup>212</sup>

Clauses 26 and 27 on third-party campaigner registration and joint campaigning between third-party campaigners and registered parties were agreed.

---

<sup>207</sup> [HL Deb 15 March \[Elections Bill\], c254-6](#)

<sup>208</sup> [HL Deb 15 March \[Elections Bill\], c259-61](#)

<sup>209</sup> Delegated Powers and Regulatory Reform Committee, [Twenty First Report](#), HL Paper 168, 7 March 2022

<sup>210</sup> [HL Deb 17 March \[Elections Bill\], c472](#)

<sup>211</sup> Clause 24 debate – [HL Deb 15 March \[Elections Bill\], c254](#) and clause 25 debate – [HL Deb 17 March \[Elections Bill\], c461-73](#)

<sup>212</sup> [HL Deb 17 March \[Elections Bill\], c474-8](#)

Clause 26 was amended to remove reference to devolved elections. During the debate that the clause should stand part of the Bill, opposition peers questioned the need for the provisions on altering the registration regime for third parties. The Government argued the new lower tier of third-party registration was designed to be proportionate whilst ensuring transparency.<sup>213</sup>

Clause 27 was agreed without amendment.<sup>214</sup> Lord Collins of Highbury (Labour) talked to an amendment that would have removed clause 27 from the Bill. The amendment would have replaced the wording on joint campaigning with the recommendation made by the Committee on Standards in Public Life in their 2021 report *Regulating Election Finance*. These centred on targeted expenditure, a specific type of joint campaigning where non-party campaigners have been authorised by a political party to spend money on campaigning. The Labour Party believes the clause could be an attack on the ability of trade unions to campaign freely as third-party campaigners. Lord Collins said, “This clause risks denying those unions with formal organisational links to the Labour Party that freedom of expression”.<sup>215</sup>

Lord Kerslake (Crossbench) described the clause as unnecessary and partisan, “Nobody has defined a problem that needs solving by this clause. Secondly...it is absolutely clear that it will affect one party more than the others.”<sup>216</sup>

The Government rejected the argument. It said nothing would prevent trade unions campaigning as a third party where there was no joint plan in place. Lord True told the House there was no alteration of the definition of joint campaigning and the measure would prevent registered parties and third-party campaigners attempting to avoid spending limits:

Affiliated groups running related or complementary election campaigns would not necessarily constitute joint campaigning, as the campaigns may be being run independently of each other. Only if the campaigns were being conducted in pursuance of a common campaign plan would both groups need to account for the spending.<sup>217</sup>

A probing amendment to require the Electoral Commission to provide third-party campaigners with statutory codes of practice, approved by Parliament, was moved by Lord Hodgson of Astley Abbots. He argued this would give third parties greater clarity over the regulation they face before withdrawing the amendment.<sup>218</sup>

---

<sup>213</sup> [HL Deb 17 March \[Elections Bill\], c478-82](#)

<sup>214</sup> [HL Deb 17 March \[Elections Bill\], c505-34](#)

<sup>215</sup> [HL Deb 17 March \[Elections Bill\], c509](#)

<sup>216</sup> [HL Deb 17 March \[Elections Bill\], c514](#)

<sup>217</sup> [HL Deb 17 March \[Elections Bill\], c522](#)

<sup>218</sup> [HL Deb 17 March \[Elections Bill\], c524-34](#)

## Administration of elections

Debate then turned to the provisions on the administration of election in Part 1 of the Bill (clauses 1-11). This included the addition of a new clause (after clause 9) on the nomination process for UK Parliament elections.

### Voter ID

The first session featured probing amendments from Baroness Hayman of Ullock, which focused on the costs of implementing the voter ID policy and on the impact on voter turnout.<sup>219</sup>

The next session the House debated whether clause 1 should stand part of the Bill. The debate was wide ranging and covered similar themes to those covered at other stages of the Bill, particularly proportionality of the measure in relation to personation, access to voter ID and the impact on turnout. The unamended clause was agreed without a division.<sup>220</sup>

The House agreed to technical Government amendments to schedule 1, which was then agreed as amended. Probing amendments to the schedule were discussed, including on ensuring that applications for free voter card could be completed online at the same time as registering to vote and on altering the list of approved documents included in the Bill.<sup>221</sup>

The Government rejected calls for a method of another voter attesting to someone without necessary identification's identity in a polling station (amendment 78) as being vulnerable to fraud. Amendments to require returning officers to record the number of voters turned away because they did not have the required ID were rejected by the Government as it said this information would be required by the detailed secondary regulations that would follow the passing of the Bill.<sup>222</sup>

### Postal and proxy votes

Clauses 2 to 6 on absent voting arrangements, and their associated schedules, were agreed.<sup>223</sup>

Probing amendments on encouraging private renters to register to vote and on various technical amendments to the administration of elections were discussed.

A probing amendment sought why the Government had opted for postal vote renewals every three years. In response the Minister said the three-year limit, which stemmed from a report by Lord Pickles in his report on electoral fraud, "still enables a person to have a postal vote for a reasonable

---

<sup>219</sup> [HL Deb 17 March 2022 \[Elections Bill\], c535-70](#)

<sup>220</sup> [HL Deb 21 March 2022 \[Elections Bill\], c653-89](#)

<sup>221</sup> [HL Deb 21 March 2022 \[Elections Bill\], c689-708](#)

<sup>222</sup> [HL Deb 21 March 2022 \[Elections Bill\], c708-13](#)

<sup>223</sup> [HL Deb 21 March 2022 \[Elections Bill\], c730-46](#)

length of time, while ensuring the person normally replies during every Parliament”.<sup>224</sup>

Another probing amendment sought to limit the number of postal vote packs a person could hand in. The Minister maintained the Government position that “that the permitted number should be confirmed in secondary legislation, giving time for further consultation.”<sup>225</sup>

### Secrecy of the ballot

Clause 7, on extending the requirement to maintain the secrecy of the ballot to proxy and postal voting, was agreed to as amended by technical Government amendments.<sup>226</sup> These clarified that extending the secrecy requirements to postal ballots would still allow polling companies to ask how someone had voted for the purposes of polling and allow campaigners to ask a voter if they had voted in order to encourage them to use their ballot.

