



# Library Note

## European Union Referendum Bill (HL Bill 60 of 2015–16)

The [European Union Referendum Bill](#) is a government Bill which received first reading in the House of Commons on 28 May 2015. It received [second reading](#) in the Commons on 9 June 2015. The Bill completed its passage through the House of Commons on 7 September 2015. It makes provisions for a referendum on whether the UK should remain a member of the EU, a commitment included in the 2015 Conservative Party manifesto. The Bill provides for a referendum to be held on a date prior to the end of 2017. The electorate for the referendum would be the same as that for a general election—including Commonwealth citizens and citizens of the Republic of Ireland resident in the UK—with the addition of Members of the House of Lords and citizens of Gibraltar. The Bill also provides that elements of the regulatory framework set out in the Political Parties, Elections and Referendums Act 2000 would apply to this referendum. A summary of the Bill, as introduced at first reading, has been published by the House of Commons Library, entitled [European Union Referendum Bill 2015–16](#).

During the passage of the Bill through the House of Commons, a number of amendments were debated during committee of the whole House on [16](#) and [18 June](#). These included: to apply ‘purdah’ restrictions on the civil service during the campaign; to extend the voting age to include 16 and 17 year olds; to extend the franchise to include all resident EU citizens in the UK; and that the date chosen for the referendum should not be the same day as other elections.

At [report stage](#) in the House of Commons on 7 September 2015, the Bill was changed with the Commons accepting a government amendment that the referendum would not be held on the same date as May elections in either 2016 or 2017. A government amendment to change the wording of the referendum question, following the recommendation of the Electoral Commission, was also passed. On the issue of the role of the civil service during the campaign, the Government passed an amendment that re-applied [section 125 of the 2000 Act](#)—the ‘purdah’ restrictions—while allowing the Secretary of State the power to introduce regulations to modify it. The Bill as originally drafted excluded the application of section 125 altogether. The Government was defeated on an amendment that sought to define which government publications would be prohibited under section 125 during the campaign. A summary of all the Commons stages of the Bill has been published by the House of Commons Library, entitled [European Union Referendum Bill 2015–16: Progress of the Bill](#).

This Library Note provides background reading to the Bill and is published in advance of second reading in the House of Lords on 13 October 2015. It provides summaries of previous debates in Parliament on some of the issues raised to date including: the role of the Electoral Commission; extending the voting age for the referendum to 16 and 17 year olds; and the role of government bodies and other organisations during referendum campaigns.

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## I. Introduction

This Library Note provides background reading on the European Union Referendum Bill, and is published prior to second reading of the Bill in the House of Lords on 13 October 2015. It summarises the debates that have so far taken place in the House of Commons and the House of Lords on issues such as: extending the voting age to 16 and 17 year olds; the role of government bodies and other organisations during referendum campaigns; and the role of the Electoral Commission. It also provides background information further to some amendments to the Bill proposed in the House of Commons.

This Note limits itself to the scope of the Bill as introduced in the House of Lords, which concerns the establishment and administration of the UK's referendum on its membership of the EU. It does not address the arguments for or against the UK's membership of the EU or the Prime Minister's renegotiation of the terms of the UK's membership of the EU. The House of Commons Library has published the following briefing papers on these issues:

- [\*EU Exit: Impact in Key UK Policy Areas\*](#), 9 June 2015, CBP-7213
- [\*Exiting the EU: UK Reform Proposals, Legal Impact and Alternatives To Membership\*](#), 4 June 2015, CBP-7214
- [\*EU Reform Negotiations: What's Going On?\*](#), 28 September 2015, CBP-7311

The House of Commons Library has also published two briefing documents on the European Union Referendum Bill:

- [\*European Union Referendum Bill 2015–16\*](#), 3 June 2015, CBP-7212. This provides a summary of the Bill, as introduced at first reading, and information on the [\*draft European Union Referendum Bill\*](#) published in May 2015.
- [\*European Union Referendum Bill 2015–16: Progress of the Bill\*](#) 16 September 2015, CBP-7249. This provides a summary of all the Commons stages of the Bill.

The House of Lords Library has published the following Notes relevant to issue of the UK's membership of the EU:

- [\*Debate on 31 January: Prime Minister's Speech on Europe\*](#), 25 January 2013, LLN 2013/002. This provides a short history of Prime Ministerial speeches on Europe since 1970 and outlines Government policy towards Europe since 2010.
- [\*The European Union\*](#), 24 April 2014, LLN 2014/015. This provides an outline of the history and development of the European Union.

