The Political and Constitutional Reform Committee’s Tenth Report: Individual Electoral Registration and Electoral Administration

1. Introduction

1.1. The Association of Electoral Administrators (AEA) was founded in 1987 and has since established itself as a professional body to represent the interests of electoral administrators in the United Kingdom. It is a non-governmental and non-partisan body and has some 1660 members, the majority of whom are employed by local authorities to provide electoral registration and election services.

1.2. The AEA encourages and provides education and training in electoral administration, in addition to a range of commercial and professional services.

1.3. The key aims of the AEA are to:

a. contribute positively to electoral reform within the UK;

b. foster the advancement of consistent and efficient administration of electoral registration and the conduct of elections in the UK;

c. raise the profile of electoral administration both within the UK and internationally;

d. enhance and maintain the AEA’s reputation as the leading professional body for electoral administrators within the UK.

1.4. The AEA firmly supports and advocates the principle set out by Gould \(^1\) that in implementing changes to the electoral system the voter’s interests should be considered above all other considerations.

1.5. The AEA welcomes the Political and Constitutional Reform Committee’s report and recommendations for both the implementation of individual electoral registration and wider electoral administration reforms. The AEA provided a detailed and considered response to the UK Government’s White Paper on Individual Electoral Registration (IER) \(^2\), and we highlight below some key issues which we believe need to be addressed.

2. In addition to our elections and referendums reports in 2010 and 2011, we have provided views to Cabinet Office officials on a number of wider electoral administration issues that require legislative change. \(^3\) We comment below on some of the specific issues we have raised.

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3. Individual Electoral Registration (IER)

3.1. The Political and Constitutional Reform Committee (the Committee) has called for the Government to publish the draft secondary legislation as soon as possible after the IER Bill has been introduced into the UK Parliament. In addition, the Committee has identified a need for better central coordination of the data matching pilots programme. We welcome these recommendations and believe that they are vital in ensuring clarity about how IER will work in practice, and what tools and strategies Electoral Registration Officers (EROs) will have to support them in delivering IER.

3.2. We have said that the engagement by Cabinet Office has and continues to be constructive. We also recognise that the change to IER involves the consideration and resolution of a wide range of complex issues. However, we do have concerns about the number of issues that remain in need of resolution and the time available to achieve this if IER is to be introduced successfully in 2014.

3.3. A substantive part of the implementation will depend on IT solutions and infrastructure. It is vital that key decisions are taken urgently regarding the scope of the registration channels and mechanism(s) for verification of electors’ identifying information so that there is clarity about assumptions for planning purposes and in order to manage the expectations of the electorate and the other key stakeholders. It is critical that the infrastructure is designed and rigorously tested to be sufficiently robust to withstand high levels of use at peak times such as immediately before and up to the eleven days before polling day deadline for registration applications.

3.4. With all of this in mind, we consider that it is essential that the relevant processes, infrastructure, forms and guidance are all in place by no later than the end of 2013 if IER is to commence in 2014.

3.5. We welcome the Committee’s conclusion that it should be an offence to fail to complete a registration form when asked to do so by the ERO. We note the recommendation that this should be reviewed after five years of operation of the new system. However, we remain concerned about the practical consequences for registration levels of retaining any opt-out from being canvassed by the ERO.

3.6. Whilst there is considerable focus on the arrangements for the annual canvass and introduction of IER in 2014, we believe that this cannot be divorced from the canvasses in 2012 and 2013, nor from the registration activity in advance of elections in 2015 and in 2016. Given the timing of the Police and Crime Commissioner elections in November 2012, that canvass cannot be conducted in the usual way or according to the usual timescales and we

await the Government’s decision on how this is to be managed. It is a decision that is needed urgently so that planning can commence. There might also be a need to consider moving or changing the arrangements for the 2013 canvass in order to ensure that the most up-to-date registration data is used for the introduction of IER in 2014. As we have identified above, based on experiences from the 2010 general election, it is probable that there will be a substantial number of last minute applications to register in advance of the elections in 2015.

3.7. The potential impact of these changes to canvass activity needs to be considered and monitored in order to inform planning, both centrally by Government and the Electoral Commission and locally by EROs and electoral administrators.