A probing amendment on the incidence of family voting, where a family member enters a polling booth with another family member and breaches the secrecy requirements, was moved by Lord Hayward (Conservative). Baroness Scott of Bybrook, responding for the Government, said the Government supported the principle, but there were “already provisions in place in electoral law to ensure the secrecy of voting in polling stations”.<sup>227</sup>

### Undue influence

A discussion on the meaning of undue influence, including “undue spiritual pressure” was had during probing amendments to clause 8. The Minister, Lord True, reassured the House:

The drafting of the clarified offence was subject to a targeted consultation with the Crown Prosecution Service, the National Police Chiefs’ Council, the Crown Office and Procurator Fiscal Service, Police Scotland, the Police Service of Northern Ireland and others.<sup>228</sup>

Clause 8 and the associated schedule 5 were agreed with the required Government amendments to remove reference to devolved elections in line with the Scottish and Welsh Governments decision to withhold consent.<sup>229</sup>

### Assistance with voting for persons with disabilities

Clause 9 was agreed with only a short debate.<sup>230</sup> The accessibility and inclusivity of elections had been discussed during proceedings on clauses relating to the Electoral Commission.

---

<sup>224</sup> [HL Deb 21 March 2022 \[Elections Bill\], c739](#)

<sup>225</sup> [HL Deb 21 March 2022 \[Elections Bill\], c740](#)

<sup>226</sup> [HL Deb 21 March 2022 \[Elections Bill\], c746-52](#)

<sup>227</sup> [HL Deb 21 March 2022 \[Elections Bill\], c750](#)

<sup>228</sup> [HL Deb 21 March 2022 \[Elections Bill\], c757](#)

<sup>229</sup> [HL Deb 21 March 2022 \[Elections Bill\], c759-60](#)

<sup>230</sup> [HL Deb 21 March 2022 \[Elections Bill\], c760-2](#)

## Candidate addresses

The House agreed a Government amendment to insert a new clause after clause 9. This new clause amends Schedule 1 to the Representation of the People Act 1983 to give candidates at parliamentary elections the option of stating the name of the local authority where they live. Currently a candidate must provide of their home address or the name of the constituency in which the home address is located.

The Minister said that this was in response to security concerns raised in the Commons so that there “should be a further option for candidates who wish to indicate in a more commonly understood description where they live, without sharing their full address”.<sup>231</sup>

## Administration of elections in Northern Ireland

Clause 10 of the Bill as amended by the Commons and associated schedule 6 were agreed without debate. These apply changes in Part 1 of the Bill to electoral law in Northern Ireland. There were several technical Government amendments to the schedule agreed.

## Change of electoral system for mayoral and police and crime commissioner elections

Clause 11, the new measure inserted in the Bill during committee stage in the Commons to change the voting system for mayoral elections in England, was agreed without amendment.<sup>232</sup> This followed a debate on probing amendments on voting systems where peers raised concerns over the lack of consultation and the late inclusion of the measure in the Bill.<sup>233</sup>

Baroness Hayman of Ullock quoted several Labour mayors unhappy that the change is to be imposed without local support. She also highlighted in the case of London it would overturn a referendum result that approved the creation of the mayor with proposals that specifically referred to the supplementary voting system.<sup>234</sup>

A probing amendment Lord Wallace of Saltaire (Liberal Democrat) to include a new clause to lower the voting age in UK Parliament elections was discussed. The Minister reiterated the Government view that whilst engaging young people was important, it did “not believe that a reduction to 16 is the correct course”.<sup>235</sup>

Another probing amendment to allow prisoners serving a sentence of 12 months or less to vote in UK parliamentary elections was discussed. The

---

<sup>231</sup> [HL Deb 23 March 2022 \[Elections Bill\], c981-4](#)

<sup>232</sup> [HL Deb 23 March 2022 \[Elections Bill\], c1022](#)

<sup>233</sup> [HL Deb 23 March 2022 \[Elections Bill\], c986-1022](#)

<sup>234</sup> [HL Deb 23 March 2022 \[Elections Bill\], c986-7](#)

<sup>235</sup> [HL Deb 23 March 2022 \[Elections Bill\], c1030](#)

Government repeated its manifesto commitment that it would “maintain the ban on prisoners voting from jail.”<sup>236</sup>

Probing amendments also included to allow automatic voter registration using data from other Government agencies, electronic voting, altering the candidacy requirements for local elections to allow those moved to temporary addresses to stand for election and on election deposits.

## Franchises

The Committee then considered Part 2 of the Bill, which alters the right to vote for overseas voters and the right to vote or stand for local elections for EU citizens resident in the UK.

### Overseas voters

Clause 12 and its associated schedule amend the representation of the People Act 1985 to implement the Government’s ‘votes for life’ policy for overseas voters.

The clause and schedule were agreed without amendment. This followed a short debate on probing amendments from the Labour Party to limit eligibility to being an overseas voter, namely extending the time limit to 50 years or to prevent those who had committed certain offences or who are subject to an Interpol red notice.<sup>237</sup>

Lord Wallace of Saltaire talked to a probing amendment relating to the Liberal Democrat’s policy of creatin overseas constituencies for overseas voters. Baroness Scott rejected the idea giving the government’s view:

Overseas constituencies would not fit in with the existing arrangements for organising constituencies and delivering elections, and establishing them would require the consideration of a range of complex issues.<sup>238</sup>

### EU citizens

Clause 13 was agreed without debate. The clause simply gives effect to schedule 8, about voting and candidacy rights of EU citizens in England and Northern Ireland.

Debate on the detail of the policy followed with probing amendments to add new clauses to the Bill and on the detail of schedule 8.

Probing amendments on extending voting rights for EU citizens to UK Parliamentary elections and on linking local voting rights to payment of council tax were discussed.<sup>239</sup> A probing amendment on the link voting and candidacy rights for EU citizens in Northern Ireland and the article 2 of the

---

<sup>236</sup> [HL Deb 23 March 2022 \[Elections Bill\], c1047-51](#)

<sup>237</sup> [HL Deb 23 March 2022 \[Elections Bill\], c1073-9](#)

<sup>238</sup> [HL Deb 23 March 2022 \[Elections Bill\], c1081](#)

<sup>239</sup> [HL Deb 28 March 2022 \[Elections Bill\], c1283-1300](#)

Northern Ireland protocol was also discussed. The Government said its position was that removing voting and candidacy rights from EU citizens arriving in Northern Ireland after the implementation date “does not run counter to article 2 of the Northern Ireland protocol.”<sup>240</sup>

The House also considered a probing amendment to allow peers who are a member of the House of Lords to vote in UK Parliament elections,<sup>241</sup> and on reciprocal voting rights for UK citizens living in Commonwealth countries.<sup>242</sup>

Schedule 8 was amended by Government drafting amendments and agreed.<sup>243</sup>

## Intimidation of candidates and campaigners

Part 5 of the Bill, on an electoral sanction for those convicted of intimidation of candidates or campaigners, had previously received general cross-party support. The sanction would ban them from elected office for five years.