## 2. Date of the Referendum

The version of the Bill introduced in the House of Commons at first reading stated that the date of the referendum [would be no later than the end 2017](#) and would be set by the Secretary of State by regulations.<sup>1</sup> Following government amendments made in the Commons, the Bill introduced in the House of Lords states that the referendum must not be held on: either 5 May 2016, the date of elections for the devolved assemblies, some English local authorities and for the mayors, including the Mayor of London; or 4 May 2017, the date of the local government elections in England, Scotland and Wales and of some mayoral elections.<sup>2</sup> 5 May 2016 was excluded as a date for the referendum following an amendment at committee stage and 4 May 2017 was excluded following an amendment at report stage.<sup>3</sup> These amendments followed concerns raised during the passage of the Bill, including that important constitutional issues during the referendum campaign might be over-shadowed if the campaign coincided with election campaigns.<sup>4</sup>

The Bill would require that the date of the referendum be set by regulations, which means that the date eventually proposed by the Secretary of State would be put before both Houses for approval, subject to affirmative resolution procedure.<sup>5</sup> The Prime Minister has stated that the progress of his renegotiation of the UK's EU membership ought to determine when the date of the referendum should be:

My view is that the timing of the referendum should be determined by the timing of the renegotiation—when the renegotiation is complete, we set a date for the referendum.<sup>6</sup>

The Foreign Secretary, Philip Hammond, has said that the intention of the Government was to hold the referendum as soon as was possible following the end of the renegotiation. This followed an interview with the Prime Minister, broadcast on the BBC, in which he said that he would be in favour of the referendum taking place earlier than at the end of 2017, if this were possible.<sup>7</sup> Mr Hammond stated, in response to an oral question from Maria Miller (Conservative MP for Basingstoke):

[...] the Prime Minister has made it clear that we do not intend to wait until the end of 2017. We will hold the referendum as soon as we are ready to do so. The ball will be firmly in the court of our EU partners. If they embrace our agenda with enthusiasm and facilitate a rapid move forward, a referendum in 2016 may be possible.<sup>8</sup>

## 3. Referendum Question

In September 2015, the Electoral Commission published an assessment of the EU referendum question as worded in the version of the European Union Referendum Bill introduced in the

<sup>1</sup> [European Union Referendum Bill](#), 28 May 2015, HC Bill 2 of 2015–16, clause 1 (2) and (3).

<sup>2</sup> [European Union Referendum Bill](#), 8 September 2015, HL Bill 60 of 2015–16, clause 1 (3).

<sup>3</sup> HC *Hansard*, 16 June 2015, [col 235](#); and 7 September 2015, [col 171](#).

<sup>4</sup> House of Commons Library, [European Union Referendum Bill 2015–16: Progress of the Bill](#), 16 September 2015, CBP-7249, pp 13–14.

<sup>5</sup> [Explanatory Notes](#), 8 September 2015, p 3, para 8.

<sup>6</sup> HC *Hansard*, 10 June 2015, [cols 1178–80](#).

<sup>7</sup> Michael Wilkinson, and Rosa Prince, '[When is the EU Referendum?](#)', *Telegraph*, 4 October 2014.

<sup>8</sup> HC *Hansard*, 9 June 2015, [col 1033](#).

House of Commons.<sup>9</sup> The Electoral Commission is required to consider the question in a referendum under [section 104 \(1\) and \(2\)](#) of the Political Parties, Elections, and Referendums Act 2000. The Bill originally provided for the referendum question, in English, to have been as follows:

Should the United Kingdom remain a member of the European Union?<sup>10</sup>

The options presented to the voter therefore would have been either ‘yes’ or ‘no’. The Electoral Commission stated that, in its consultation on this question, the inclusion of the word ‘remain’, without the inclusion of the option ‘leave’, raised concerns regarding the question’s neutrality.<sup>11</sup> Participants in the consultation also felt that the choice between the options ‘leave/remain’ was a more balanced and neutral one than the choice between the options ‘yes/no’.<sup>12</sup> The Commission identified the perception that a ‘yes/no’ choice encouraged voters to consider one response more favourably than the other.<sup>13</sup> It recommended the following wording, which was accepted by the Government and added to the Bill, replacing the original wording:

Should the United Kingdom remain a member of the European Union or leave the European Union?<sup>14</sup>