3.8. We are pleased that the Committee has urged the Government to look closely at applying the carry-forward arrangements for postal and proxy voters to avoid inadvertently disenfranchising vulnerable electors who may wish to vote at the 2015 elections.

3.9. More generally, as regards the carry forward, there are concerns that it simply delays the likely reduction in registration levels and that the ‘drop’ would then occur in advance of the significant elections across the UK in 2016. It will be vital to keep registration levels under review during the transition to IER and for there to be sufficient flexibility to allow a further carry forward for 2016, if necessary.

3.10. Whilst it is vital to ensure that there is a balance between the assurance provided by the new system and accessibility, it would be a matter of major concern if provision was made within the new system for an elector to sign a declaration instead of providing identifying information. We have previously expressed concerns about the potential for the current ‘waiver’ provision within the absent voting process and that issue has still not been addressed by Government. We would be happy to work with the Government and relevant agencies to address the Committee’s concern that there should be practical arrangements to support those people who may need assistance in order to provide evidence as to their identity.

3.11. Another issue relating to absent voting identifiers which we have identified relates to enabling EROs to follow up with voters where their identifiers have been rejected. We understand that the Government is considering this matter so that such voters are able to provide their identifiers correctly at future elections and ensure therefore that their absent vote is counted.

Funding for IER

3.12. We particularly welcome the recommendation that the Government should ensure that the funding it provides to support local authorities with the transition to IER is ring-fenced for this purpose. This will be crucial to ensuring that the relevant resources are in place for the implementation of IER. We also believe that it is absolutely essential that any funding needs to continue post 2015 and should not simply be seen as one-off capital funding. We include below some further comments on the wider issue of funding for elections and the delivery of electoral services.
The Edited Register

3.13. The AEA strongly welcomes and supports the Committee’s recommendation that the Edited Register should be abolished.

3.14. As a matter of principle, the AEA believes that the electoral register in any form should only be used for electoral purposes except for purposes relating to national security. In our response to the consultation paper published in November 2009 on proposed changes to the Edited Register we stated that:

“... the questions posed in this consultation paper need to be seen in the overall context of the likely effect of changing from a system of household registration to individual registration. Anything that jeopardises the smooth and effective transition from one system to another needs to be removed. The use of electoral registration data for other than election purposes is one of those obstacles.”

3.15. We continue to await the Government’s decision on the Edited Register.

Performance

3.16. The Committee has concluded that there is a strong case for the Electoral Commission to be given powers to intervene where EROs consistently fail to meet agreed performance standards. As the professional body representing electoral administrators, the AEA has long supported the principle and practice of performance improvement.

3.17. The AEA believes that electors should receive a consistently high quality service wherever they are within the UK and we support this through training and education for electoral administrators. It will be vital that there is a constructive and substantive consultation on new standards for EROs to reflect the significant change that the move to IER represents.

3.18. The AEA looks forward to responding to that consultation and we hope that the draft standards will focus on outcomes but at the same time recognise that the new system may require new definitions of accuracy and completeness to be agreed if the voluntary nature of the proposed system is retained.

4. Wider electoral administration reform

4.1. The central recommendation in our report on the administration of the elections across the UK in 2010 was that the UK Government should undertake a thorough and systemic review of the electoral process in the UK that integrates with the development and implementation of the new individual electoral registration system.

4.2. In our report on the administration of the referendums and elections in 2011, we highlighted our increasing concern about the issue of multiple polls being held on the same day and the complex combination arrangements that this involves. We identified 2015 as potentially being a particularly congested year. This will also be a critical year in the context of the delivery of individual electoral registration.

4.3. We understand from its response to our reports and those of the Electoral Commission, SCOPE and the GLA’s Elections Review Working Group that the UK Government proposes to review many of the issues we have raised as requiring attention and this is to be welcomed. In particular, we welcome the review of financial arrangements for elections which is to be completed in time for the 2014 European Parliamentary Elections. It would be helpful to have further clarification about the scope of this review and, in particular, whether the issue of the base funding for electoral services will be addressed as part of the review.