The clauses (28 to 36) and the associated schedules 9 and 10 were agreed with technical Government amendments.<sup>244</sup>

A probing amendment from Lord Hayward sought to extend the period of the disqualification orders would apply, citing the Tower Hamlets case, which had been cited on multiple occasions during the passage of the Bill. The maximum period someone can be banned from elected office for corrupt practices in electoral law is five years. The Government argued that the sanction was proportionate, with baroness Scott saying it struck the correct balance between:

sufficient deterrent while remaining proportionate, given the potential interference with the right to participate in free and fair elections, most recently protected under Article 3 of Protocol 1 to the European Convention on Human Rights.<sup>245</sup>

## Digital imprints

Part 6 of the Bill (clauses 37 to 59 and schedule 12 of the Bill as brought from the Commons) will implement the new digital imprint regime for digital campaign material. The provisions have generally been welcomed.

A number of Government amendments were approved without debate and Part 6 was agreed.<sup>246</sup>

---

<sup>240</sup> [HL Deb 28 March 2022 \[Elections Bill\], c1297](#)

<sup>241</sup> [HL Deb 28 March 2022 \[Elections Bill\], c1300-10](#)

<sup>242</sup> [HL Deb 28 March 2022 \[Elections Bill\], c1310-9](#)

<sup>243</sup> [HL Deb 28 March 2022 \[Elections Bill\], c1319](#)

<sup>244</sup> [HL Deb 28 March 2022 \[Elections Bill\], c1319-29](#)

<sup>245</sup> [HL Deb 28 March 2022 \[Elections Bill\], c1325](#)

<sup>246</sup> [HL Deb 28 March 2022 \[Elections Bill\], c1344-7](#)

Before the clauses and schedule were approved Lord Clement-Jones (Liberal Democrat) talked to a series of probing amendments. These allowed for debate on where digital imprints will be required on digital material, greater transparency of how much candidates and campaigners spend on digital material and preventing foreign entities spending any money on digital campaigning. Lord Clement-Jones also highlighted the problem of misinformation, arguing that disinformation “which aims to disrupt elections must be addressed by legislation.”<sup>247</sup>

## Other amendments

The final session of the committee stage considered remaining new clauses that had not been previously debated. None of these were agreed.

Many of these focused on tightening rules to prevent foreign finance and interference in UK elections. This included opposition amendments to prevent registered overseas voters from being able to donate to political parties in the UK.

Other amendments sought to place additional restrictions on unincorporated associations and companies from making political donations.

The Government’s view was the current rules in place in relation to political donations are proportionate and achieve the correct balance between ensuring only those with a legitimate interest in UK elections can make political donations and the regulatory burden on the parties and organisations that must check the permissibility of those donations.<sup>248</sup>

Baroness Hayman of Ullock also spoke to an amendment that would require the Secretary of State must publish a timetable for undertaking “a wholesale review and consolidation of electoral law” within a year of the passing of the Bill. The group of amendments also included a statutory commitment to post-legislative scrutiny of the Bill.

Baroness Scott of Bybrook said the immediate priority was to implement its manifesto commitments. She also rejected a statutory requirement for post-legislative scrutiny.

## 7.3

## Report stage

The report stage of the Bill was held over two separate days.

---

<sup>247</sup> [HL Deb 28 March 2022 \[Elections Bill\], c1330-5](#)

<sup>248</sup> [HL Deb 28 March 2022 \[Elections Bill\], c1353-82](#)

## Day 1

Report stage in the House of Lords started on [6 April 2022](#).<sup>249</sup>

The Government was defeated on an amendment that extended the permitted range of ID documents to various non-photographic types of ID.<sup>250</sup>

A number of Government amendments to clause 7 (secrecy of postal ballots) and clause 8 and its associated schedule (undue influence) were agreed without debate or a vote.<sup>251</sup>

The Government accepted an amendment from Lord Holmes. It requires the Electoral Commission to produce statutory guidance to returning officers on the support that should be provided to disabled voters in polling stations, particularly blind or partially sighted voters.

## Voter ID

The first group of amendments considered were on clause 1 on voter ID.

Lord Woolley of Woodford (Crossbench) tabled an amendment to leave out clause 1 and its associated schedule. Other amendments sought to vary the list of allowable ID to include polling cards and other non-photographic forms of ID. Lord Woolley and others argued that the Conservative Party manifesto had talked of voter ID and not specifically of photographic voter ID.<sup>252</sup>

Lord Willetts (Conservative) moved an amendment that included a wide range of non-photographic ID, including birth certificates, council tax bills, national insurance cards, library cards and workplace ID cards. He argued it was consistent with the Conservative manifesto commitment and pushed his amendment to a vote, saying:

this is still an enormous and expensive measure of red tape to solve a problem that no one insists is a serious issue in the British electoral system.<sup>253</sup>

The Government opposed the amendment saying the list of documents included in the amendment did not provide either the required security and, for those without a photograph, the required proof that the person was who they said.<sup>254</sup>

---

<sup>249</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2091-2146 and c2159-80](#)

<sup>250</sup> [Elections Bill: Division 1: held on Wednesday 6 April 2022](#)

<sup>251</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2121-2](#)

<sup>252</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2092-113](#)

<sup>253</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2113](#)

<sup>254</sup> [HL Deb 6 April 2022\[Elections Bill\], c2110-1](#)

However, Lord Willett's amendment was agreed to on a vote by 199 votes to 170.<sup>255</sup>

## Administration of elections

### Postal voting

Baroness Quin's (Labour) amendments to leave out clause 3 and its associated schedule were debated. The clause and schedule will require postal voters to renew their postal vote request for reserved elections every three years. She asked the Minister if the Government aim was to facilitate postal voting or hamper it.<sup>256</sup>

Lord True told the House three-yearly renewals enable the electoral registration officer (ERO) to regularly assess the application and confirm that they are still eligible. He also emphasised transitional provisions in the Bill would help people to reapply:

EROs will be required to send a reminder to existing postal voters in advance of the date they cease to have a postal vote and provide information to them on how to reapply for it, including online. We believe this is an important measure that could strengthen the integrity of postal voting and not undermine it in any way.<sup>257</sup>

Baroness Quin withdrew the amendments.

### Requirement of secrecy

Lord Hayward then introduced an amendment on 'family voting', a topic he had covered at committee stage. This would have been a new clause that required the Electoral Commission to issue guidance for polling station staff to prevent incidences of a family member entering a polling booth for the purpose of influencing or checking on another person's vote.

The Government repeated its stance, that the law was clear on the matter and the Electoral Commission's existing guidance already advises polling station staff "that they should make sure that voters go to polling booths individually, so that their right to a secret vote is protected."<sup>258</sup> The amendment was withdrawn.