The two options for the voter would therefore be either “remain a member of the European Union” or “leave the European Union”. Although the Electoral Commission acknowledged that some considered this phrasing “overly wordy”, it recommended that this wording still met the standard of clarity required by the Political Parties, Elections, and Referendums Act 2000.<sup>15</sup>

### **Debate on the Wording of the Question during the Passage of the European Union (Referendum) Bill 2013–14**

The recommendation by the Electoral Commission of a question without a ‘yes/no’ response follows previous consideration of the best wording for a referendum on the UK’s EU membership. The Commission has previously published recommendations regarding the question contained in private member’s bills proposing an EU referendum tabled in previous sessions, including the European Union (Referendum) Bill sponsored in the House of Lords by Lord Dobbs (Conservative) during the 2013–14 session.<sup>16</sup> The proposed question in that Bill was:

Do you think that the United Kingdom should be a member of the European Union?<sup>17</sup>

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<sup>9</sup> Electoral Commission, [Referendum on Membership of the European Union: Assessment of the Electoral Commission on the Proposed Referendum Question](#), September 2015.

<sup>10</sup> [European Union Referendum Bill](#), 28 May 2015, HC Bill 2 of 2015–16, clause 1 (4).

<sup>11</sup> Electoral Commission, [Referendum on Membership of the European Union: Assessment of the Electoral Commission on the Proposed Referendum Question](#), September 2015, p 17.

<sup>12</sup> *ibid*, p 19.

<sup>13</sup> *ibid*, p 40.

<sup>14</sup> [European Union Referendum Bill](#), 8 September 2015, HL Bill 60 of 2015–16, clause 1 (4).

<sup>15</sup> Electoral Commission, [Referendum on Membership of the European Union: Assessment of the Electoral Commission on the Proposed Referendum Question](#), September 2015, p 18.

<sup>16</sup> House of Lords Library, [European Union \(Referendum\) Bill \(HL Bill 63 of 2013–14\)](#), 7 January 2014, LLN 2014/001, pp 6–11.

<sup>17</sup> [European Union \(Referendum\) Bill](#), 2 December 2013, HL Bill 63 of 2013–14, clause 1 (4).

During the scrutiny of this Bill at committee stage in the House of Lords, an amendment to change the wording of the referendum question was debated.<sup>18</sup> Issues raised during discussion of this amendment included how Parliament might consider the advice of the Electoral Commission.<sup>19</sup> One factor in this debate was that the Electoral Commission was unable, at that stage, to recommend a single alternative form of wording.<sup>20</sup> The Commission argued that there were issues of neutrality raised during its consultations and research, which could not be fully resolved by the use of a question with ‘yes’ and ‘no’ as response options. However, the Commission argued that, were the UK to move away from a question to which the answer was either ‘yes or no’, it was not at that time in a position to advise which alternative wording would achieve the required level of clarity.

## 4. Franchise for the EU Referendum

### 4.1 Extending the Franchise to 16 and 17 Year Olds

The franchise proposed in the European Union Referendum Bill is based on that of the general election, with a voting age of 18 and over. The Prime Minister, David Cameron, has said that he believed the franchise should remain at 18 for the referendum, but that it was an issue for Parliament to decide.<sup>21</sup> Both the Labour Party and the Liberal Democrats have stated their support for reducing the voting age.<sup>22</sup> At its 2015 annual conference, the Liberal Democrat party membership voted in favour of allowing 16 and 17 year olds to vote in the EU referendum.<sup>23</sup> At committee stage of the Bill, and report stage, amendments were tabled to the Bill that would have lowered the age range to include 16 and 17 year olds.<sup>24</sup>

The issue of whether to lower the voting age was considered in 2003 by the Electoral Commission. The Commission recommended against lowering the voting age.<sup>25</sup> ICM published polling data for the Commission in November 2003 which indicated that most people aged over 18 supported the status quo.<sup>26</sup> Subsequent to the Electoral Commission’s recommendations, the voting age was lowered for the referendum on Scottish independence following the passing of the [Scottish Independence Referendum \(Franchise\) Act 2013](#) by the Scottish Parliament. A summary of the debate on lowering the voting age has been published by the House of Commons Library, entitled [Voting Age](#).<sup>27</sup>

The Minister of State at the Foreign and Commonwealth Office, Baroness Anelay of St Johns, was questioned in the House of Lords on 1 June 2015 on the Government’s policy on retaining the minimum voting age of 18 years for the EU referendum.<sup>28</sup> Responding to an oral question from Lord Kennedy of Southwark (Labour), Baroness Anelay defended the decision not to

<sup>18</sup> HL *Hansard*, 24 January 2014, [cols 853–92](#).