4.4. However, for many of the other issues there is no timescale given and we would urge the UK Government to set out a timescale or roadmap, similar to that being developed for the implementation of IER, for the review and implementation of changes to electoral administration. In particular, a review of the implications of holding multiple polls on the same day both in terms of combination arrangements and in terms of the capacity of electoral services to deliver them should be an absolute priority in time for appropriate measures to be taken in respect of the 2015 polls.

Reform of electoral law

4.5. We welcome the inclusion of electoral law in the Law Commission’s eleventh programme of law reform and the UK Government’s support for this work. We have consistently highlighted the need for the increasingly complex electoral legislation to be consolidated and simplified. This will have considerable benefit for Electoral Registration Officers, Returning Officers and electoral administrators in navigating and understanding the legal framework within which they work and would assist transparency for those participating in elections.

4.6. We see any work on the wider structure or model for delivery of electoral administration across the UK as a substantive policy issue which is distinct and separate from this reform of the legislation.

4.7. Except in cases of unforeseen emergencies, in order to ensure that there is sufficient time to implement effectively any changes to electoral law, any such changes should not be applicable to any elections or referendums to be held within a six-month period from the date the legislation comes into effect. The AEA strongly recommends that this should be incorporated as a requirement in electoral law and should also apply to any Fees and Charges Orders or funding arrangements relevant to a specific election or referendum.

The statutory election timetable

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5 http://www.cabinetoffice.gov.uk/sites/default/files/resources/administration-of-2010-ukgeneral-election.pdf
4.8. We welcome the Government’s proposed extension of the statutory timetable for UK Parliamentary general elections to 25 days (and to extend the timetable for by-elections). However, we have made the point that the timetable will need to be kept under review if it becomes apparent that the deadline for applications for registration is unworkable within the new system of IER. The guiding principle here must be to ensure that no eligible elector is disenfranchised as a result of a timetable that is too rigid or unworkable.

4.9. In order to ensure consistency and clarity it would be beneficial for the statutory timetable for UK Parliamentary elections to be calculated back from polling day as is the case with other statutory election timetables rather than forwards.

4.10. In addition, we believe that there would be great benefit both in terms of clarity for voters and administratively in aligning the deadline for applications for registration and for a postal vote. These deadlines should be aligned at 5pm on the eleventh day before the poll.

4.11. We also continue to call for the deadline for notifying the Returning Officer of the appointment of polling and counting agents to be moved from two days before the poll to the fifth day before the poll. This would be consistent with local government elections and would allow more time to provide those agents with the necessary information about arrangements for the count, the secrecy provisions and any entry pass/ticket.

Polling issues

4.12. We understand the Electoral Commission’s concern about the issues surrounding the close of poll and the current legislative requirements. Changing the legislation may appear to offer a ‘solution’ to the problems that occurred in 2010. However, the AEA continues to have concerns about that approach and we believe that it could have unintended consequences and could simply change the nature of the problem.

4.13. We believe it is appropriate and necessary that all involved in electoral administration keep this matter under review to ensure that there is consistency and robust planning to manage polling and the close of poll effectively. We also believe that the Electoral Commission and relevant officers should deliver public awareness activity to educate voters as to the deadline and the legislative provisions governing the close of poll.

4.14. There are also some practical changes to current arrangements that could assist in improving the provision of polling stations that are accessible and facilitate the more effective management of polling.

4.15. The review and selection of polling districts and places in particular should be the responsibility of independent Returning Officers rather than of local authorities. The aim should be to provide Returning Officers with more flexibility about which buildings they can use as polling stations and so place the voter at the centre of the process.
4.16. More could and should be done to assist Returning Officers in using by right a wider range of public buildings than that which currently exists, particularly given that many such buildings will have been improved at public expense to meet accessibility standards.

4.17. Electoral administrators continue to experience significant difficulties in gaining agreement to use school premises as polling stations. The reasons for this are understandable given that the safety of children is paramount. However, this is unfortunate as schools are usually at the heart of communities and are required to have accessibility plans.

A holistic approach

4.18. The importance of a holistic approach to reforming electoral administration cannot be overemphasised. Changing any one part of the electoral process can have significant implications for other aspects with often unforeseen consequences. The AEA will continue to work with Government and other agencies to support the advancement of consistent, secure and efficient electoral administration in the interests of voters.

November 2011