### Assistance with voting for persons with disabilities

The House next considered a group of amendments (26 to 30 and 34 to 37) tabled by Lord Holmes of Richmond on provision for assistance to blind or partially sighted voters. Lord Holmes had tabled similar probing amendments during the committee stage of the Bill.

---

<sup>255</sup> [Elections Bill: Division 1: held on Wednesday 6 April 2022](#)

<sup>256</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2117-21](#)

<sup>257</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2120](#)

<sup>258</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2126](#)

These amendments referenced the need for equipment provided for a polling station to enable or facilitate independent and secret voting by voters who are blind or partially sighted or have another disability. Lord Holmes spoke of the three pillars of voting, “to be able to vote inclusively, independently and in secret.”<sup>259</sup>

The amendments are designed to address the concerns raised by the RNIB and the Government accepted the amendments.<sup>260</sup> The new requirements will, as summarised in a RNIB press release:

impose new statutory duties on the Electoral Commission:

- To draw up new guidance to support an independent and secret vote at the polling station from 2023.
- To consult relevant organisations in the production of that guidance.
- To hold Returning Officers to account for following that guidance.<sup>261</sup>

### Change of electoral system for mayoral and police and crime commissioner elections

The House then re-examined the provisions relating to the voting system for some local elections in England. The clause replaces the supplementary voting system with first-past-the-post. Probing amendments had been discussed at committee stage. An opposition amendment to remove the clause from the Bill was pushed to a vote but was defeated 160 votes to 153.<sup>262</sup>

### New clauses

Two new clauses, which had been debated at committee stage but withdrawn before being voted on, were reconsidered. Both were rejected after a vote. The proposed clause on creating a system of automatic voter registration was rejected by 147 votes to 116.<sup>263</sup> A new clause to allow members of the House of Lords to vote in UK Parliament elections was rejected by 139 votes to 24.<sup>264</sup> The session concluded with a further debate on new clauses on reciprocal arrangements for commonwealth voting rights and extending voting rights in local elections in England to anyone legally resident. These were withdrawn without a vote.<sup>265</sup>

---

<sup>259</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2128](#)

<sup>260</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2131-4](#)

<sup>261</sup> RNIB, [#BlindVotersCount campaign update](#), 11 April 2022

<sup>262</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2139-44](#)

<sup>263</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2158-65](#)

<sup>264</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2165-71](#)

<sup>265</sup> [HL Deb 6 April 2022 \[Elections Bill\], c2171-80](#)

## Day 2

The House of Lords held a second day of debate on report stage on Monday 25 April 2022.

The Government was defeated in a vote on the provisions for a strategy and policy statement for the Electoral Commission. The House voted to remove the clauses from the Bill.

The Government accepted a group of amendments from Lord Hodgson of Astley Abbots on statutory guidance for controlled expenditure of third parties.

A group of technical amendments tabled by Baroness Noakes were accepted by the Government and approved by the House without a vote. These related to the assets and liabilities to be provided on application for registration by a new political party and altered the wording of the clause to reflect normal financial accounting practice.

Government amendments that addressed concerns raised at committee stage were approved without a vote. Clause 28 (to regulate joint spending between registered parties and third-party campaigners) was removed from the Bill. Opponents had said this would adversely affect the Labour Party.

The power to amend the list of eligible categories of third-party campaigners in PPERA using secondary legislation were amended so that a minister could only act on the recommendation of the Electoral Commission

A new clause was inserted to the Bill to require post-legislative scrutiny of the Act. It requires the Secretary of State to prepare, publish and lay before Parliament a review of the operation of this legislation, not less than 4 and not more than 5 years after it receives Royal Assent.

## Electoral Commission

The second day opened with a debate on amendments to remove clauses 15 and 16 from the Bill. These would provide for the new strategy and policy statement for the Electoral Commission. The amendments were tabled by Lord Judge with cross-party support.

Lord Judge argued the clauses were “repugnant” to the principle that the Electoral Commission should be politically independent. He argued the language in the clause, that the statement should set out the Government’s priorities and that the Commission must have regard to it was to direct an independent commission, saying, “If we rephrase that, it says that the Electoral Commission must enable the strategic and policy priorities of the Government to be met. That does not sound like independence.” He was

also critical of the consultation process for the statement saying, “there is nothing in statute requiring the Secretary of State to pay attention.”<sup>266</sup>

Lord Cormack argued that there were things wrong with the way the Electoral Commission worked, but the introduction of the statement to “undermine” the Commission was “an arrogance that defies belief.”<sup>267</sup>

Lord Hodgson of Astley Abbots was critical of the parliamentary approval process for the statement saying, “procedures for scrutinising secondary legislation are proving increasingly inadequate and ineffective for modern conditions”. Despite saying he was “not enthusiastic” about the clauses he thought striking them from the Bill would be less desirable as it would allow the Electoral Commission to “float free from any even minor scrutiny or accountability.”<sup>268</sup>

Baroness Noakes argued opponents were overstating the concerns. She said:

Anyone who opposes Clauses 15 and 16 really should explain how they would ensure that the Electoral Commission will be properly accountable, because the current arrangements are simply not fit for purpose.<sup>269</sup>

She also argued there was:

no obligation on the commission to follow the statement. There is no alteration of the core duties and obligations set out in PPERA. The commission’s only duty is to have regard to the statement and report annually on what it has done in consequence of it.<sup>270</sup>

Lord Pannick QC (Crossbencher) argued that if the Commission refused to follow a statement it did not agree with “there would be a real danger of judicial review”.<sup>271</sup>

The Government argued it was not seeking to direct the Commission. It also argued “that there are a number of safeguarding provisions around parliamentary approval and consultation built into” the provisions for the statement.”<sup>272</sup>

Lord Judge pushed amendment 45 (to leave out clause 15) to a vote. The amendment was agreed 265 votes to 199. Amendment 46 (to leave out clause 16) was agreed without a vote.<sup>273</sup>

---

<sup>266</sup> [HL Deb 25 April 2022 \[Elections Bill\], c22-3](#)

<sup>267</sup> [HL Deb 25 April 2022 \[Elections Bill\], c30](#)

<sup>268</sup> [HL Deb 25 April 2022 \[Elections Bill\], c31-2](#)

<sup>269</sup> [HL Deb 25 April 2022 \[Election Bill\], c32-3](#)

<sup>270</sup> As above

<sup>271</sup> [HL Deb 25 April 2022 \[Elections Bill\], c39](#)

<sup>272</sup> [HL Deb 25 April 2022 \[Elections Bill\], c37](#)

<sup>273</sup> [HL Deb 25 April 2022 \[Elections Bill\], c40-3](#)

## Notional expenditure

Lord Rennard (Liberal Democrat) spoke to his amendment to leave out clause 19 (on notional expenditure). This was a probing amendment, and he was seeking clarification on the intent of the clause.