<sup>19</sup> *ibid*, [col 886](#).

<sup>20</sup> Electoral Commission, [Referendum on the United Kingdom’s Membership of the European Union: Advice of the Electoral Commission on the Referendum Question Included in the European Union \(Referendum\) Bill](#), October 2013, p 2.

<sup>21</sup> HC *Hansard*, 10 June 2010, [cols 1178–9](#).

<sup>22</sup> Andrew Grice, [‘EU Referendum: Lords set to Defy David Cameron’s Refusal to Give Vote to 16 Year Olds’](#), *Independent*, 11 June 2015.

<sup>23</sup> Liberal Democrats, [‘16 Year Olds Should Vote in EU Referendum’](#), 21 September 2015.

<sup>24</sup> HC *Hansard*, 18 June 2015, [cols 494–567](#); and 7 September 2015, [cols 128–59](#).

<sup>25</sup> Electoral Commission, [‘Voting Age Should Stay at 18 says the Electoral Commission’](#), April 2004.

<sup>26</sup> ICM, [Age of Electoral Majority](#), 2003, p 4.

<sup>27</sup> House of Commons Library, [Voting Age](#), 22 September 2015, SN01747.

<sup>28</sup> HL *Hansard*, 1 June 2015, [cols 156–9](#).



lower the voting age for the referendum, arguing that it was important that the voting age remain the same as for general elections:

This is an issue of national importance, so the parliamentary franchise is the right approach. It was the franchise used for previous UK referendums. The Government have no plans to lower the voting age.<sup>29</sup>

In response, Lord Kennedy argued that the experience of lowering the voting age in Scotland, the importance of addressing the “democratic deficit” in the UK, and the impact that the referendum would be likely to have on 16 and 17 year olds in the future, all indicated that extending the voting age was the right thing to do.<sup>30</sup> Opposition to extending the voting age was stated by Lord Cormack (Conservative), who argued that there were many in the House who were unhappy with the inconsistency and the precedent created in Scotland for lowering the voting age.<sup>31</sup>

### **Voter Turn-out among 16 and 17 Year Olds**

According to mid-year population estimates for 2014, there were an estimated 755,713 people aged 16, and 778,479 aged 17, in the UK.<sup>32</sup> The Electoral Commission asked ICM to conduct a poll of voters after the 2014 referendum on Scottish independence, as part of the Commission’s report on the referendum.<sup>33</sup> This survey included over one hundred 16 and 17 year olds as part of its sample. Professor John Curtice of the University of Strathclyde has observed that, although 16 and 17 year olds were more likely to vote than 18–24 year olds, the turnout among this group was still lower than among those aged over 35. As part of his analysis of this survey, Professor Curtice pointed out that:

[...] according to ICM’s survey, 75 percent of 16 and 17 year olds voted, compared with 54 percent of 18–24 year olds and 72 percent of 25–34 year olds. The turnout in all three groups is markedly lower than the estimate for 35–54 year olds (85 percent) and those aged 55 and over (92 percent).<sup>34</sup>

## **4.2 Extension of the Franchise to Resident Non-UK EU Citizens**

As well as retaining the same voting age limit, the proposed electorate for the referendum broadly follows that for general elections in the UK with regard to resident non-UK nationals, with a number of additions. As for general elections, Commonwealth citizens and citizens of the Republic of Ireland resident in the UK will be able to vote. The Bill extends the franchise further to allow citizens of Gibraltar to vote.<sup>35</sup> Members of the House of Lords are also to be allowed to vote. The Bill does not extend the franchise to UK citizens who are resident overseas; however the Government has stated its intention to introduce separate legislation

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<sup>29</sup> *ibid*, [col 156](#).

<sup>30</sup> *ibid*, [cols 155–6](#).

<sup>31</sup> *ibid*, [col 158](#).

<sup>32</sup> ONS, [Mid-year Population Estimates for Mid-2014](#), June 2015; as reproduced in the House of Commons Note, [Voting Age](#), 22 September 2015, SN01747, p 10.

<sup>33</sup> Electoral Commission, [Scottish Independence Referendum Report on the Referendum Held on 18 September 2014](#), December 2014.

<sup>34</sup> What Scotland Thinks?, [‘So How Many 16 and 17 Year Olds Voted?’](#), 16 December 2014.

<sup>35</sup> [European Union Referendum Bill](#), 8 September 2015, HL Bill 60 of 2015–16, clause 2 (1), (2) and (3).

during the 2015–20 parliament to enable British citizens who are resident overseas to vote in UK elections.<sup>36</sup>

EU citizens resident in the UK are able to vote in local elections and elections to the European Parliament but not in general elections. This means that, with the exception of nationals of EU member states that are also in the Commonwealth—Malta and Cyprus—and citizens of the Republic of Ireland, EU citizens resident in the UK will be unable to vote in the EU referendum. Amendments to the Bill to extend the franchise for all resident EU citizens in the UK were tabled in the House of Commons at committee stage and report stage but no changes were made to the Bill in this regard.<sup>37</sup>

### Potential Effect of the Size of the Electorate

There is limited statistical information on the extra number of people who might vote in the EU referendum were the franchise to be extended to all UK-resident EU citizens. The Office for National Statistics has estimated that 2,938,000 people resident in the UK were nationals from the other 27 EU member states, making up 4.6 percent of the usual resident population of the UK.<sup>38</sup> This includes resident nationals from Ireland, Cyprus and Malta and those too young to vote. Figures are not available for the demography of the resident population broken down by individual countries. This is because the size of these individual groups would be small enough to risk the disclosure of confidential information about those surveyed.<sup>39</sup>

An alternative method of estimating the number of voters is to compare the size of the register for general elections and local elections. In 2014, the total number of UK parliamentary electors was 45,325,100 and the total number of UK local government electors was 46,828,200. This would suggest that there are a potential extra 1,503,100 voters who might take part in the EU referendum were the franchise extended in this way.

This estimate does not include the effect of the additional votes of Members of the House of Lords, however this is not a significant factor in terms of the overall number. A larger factor that might affect the figure would be a possible increase in voter registration among EU citizens resident in the UK prior to a referendum, given that the UK's continued EU membership is likely to have a significant impact on this group.<sup>40</sup> Given the difficulty in identifying who might be in this group of potential voters, the likely voting intention of this group is not known.

### Voting Rights of Resident EU Citizens in other EU Member State National Referendums

In 2013, the European Parliament reported that EU member states did not grant voting rights to EU citizens in national elections: the UK and Ireland were the exception to this, with nationals being able to vote in the other country on a reciprocal basis. The UK was also exceptional with regard to the votes granted to Cypriot and Maltese citizens as Commonwealth citizens.<sup>41</sup> The European Union Observatory on Democracy (EUOD) Citizenship Observatory has surveyed electoral rights in EU member states and, where the

<sup>36</sup> HL *Hansard*, 1 June 2015, [cols 157–8](#).

<sup>37</sup> HC *Hansard*, 18 June 2015, [cols 494–567](#); and 7 September 2015, [cols 128–59](#).

<sup>38</sup> ONS, *Population by Country of Birth and Nationality: August 2015*, 27 August 2015, p 1.

<sup>39</sup> ONS, 'Statistical Disclosure Control', accessed 2 October 2015.

<sup>40</sup> Author's correspondence with the House of Commons Library.

<sup>41</sup> European Parliament, *Franchise and Electoral Participation of Third Country Citizens Residing in the European Union and of European Union Citizens Residing in Third Countries*, April 2013, p 92.

information is available, it reported that other EU member states do not grant foreign nationals a vote in national referendums.<sup>42</sup>

## 5. Regulation of the Campaign and the Political Parties, Elections and Referendums Act 2000

The Bill would establish that the regulatory framework for the EU referendum should follow that set out in the Political Parties, Elections and Referendums Act 2000.<sup>43</sup> The Bill also provides for certain regulation-making powers for the Secretary of State in connection with the referendum.<sup>44</sup> Further provisions for the administration of the campaign are included in the schedules to the Bill.

Clause 3 of the Bill states that [Part 7](#) of the 2000 Act would apply, which includes provisions concerning the length of the referendum period, restrictions on referendum expenses of a campaign and the regulation of referendum material. Clause 6 of the Bill also provides for the Secretary of State to modify section 125 of the 2000 Act. Section 125 concerns the restrictions placed on the publication of material by central and local government during the campaign—the so-called purdah period.