The Government confirmed it was to clarify the law on benefits in kind (non-cash spending during a regulated election period) and make it clear that candidates need to report only benefits in kind that they have used or which they or their election agent have directed, authorised or encouraged someone else to use on their behalf. The clause fulfils calls in several recent reports by MPs and others to clarify the law.<sup>274</sup>

## Third-party campaigners

### Spending

The debate then turned to a group of amendments tabled by Lord Hodgson of Astley Abbots, supported by the Government. The topic had been debated at committee when Lord Hodgson moved probing amendments. These would insert a new clause to require the Electoral Commission to publish a code of practice on PPERA regulated controlled expenditure of third parties for non-devolved elections. It currently publishes non-statutory guidance.

Lord Hodgson explained the benefit of his amendments for third-party campaigners:

first, they require the Electoral Commission to undertake the intellectual heavy lifting needed to produce a code giving clarity and certainty to third-party campaigners; secondly, they give Parliament the opportunity to scrutinise and approve the initial codes and any revisions thereto; and, thirdly, they give third-party campaigners the knowledge that compliance with the code provides a statutory defence.<sup>275</sup>

These stem from recommendations in Lord Hodgson's report, *Third Party Election Campaigning – Getting the Balance Right*, published in March 2016.<sup>276</sup> The report examined the operation of part 2 of the Transparency in Lobbying, Non-Party Campaigning and Trade Union Administration Act 2014. The recommendations in the report were not carried forward by the Government.

### Permitted third party campaigners

During committee stage Lord True, for the Government, had committed to considering further safeguards about the provision to give the power to a minister to amend the list of eligible categories of third-party campaigners in

---

<sup>274</sup> [HL Deb 25 April 2022 \[Elections Bill\], c43-7](#)

<sup>275</sup> [HL Deb 25 April 2022 \[Elections Bill\], c47-9](#)

<sup>276</sup> [Independent report - Third party election campaigning: review](#), paras 7.58-62, March 2016

PPERA using secondary legislation. Concerns had been expressed that a future Government could inappropriately exclude types of third-party campaigners.

The Government amendment, which was approved without a vote, means a change can only be made by a minister where it gives effect to a recommendation of the Electoral Commission.<sup>277</sup>

### Joint campaigning by registered parties and third parties

A Government amendment to remove clause 28 from the Bill was approved without a vote. Concerns had been raised that the provision to regulate joint spending between registered parties and third-party campaigners would adversely affect the Labour Party.

The Government had engaged with trade unions and the Labour Party, and Lord True told the House:

I have very carefully considered concerns expressed in this House and the other place that this clause might have unintended consequences—they would have been unintended—which were feared to include consequences for the historic relationship between the Labour Party and some trade unions.<sup>278</sup>

### New party registrations

Baroness Noakes had commented during committee stage on the wording of clause 22 (declaration of assets and liabilities by a new political party). Her amendments, which were accepted, alter the technical wording of the clause to reflect accounting practice. The effect of the clause remains the same, to get new political parties registering with the Electoral Commission to declare the value of assets or other financial commitments, such as loans, over £500. This gives more transparency over the financial position of a new party.<sup>279</sup>

### Digital imprints

A group of amendment from Lord Clement-Jones revisited probing amendments debated at committee stage. These covered guidance on digital imprints, foreign spending on digital campaign material, libraries of digital campaign ads, greater detail of digital spending in election returns and to criminalise false statements (misinformation and disinformation) about election integrity. Debate also included an amendment from Lord Hodgson of Astley Abbots that would have required registered non-party campaigners to disclose their status as such on a prominent place on their websites.

---

<sup>277</sup> [HL Deb 25 April 2022 \[Elections Bill\], c52-3](#)

<sup>278</sup> [HL Deb 25 April 2022 \[Elections Bill\], c53](#)

<sup>279</sup> [HL Deb 25 April 2022 \[Elections Bill\], c49-52](#)

The amendments were withdrawn.

## Overseas voters

New clauses on aspects of overseas voters were discussed. An amendment to prevent registered overseas voters donating to registered political parties in the UK was moved by Baroness Hayman of Ullock. The amendment had support from the Liberal Democrats and the Green Party.

This had been the subject of a probing amendment at committee stage. Baroness Hayman divided the House, and the amendment was defeated 220 votes to 194.<sup>280</sup>

An amendment to bring into force section 10 of the Political Parties and Elections Act 2009 was defeated.<sup>281</sup> Section 10 would prevent a registered party from accepting a donation of more than £7,500 from an individual who was non-resident for UK tax purposes. The provision has never been brought into force as it has been deemed unworkable; an individual's tax status is subject legally to confidentiality.

A Liberal Democrat amendment to delay the implementation of the 'votes for life' policy by two years and require a statutory report on the operation of overseas voter registration was debated. The amendment was withdrawn.

## Other new clauses

### Consolidation of electoral law

Baroness Hayman of Ullock wanted to add a clause to require the Secretary of State to publish a timetable for undertaking a wholesale review and consolidation of electoral law within 12 months of the Bill becoming an Act.

The Government acknowledged the desirability of consolidating electoral law but Baroness Scott of Bybrook told the House, "It is not something to rush, and it is not something for which the Government should commit to firm deadlines in a timetable at this stage." Baroness Hayman withdrew the amendment.<sup>282</sup>

### Statutory review of the Act

Lord True moved a government amendment that requires the Secretary of State to prepare, publish and lay before Parliament a review of the operation of this legislation, not less than 4 and not more than 5 years after it receives Royal Assent.

---

<sup>280</sup> [HL Deb 25 April 2022 \[Elections Bill\], c65-82](#)

<sup>281</sup> [HL Deb 25 April 2022 \[Elections Bill\], c85-92](#)

<sup>282</sup> [HL Deb 25 April 2022 \[Elections Bill\], c82-85](#)

Labour welcomed the post-legislative review provision, and thanked Lord True, “for listening to [their] concerns and the concerns of other Members of this House about the lack of pre-legislative consultation or scrutiny”.<sup>283</sup>

The new clause was agreed without a vote.

## 7.4

### Third Reading

Third reading was taken immediately after the report conclusion of report stage. The Bill was passed without a vote and sent back to the Commons.<sup>284</sup>

---

<sup>283</sup> [HL Deb 25 April 2022 \[Elections Bill\], c92-3](#)

<sup>284</sup> [HL Deb 25 April 2022 \[Elections Bill\], c102-6](#)

## 8

## Ping pong

### House of Commons consideration of Lords amendments

The House of Commons considered Lords amendments to the Bill on [Wednesday 27 April 2022](#).

The Government successfully overturned the defeats it had suffered in the Lords on the amendment to schedule 1, which added a range of non-photographic ID to be used as photo ID, and to the removal of the two clauses relating to the Electoral Commission strategy and policy statement. These were clause 15 in the Bill as amended by the Lords (to create the strategy and policy statement) and clause 16 (requiring the Speaker's Committee on the Electoral Commission to examine the Commission's compliance with the statement).

As well as reinstating the two clauses on the strategy and policy statement the Government also tabled additional amendments, which it said were in response to the strength of feeling about the purpose of the statement and the level of parliamentary scrutiny of the draft statement.

These would explicitly prevent the strategy and policy statement from including reference to the Commission's investigatory or enforcement activity and statutory responsibilities to monitor and seek compliance with the provisions in PPERA (essentially the registration of parties and the financial reporting of registered parties, third-party campaigners, and referendum participants).

The new measures would see the Secretary of State required to publish a report responding to the statutory consultation on a new strategy and policy statement.

On parliamentary scrutiny the amendments provide both Houses with a supplementary opportunity to consider the draft statement and make representations before it is laid for approval. This is known as the [super-affirmative procedure](#).

Once the draft statement has been consulted on and responded to by the Secretary of State, the Government would then be required to lay a document before Parliament that:

- Sets out the proposed draft statement;
- Explains the draft statement, and

- Includes the report from the Secretary of State published after the statutory consultation.

The document would be laid before Parliament for a period of 60 days and at the end of the 60-day period the Secretary of State may then lay the draft statement before the House for approval by both Houses.

During the 60-day period the Secretary of State must respond to requests from the Speaker's Committee on the Electoral Commission for the statement to be revised.

Clause 15 was reinstated on a vote, 306 to 215 and clause 16 was reinstated on a vote, 306 to 213.<sup>285</sup>

The Lords amendment to schedule 1 of the Bill, to alter the list of allowable voter ID that can be presented in a polling station, was also overturned on a vote, 306 votes to 213.<sup>286</sup>

## House of Lords

The Bill returned to the Lords the [same day, 27 April 2022](#).

The Lords accepted the Bill with no further changes, which meant the Bill went forward to receive Royal Assent.

Lord Judge attempted to further amend the provisions on the Electoral Commission by attempting to insert the Commission was 'not bound by' any strategy and policy statement issued by the Government.

His amendments also would have required that members of the Speaker's Committee who are Government ministers (two of the nine members) recuse themselves from meetings about the Commission's performance in relation to the strategy and policy statement.

Lord Judge pushed the amendments to a vote but was defeated 202 votes to 181.<sup>287</sup> The vote concluded proceedings on the Bill.

---

<sup>285</sup> [HC Deb 28 April 2022 \[Elections Bill\], c831-42](#)

<sup>286</sup> As above

<sup>287</sup> [HL Deb 28 April \[Elections Bill\], c329-45](#)

## 9 Legislative consent

In the Bill, the UK Government is proposing to legislate on a UK-wide basis for some areas where the devolved Parliaments in Scotland and Wales could legislate in respect of their own local and devolved elections. When this happens, the UK Government must seek 'legislative consent motions' from the relevant devolved parliaments.

The [Explanatory Note \(PDF\)](#) to the Bill explained that the UK Government would seek legislative consent motions from the Scottish Parliament and the Senedd Cymru (the Welsh Parliament).<sup>288</sup>

The Governments of Scotland and Wales both originally declined to lay consent motions and requested that all aspects which relate to devolved matters be removed from the Bill.

The Government has said it was disappointed by the move but in February announced:

Nevertheless, we are respecting this request by preparing the necessary amendments to the Bill and will bring these changes forward at the earliest opportunity possible.<sup>289</sup>

The Scottish Government maintained its objection but on 29 March 2022 the Senedd Cymru subsequently passed a consent motion.<sup>290</sup> The motion acknowledged that the UK Government had agreed to remove most references to devolved elections by amending the Bill at committee stage in the House of Lords. The Welsh Government still disagreed on the issue of consent on provisions relating to digital imprints and the new electoral sanction for intimidation of candidates and campaigners.<sup>291</sup> However, it recommended the Senedd pass a consent motion.

The legislative consent process operates under the Sewel Convention, which is explained in more detail in Commons Library briefing, [Devolution: The Sewel Convention](#).

---

<sup>288</sup> Elections Bill 2021-22, [Explanatory Notes](#), p24

<sup>289</sup> The commitment was given in the UK Government response to the House of Commons Public Administration and Constitutional Affairs Committee's report on the Elections Bill, [The Elections Bill: Government Response to the Committee's Fifth Report](#) (PDF), HC 1133 2021-22, 10 February 2022, p3

<sup>290</sup> Senedd Cymru, Record of Proceedings, [Legislative Consent Motion on the Elections Bill](#), 29 March 2022

<sup>291</sup> [Supplementary Legislative Consent memorandum \(Memorandum No 2\) Elections Bill](#), 22 March 2022

A legislative consent motion must normally be decided on before a Bill reaches its final amending stage at Westminster in the House where it was first introduced to Parliament (in this case the House of Commons).

The devolved legislatures can withhold their consent but this does not prevent the Bill passing in the UK Parliament. In its consideration of the Sewel Convention in January 2017, the [UK Supreme Court ruled](#) that Sewel was a political convention which couldn't be enforced legally through the courts.

## 9.1 Scotland

The Scottish Government lodged a [legislative consent memorandum \(LCM\) on the Elections Bill](#) on 22 September 2021.<sup>292</sup> The Scottish Government recommended that the Scottish Parliament does not give consent to the Bill and will not lodge a legislative consent motion.<sup>293</sup> The Scottish Parliament Information Centre blog post, [The UK Elections Bill](#), summarises the LCM.

The lead committee of the Scottish Parliament tasked with scrutinising the LCM was the Standards, Procedures and Public Appointments Committee. The majority of the Committee agreed with the Scottish Government that consent should not be granted. The Conservative MSPs on the Committee members disagreed and thought consent should be given.

On 1 February 2022 the Scottish Parliament considered the motion tabled by the Scottish Government “not to consent to the UK Elections Bill”.<sup>294</sup> The motion noted that the Scottish Government intends to consult on a number of electoral reforms later in 2022.

The parliament voted for the motion not to consent to the Elections Bill.<sup>295</sup>

### Legislative consent memorandum

For several of the measures where legislative consent is being sought, the Scottish Government is sympathetic to the proposed change.

However, it has stated that it intends to legislate in these areas as they apply to devolved elections prior to the Scottish Parliament election in 2026. The memorandum acknowledges that there is no expectation that the Elections Bill will be in force before the May 2022 Scottish local government elections.