### 5.1 Role of Government during the Campaign Period

The role of the Government during the EU referendum campaign period was the subject of a number of amendments during the passage of the European Union Referendum Bill through the House of Commons. The version of the Bill introduced at first reading in the House of Commons included a provision that section 125 of the 2000 Act would not apply to the EU referendum campaign.<sup>45</sup> The Government argued that restrictions set out in section 125 might make it difficult for the Government to publish information on the UK's position in EU negotiations and on other day-to-day EU affairs.<sup>46</sup> Those who opposed any changes to the purdah period restrictions argued that this would enable the Government to influence the outcome of the referendum.<sup>47</sup>

Following debate over the application of section 125 of the 2000 Act at second reading and committee stage, the Government tabled new clause 10 at report stage to allow section 125 of the 2000 Act to apply.<sup>48</sup> However, the amendment also allowed the Secretary of State to introduce regulations modifying how section 125 of the 2000 Act would apply. These regulations would be subject to affirmative resolution procedure. New clause 10 was agreed and added to the Bill.<sup>49</sup> The Government was defeated at report stage on its amendment to change paragraph 26 from Schedule 1, which would have defined section 125 of the 2000 Act as being only relevant to material concerning the referendum.<sup>50</sup> Instead, an Opposition amendment to take out paragraph 26 altogether was agreed.<sup>51</sup>

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<sup>42</sup> EUOD, '[Electoral Rights Reports](#)', accessed 2 October 2015.

<sup>43</sup> [European Union Referendum Bill](#), 8 September 2015, HL Bill 60 of 2015–16, clause 3.

<sup>44</sup> *ibid.*, clause 5.

<sup>45</sup> [European Union Referendum Bill](#), 28 May 2015, HC Bill 2 of 2015–16, Schedule 1, paragraph 20 (1).

<sup>46</sup> HC *Hansard*, 9 June 2015, [cols 1054–5](#).

<sup>47</sup> *ibid.*, [cols 1064–5](#).

<sup>48</sup> HC *Hansard*, 9 September 2015, [col 78](#).

<sup>49</sup> *ibid.*, [cols 78–128](#); see also House of Commons Library, [European Union Referendum Bill 2015–16: Progress of the Bill](#), 16 September 2015, CBP-7249, pp 8–11 and 16–17.

<sup>50</sup> *ibid.*

<sup>51</sup> *ibid.*

The House of Commons Public Administration and Constitutional Affairs Committee held [two evidence sessions](#) in July 2015 on the issue of purdah, and collected written evidence. During its oral evidence sessions, it heard from Sir Jeremy Heywood, Cabinet Secretary and Head of the Civil Service, who stated that the civil service would be constrained during the campaign by both the purdah guidance, which would be in line with section 125 of the 2000 Act unless the Act were amended, and by the civil service management code.<sup>52</sup>

## 5.2 Role of the Electoral Commission during the Campaign Period

The role of the Electoral Commission in the UK during referendum campaigns has been less interventionist than in other countries, where there are less constrictions on the Government and government-funded bodies. Professor Sara Hobolt, of the London School of Economics, arguing in favour of a relaxation of the purdah rules, cited the examples of referendums in Ireland and Denmark as alternative models for how campaigns have been regulated in other countries:

In Irish referendums on the EU, ministers have not been prohibited from presenting their case in the run-up to the vote, however, there have been legal challenges about the use of public funds to promote the Yes-side. In the first Irish referendum on the Nice Treaty (which resulted in a No to the Treaty), the Irish Referendum Commission was given substantial public funding to inform voters on a “fair and equal basis” of both the Yes and the No side of the arguments. This publicly funded campaign mainly benefitted the No-side which had less money and many (on the Yes-side) argued that it was absurd to present an evenly balanced campaign given that the vast majority of political parties and interest organisations favoured a Yes. The Irish government subsequently changed the rules ahead of the second Nice referendum.

In Denmark, the conclusion of similar debates has been that purdah restrictions should not apply in referendums. The guidance governing Danish referendums, including those on EU matters, is that the civil service has an important role in preparations relating to the referendum question and that both the civil service and the government should be able to set out the government’s position (e.g. in favour of EU treaty change) in a referendum campaign. Such activities, however, exclude participation in party political campaigning by civil servants. In 2000, the Danish Supreme Court ruled that ministers are allowed to engage in legislative activities and inform the public about the government’s position on a referendum question, with the support of the civil service, in the run-up to a referendum.<sup>53</sup>

The issue of what public information will be made available during the campaign was raised in the House of Commons during questions to the representative of the Speaker’s Committee on the Electoral Commission, Gary Streeter (Conservative MP for South West Devon).