---

<sup>292</sup> Scottish government, [Legislative Consent memorandum: Elections Bill](#) (PDF), September 2021

<sup>293</sup> As above, p13

<sup>294</sup> [Scottish Parliament Official Report 1 February 2022](#)

<sup>295</sup> Scottish Parliament Record of Proceedings 1 February 2022, [Decision Time](#), For 91, Against 29, Abstentions 0

The measures where the Scottish Government expects to legislate before 2026 are:

- Undue influence
- Notional campaign spending
- Changes to third-party campaigning
- Intimidation of candidates

The area where legislative consent is sought by the UK Government but the Scottish Government recommends that it should not be given is:

- The strategy and policy statement for the Electoral Commission

However, as noted above, even if the Scottish Parliament withholds consent, this cannot override the UK Parliament and the Bill will progress at Westminster regardless.

On the digital imprint measures included in the Bill, the Scottish Government and the UK Government disagree whether the measures are fully reserved or not. The UK Government believes the measures are wholly reserved under the ‘internet services’ reservation in the Scotland Act 1998.

The Scottish Government disagrees. Its view is that only the measures requiring removal of electronic material that would breach the new measures are reserved. It views the rest of the measures on digital imprints as devolved and that the provisions in the Elections Bill would override measures already in place. The Scottish Government does not recommend legislative consent in this area:

The Scottish Government’s initial position is that the existing Scottish regime should remain in place, with any adjustments needed to accommodate the reserved aspects of the Bill in relation to the “takedown” of material on the internet. It will however keep this area of the law under review and assess the impact of the provisions of the Bill as they apply in relation to reserved elections.<sup>296</sup>

LCMs are usually referred to a committee of the Scottish Parliament. The committee or committees consider the LCM and publish a report to the Parliament. The report gives their view on whether the Scottish Government should agree that the UK Parliament make this Bill for Scotland.

---

<sup>296</sup> As above, p11

## Scottish Parliament Delegated Powers and Standards, Procedures and Public Appointments Committee report

The Scottish Parliament Delegated Powers Committee, and the Standards, Procedures and Public Appointments Committee considered the LCM. The Standards, Procedures and Public Appointments Committee was the lead committee. The Delegated Powers Committee considered the LCM as the Bill refers to delegated powers for Scottish ministers.

The Committee Standards, Procedures and Public Appointments Committee [published its report](#) on 22 December 2021.<sup>297</sup>

For the measures in the Elections Bill that required legislative consent as they apply to devolved elections, the majority of the Committee agreed with the Scottish Government that consent should not be granted. The Conservative MSPs on the Committee members disagreed and believed consent should be given for the measures on undue influence, the strategy and policy statement for the Electoral Commission, notional expenditure, changes to third-party finance and on intimidation of candidates.

### Electoral Commission

The Committee also noted that Elections Bill requires Scottish ministers to be consulted on a draft of the strategy and policy statement for the Electoral Commission.

The Scottish Elections (Reform) Act 2020 transferred financial responsibility for funding the Electoral Commission in relation to Scottish elections from Scottish ministers to the Scottish Parliamentary Corporate Body (SPCB). The Committee considers that the SPCB should be added as a statutory consultee for the statement.<sup>298</sup>

The Government have since said it will introduce amendments during House of Lords stages of the Elections Bill so the strategy and policy statement must not contain provisions that relate to the devolved functions of the Commission. Amendments to remove the requirement to consult Welsh and Scottish ministers on the guidance would also be considered as the statement would no longer relate to devolved functions.<sup>299</sup>

### Digital imprints

The Committee agreed with the Scottish Government's position that legislative consent is required in relation to digital imprints in devolved elections. It noted that legislation relating to digital imprints had already

---

<sup>297</sup> Standards, Procedures and Public Appointments Committee, [Legislative Consent Memorandum on the Elections Bill](#) (PDF), 22 December 2021

<sup>298</sup> As above, p12

<sup>299</sup> [The Elections Bill: Government Response to the House of Commons Public Administration and Constitutional Affairs Committee's Fifth Report](#) (PDF), HC 1133 2021-22, 10 February 2022, pp11-2

been passed by the Scottish Parliament.<sup>300</sup> The Committee heard evidence from Dr Alistair Clark, of Newcastle university, that the scheme proposed by the UK Government is different from the Scottish regime in some aspects. On how the UK proposals will work he said, "A lot will depend on definitions".<sup>301</sup>

## Voter ID

The Committee noted that changes to reserved elections in the Bill had a potential impact on Scottish elections. The Committee raised concerns about the administrative burdens placed on elections staff of the various new measures, in particular the administration of voter ID in polling stations and registration staff determining applications for overseas voters and absent voting requests.

The Committee heard evidence from the Electoral Management Board of Scotland (EMB) that voter ID requirements, "are out of proportion to the problem they attempt to address". The EMB voiced concern over the effect on polling station staff having to implement voter ID provisions, saying:

Polling staff will no longer be fellow citizens assisting in the election, but officials checking voters' identity papers. This will be a less attractive job given the likely associated conflict and bureaucracy.<sup>302</sup>

It also heard from Professor Toby James, of University of East Anglia, who stated that only 0.7% of poll workers were concerned that electoral fraud might have happened in their polling stations. However, the Electoral Commission noted that in its research, nearly all voters would feel more confident in the security if there was some kind of photo ID.<sup>303</sup>

The Committee also heard evidence on the potential for voter ID to adversely impact certain demographics. The Committee called on the Scottish Government to seek assurances from the UK Government that there will be an ongoing monitoring process to identify the impact.<sup>304</sup>

The Scottish Assessors Association submission to the Committee noted the potential administrative burden of the provisions in the Bill on registration staff.

The Committee said the UK Government should bear all related costs, including relevant training for administrative staff. It also noted an early public information campaign would be required to inform voters of the new concept of voter ID.<sup>305</sup>

---

<sup>300</sup> Standards, Procedures and Public Appointments Committee, [Legislative Consent Memorandum on the Elections Bill](#) (PDF), 22 December 2021, p19

<sup>301</sup> | As above, p18

<sup>302</sup> As above, p21-2

<sup>303</sup> As above, p21

<sup>304</sup> As above, p22-3

<sup>305</sup> As above, p24

## 9.2

## Wales

The Welsh Government laid a [Legislative Consent Memorandum](#) (PDF) on the Bill before the Senedd on 9 September 2021.<sup>306</sup> Like the Scottish Government, the Welsh Government said it did not favour giving legislative consent.

It too is sympathetic to some of the measures in the Elections Bill but also prefers to achieve changes through Senedd legislation. It has said, “We are working with the UK Government with a view to seeking amendments to the Bill to reflect our policy position”.<sup>307</sup>

### Electoral Commission

The Welsh Government also thought additional areas required legislative consent. The Welsh Government’s position was that the provision on extending the remit of the Speaker’s Committee on the Electoral Commission required consent.<sup>308</sup>

### Digital imprints

The Government did not seek consent from the Senedd on the provisions relating to digital imprints. The Welsh Government’s view was the new regime had implications for devolved elections and were within the legislative competence of the Senedd as they applied to devolved elections in Wales.<sup>309</sup>

### Candidate intimidation

The Welsh Government also concluded that the provisions on disqualification because of intimidation should have required legislative consent as they affected elected representatives in devolved elections.

Changes to the list of intimidatory offences in the Bill require no duty to gain the consent of the Welsh Ministers. The Welsh Government said this was “despite the implications for devolved elections”. Similar concerns were raised over the power to alter provisions on digital imprints.<sup>310</sup>

### Delegated powers

The Bill states that the general power to amend any provision of the Bill by statutory instrument, or any provision amended by the Elections Bill in other

---

<sup>306</sup> Welsh Government, [Legislative Consent memorandum: Elections Bill](#) (PDF), September 2021

<sup>307</sup> As above, p9

<sup>308</sup> As above, p3

<sup>309</sup> As above, p6

<sup>310</sup> As above, pp5-6

Acts “could extend to a Measure or Act of the Senedd”. The Welsh Government said that “Senedd consent is considered necessary” for this because of potential effects on Welsh Government finance and the funding of devolved elections.<sup>311</sup>

## The Llywydd’s Committee

The [Llywydd’s \(Presiding Officer’s\) Committee](#) scrutinises the Electoral Commission’s financial estimates and five-year plans as they relate to the exercise of the Commission’s functions relating to devolved Welsh elections and referendums. The Committee is chaired by the Deputy Presiding Officer.

The Committee’s chair wrote to the UK Government on 18 October calling for the Elections Bill to be amended to require the Llywydd’s Committee to be consulted on the draft Strategy and Policy Statement for the Electoral Commission. The Committee said:

Providing for the Llywydd’s Committee to be consulted would provide for parity between its treatment and that provided to the House of Commons’ Speaker’s Committee and Public Administration and Constitutional Affairs Committee, and would reflect the accountability of the Electoral Commission to the Llywydd’s Committee.<sup>312</sup>

As noted above the UK Government has since committed to amend the Elections Bill so the strategy and policy statement must not contain provisions that relate to the devolved functions of the Commission.

## Senedd Committee reports

The Welsh Government’s LCM on the Elections Bill was scrutinised by two Senedd committees in line with Senedd [standing order 29](#): the Legislation, Justice and Constitution Committee, and the Local Government and Housing Committee.

The Local Government and Housing Committee report agreed with the Welsh Government’s memorandum that consent should not be granted, saying:

The majority of the Committee believe any proposals to legislate on these devolved matters should be brought forward by the Welsh Government and subject to full scrutiny by the Senedd.<sup>313</sup>

---

<sup>311</sup> As above, pp607

<sup>312</sup> [Letter from the Chair of the Llywydd’s Committee to Kemi Badenoch MP, Minister of State for Levelling Up & Equalities](#), 18 October 2021 (PDF)

<sup>313</sup> Welsh Parliament Local Government and Housing Committee, [Report on the Legislative Consent Memorandum for the Elections Bill \(PDF\)](#), p9

Two Conservative members of the Committee, Joel James MS and Sam Rowlands MS, disagreed with the majority view and believed that consent should be granted.

The Committee agreed with the Llywydd's Committee on the provisions relating to the Electoral Commission.

The Legislation, Justice and Constitution Committee also expressed concern at the lack of engagement between the UK Government and the Welsh Government. The Committee recommended that the Counsel General should confirm at the earliest opportunity his intention to bring forward a Welsh Bill on electoral law in time for the next Senedd general election in 2026.<sup>314</sup>

In addition, the Committee agreed with the Welsh Government that some of the reserved measures would have a considerable impact on electoral administrators in Wales, particularly around voter ID. It highlighted the potential for voter and candidate confusion and complexity for electoral administrators if devolved elections happened close together or on the same day with a reserved election, as happened in May 2021. This could lead to the situation where postal and proxy voting rules were different and voter ID requirements in polling stations were different for polls happening together.

On voter ID, the Committee also cited Electoral Reform Society Cymru concerns about poll clerks becoming “bouncers at the ballot box” and being required to turn away “potentially thousands of would-be voters each election.”<sup>315</sup>

## Supplementary Legislative Consent Memorandum

Following negotiations with the UK Government the Welsh Government laid a second memorandum.<sup>316</sup>

This followed a commitment by the UK Government to amend the Bill during its House of Lords stages to remove reference to areas where the Senedd had competence and where the Welsh Government had refused to recommend granting legislative consent.

The Welsh Government welcomed the removal of references to devolved elections from the Bill. However, whilst broadly agreeing with the policy intent it still disagreed with the UK Government that the provisions related to digital imprints and the disqualification orders for intimidation of candidates and campaigners did not require the Senedd's consent.

---

<sup>314</sup> Legislation, Justice and Constitution Committee, [The Welsh Government's Legislative Consent Memorandum on the Elections Bill](#) (PDF), p11

<sup>315</sup> As above, p6

<sup>316</sup> [Supplementary Legislative Consent memorandum \(Memorandum No 2\) Elections Bill](#), 22 March 2022

Despite that it recommended that the Senedd give consent to the Bill. The motion approving legislative consent was passed on 29 March 2022.<sup>317</sup>

## 9.3 Northern Ireland

The only area of the Bill where the UK Government is seeking legislative consent from the Northern Ireland Assembly is contained in schedule 7 of the Elections Bill.

This relates to the rules governing disqualification of sitting councillors in Northern Ireland because of the changes to the voting and candidacy rights of EU citizens. A legislative consent memorandum has not been laid in the Assembly.

---

<sup>317</sup> Senedd Cymru , Record of Proceedings, [Legislative Consent Motion on the Elections Bill](#), 29 March 2022

The House of Commons Library is a research and information service based in the UK Parliament. Our impartial analysis, statistical research and resources help MPs and their staff scrutinise legislation, develop policy, and support constituents.

Our published material is available to everyone on [commonslibrary.parliament.uk](https://commonslibrary.parliament.uk).

Get our latest research delivered straight to your inbox. Subscribe at [commonslibrary.parliament.uk/subscribe](https://commonslibrary.parliament.uk/subscribe) or scan the code below:



 [commonslibrary.parliament.uk](https://commonslibrary.parliament.uk)

 [@commonslibrary](https://twitter.com/commonslibrary)