<sup>52</sup> House of Commons Public Administration and Constitutional Affairs Select Committee, [Oral evidence: EU Referendum Bill—Part One: Purdah and Impartiality](#), 21 July 2015, HC 319 of session 2015–16, p 3.

<sup>53</sup> Professor Sara Hobolt, [‘The Purdah Controversy—Setting the Rules of the Referendum Game’](#), *The UK in a Changing Europe*, 7 September 2015.

Mr Streeter expressed the view that the Electoral Commission ought not to expand its role in such a way as it might risk its reputation for impartiality:

**Derek Thomas (Conservative MP for St Ives):** Does my hon. Friend agree that the British public have a right to a completely objective guide to our membership in order to take an informed decision in the in/out EU referendum?

**Gary Streeter:** I certainly agree with my hon. Friend, and that is what many of our constituents want. The issue is: who is best placed to provide that impartial guide? Given the complexity of the question—there are so many unknowns—and the importance of ensuring that the Electoral Commission does not in any way undermine its neutrality and independence, it may not be the right organisation to carry out that task.<sup>54</sup>

### 5.3 Role of the Broadcast Media during the Campaign Period

During report stage of the Bill in the House of Commons, an amendment to add a new clause 1 was debated. The intention of the amendment was to ensure the impartiality of television and radio broadcasters during the campaign.<sup>55</sup> Supporters of the amendment included the chair of the House of Commons European Scrutiny Committee, Sir William Cash, who raised concerns during the debate about the BBC's coverage of EU affairs.<sup>56</sup> In March 2015, the European Scrutiny Committee published a report in which it was critical of the manner in which the BBC treated EU issues.<sup>57</sup> In response to the report, the BBC published a defence of its coverage.<sup>58</sup>

In 2014, Ofcom reported that 75 percent of UK adults said they used television as a source of news.<sup>59</sup> In response to a parliamentary question on the issue of the impartiality of the television broadcasters during the campaign, the Minister of State at the Department for Culture, Media and Sport, Edward Vaizey, said that he had asked the BBC Trust, major commercial broadcasters, and Ofcom “to consider the need for the broadcasting regulatory structure to ensure this impartiality is delivered”.<sup>60</sup>

### 5.4 Public Information during Previous Referendum Campaigns

In terms of the amount of public awareness that there might be during the EU referendum campaign and of the issues involved, there is limited previous experience in the UK of national referendums that might provide a basis for what to expect. Over the 40 years prior to 2015, there have been only two UK-wide referendums: the 1975 referendum on the UK's membership of the European Common Market and the 2011 referendum on the voting system used in UK parliamentary elections.

Public awareness during UK general election campaigns might provide only limited scope for comparison. A number of studies have been published into how referendums have been conducted around the world and the ways in which they differ from general election

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<sup>54</sup> HC Hansard, 18 June 2015, [col 463](#).

<sup>55</sup> HC Hansard, 7 September 2015, [cols 128–59](#).

<sup>56</sup> *ibid.*, [cols 143–51](#).

<sup>57</sup> House of Commons European Scrutiny Committee, [Scrutiny Reform Follow-up and Legacy Report](#), 18 March 2015, HC 918 of session 2014–15, pp 23–9.

<sup>58</sup> BBC, [‘MPs ‘Concerned’ about EU Coverage’](#), 25 March 2015.

<sup>59</sup> Ofcom, [News Consumption in the UK: 2014 Report](#), p 2.

<sup>60</sup> House of Commons, [‘BBC: UK Membership of EU: Written Question—3644’](#), 30 June 2015.

campaigns.<sup>61</sup> These have found that one of the factors that make referendum campaigns different to election campaigns is that party loyalty can be less of a determinant on the result. There is evidence that this might be the case in the UK's referendum on EU membership. Polling by YouGov in August 2015 found that 43 percent of people identifying themselves as Conservatives voters said that they would vote for the UK to remain in the EU, while 48 percent said that they would vote to leave.<sup>62</sup> Labour and SNP voters both leaned towards supporting the UK's continued membership of the EU; Liberal Democrat and Greens Party voters leaning more strongly towards a vote to remain; and UKIP voters strongly supporting the UK leaving the EU.

### **Amount of Press Coverage during the 2011 Referendum on the Voting System**

One important means by which the public are informed during a referendum campaign is through the press. Alan Renwick and Michael Lamb, writing in 2012 in the journal *Electoral Studies*, analysed the press coverage of the 2011 referendum campaign on the parliamentary voting system. This analysis included a comparison of the number of articles in the printed press during the 2011 referendum campaign and during the 1975 referendum. They found that the quantity of articles on the referendum during these campaigns was significantly smaller in 2011 than in 1975.<sup>63</sup> This included coverage of these referendums in the *Times*, where the total number of articles published in the paper on any subject had increased between 1975 and 2011. However, the quantity of coverage in 2011 was similar to that for recent referendums on voting system in other countries.<sup>64</sup> With regard to the quality of the coverage of the 2011 referendum, Renwick and Lamb found that only a small proportion—12 percent—of press articles included both a reason and an argument linking the reason to a position taken on referendum.<sup>65</sup>

One factor that might affect the amount of coverage in the EU referendum campaign, compared to the 2011 referendum on the voting system, is the level of interest in the subject of the referendum. Ipsos MORI's poll of the most important issues facing Britain found that, in June 2015, 13 percent of those asked said that the EU, the Euro and the Common Market constituted the most important issues facing the UK.<sup>66</sup> The issue scoring the highest in terms of perceived importance was immigration, at 50 percent. There was no category specifically for electoral reform in this poll, however, by way of comparison, the issues of devolution and constitutional reform scored 4 percent in the same month.<sup>67</sup>

### **Access to Information during the 2014 Referendum on Scottish Independence**

In terms of public awareness during recent referendums in the UK, information is available from the referendums in Scotland in 2014 on independence and in Wales in 2011 on further devolution. With regard to the more recent of these two referendums, ICM published a report,

<sup>61</sup> These include: Alan Renwick, 'Don't Trust Your Poll Lead: How Public Opinion Changes during Referendum Campaigns', in P Cowley and R Ford (eds), *Sex, Lies and the Ballot Box*, 2014, pp 79–84; and Lawrance LeDuc, 'Referendums and Elections: How Do Campaigns Differ?', in D M Farrell and R Schmitt-Beck (ed), *Do Political Campaign Matter?*, 2002, pp 145–62.

<sup>62</sup> The results for supporters of all the parties in this poll are published in YouGov, '[Analysis: EU referendum—The State of Public Opinion](#)', September 2015.

<sup>63</sup> Alan Renwick and Michael Lamb, '[The Quality of Referendum Debate: The UK's Electoral System Referendum in the Print Media](#)', *Electoral Studies*, June 2013, vol 32 no 2, pp 294–304.

<sup>64</sup> *ibid.*

<sup>65</sup> *ibid.*, p 302.

<sup>66</sup> Ipsos MORI, *Ipsos MORI Issues Index: August 2015*, 2015, p 17.

<sup>67</sup> Ipsos MORI, '[Issues Index: 2007 Onwards](#)', accessed 2 October 2015.

commissioned by the Electoral Commission, on attitudes towards the availability of information during the referendum campaign.<sup>68</sup> This found that the opinion among the electorate was that they had had access to information during the campaign period:

Awareness of the referendum and the issues around it was considerably higher than it has been during previous elections and referendums. 90 percent feel they knew a great deal/fair amount about what the referendum was on, with exactly half (50 percent) claiming to know a great deal. Only 1 percent knew nothing at all.

Television (56 percent) and the internet (52 percent) were the main sources of information. Around a third also mention leaflets or flyers from political parties or campaigns (34 percent), the news (29 percent) and the media in general (25 percent).

When asked how they would prefer to receive information on elections and referendums, leaflets and booklets through the door (36 percent) are the preferred mode, with others mentioning the internet (26 percent) and TV broadcasts (23 percent).

Nine in ten (90 percent) believe that it was easy to access information on how to cast their vote at the Scottish Independence referendum. The same proportion (90 percent) believe it was easy to access information on what the Scottish referendum was for. However it was perceived as less easy to access information on what would happen in the event of a Yes vote (59 percent) or a No vote (64 percent).

A large majority (85 percent) of the Scottish electorate agree that they had enough information readily available to them on how to cast their vote at the referendum.<sup>69</sup>

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<sup>68</sup> ICM, [Scottish Independence Referendum Research: Post-polling Day Opinion Research Report](#), November 2014,

<sup>69</sup> *ibid.* pp 3–4.