

Bernard Jenkin MP  
Chairman  
Public Administration and Constitutional Affairs Committee  
House of Commons  
London  
SW1A 0AA

9 June 2016

Dear Mr Jenkin,

Thank you for your letter received by email on Tuesday 7 June.

As you note in your most recent letter, the Electoral Commission's Director of Communications, Alex Robertson, was interviewed on the Today programme on Radio 4 on Tuesday 7 June as part of our campaign to publicise the deadline for people to apply to register to vote at the referendum. In response to a question at the end of the interview Alex briefly summarised the scale of the software problem which was identified last week and highlighted that people who had incorrectly been sent a poll card would not be able to vote at the referendum.

We all have experience in a short interview of not having the time to explain a complicated issue in more detail. In a subsequent interview on Radio 4's Six O'Clock News later that day Alex Robertson explained that "If anyone has incorrectly filled in the nationality on their application form either online or on paper, and the Electoral Registration Officer has any suspicions they have done so, then they can demand documentary evidence such as a birth certificate or certificate of naturalisation, or go to the Home Office to check they are legally resident in the UK." I also set out clearly what happened with the software problem in an interview on Sky News on 7 June, and our Head of Campaigns, Emma Hartley, also gave a number of broadcast TV and radio interviews on 7 June where she made clear who was entitled to register to vote.

I can also confirm that the Commission has consistently highlighted the eligibility criteria in a wide range of communication activities since our registration campaign began in early May, including providing information about who is eligible to vote in the referendum in the voting guide we sent to 28 million households across the UK, as well

The Electoral Commission  
3 Bunhill Row  
London EC1Y 8YZ

Tel: 020 7271 0500  
Fax: 020 7271 0505  
info@electoralcommission.org.uk  
www.electoralcommission.org.uk

## Putting voters first

An independent body established by Act of the UK Parliament



as sharing information on our [aboutmyvote.co.uk](https://aboutmyvote.co.uk) website and via our social media channels.

Your letter refers to recent reports about the scale of the issue of mis-registered EU nationals. While I recognise and share the concerns which have been expressed in a number of reports about this issue, we have not so far identified confirmed evidence of any further specific instances of EU nationals who have been incorrectly registered.

I explained in my letter to you and Mr Duncan Smith last week, which has been made public on our website and which I also attach for the benefit of Committee members, the steps which were taken in response to the specific instance which had been identified in Kingston-upon-Thames, including ensuring that the incident was referred to the police for investigation. The Electoral Registration Officers (ERO) for Kingston-upon-Thames also identified and took steps to respond to a second, related, potential incident. If you or any of your colleagues have any information about additional specific instances of EU nationals who have been incorrectly registered I would urge you to share that information with the relevant local ERO, the police, or with the Commission.

I also set out in my letter last week what steps were being taken by the software provider Xpress and EROs to resolve the software problem identified last week which meant that some EU nationals had incorrectly been sent poll cards or postal ballot packs. In my letter to you and Mr Duncan Smith I made clear that we were working to confirm the exact number of elector records which had been affected, and that we would confirm that number the following afternoon.

We subsequently issued a public statement on Friday 3 June (which was also published on our website) which confirmed that, according to information received from EROs at that time, 3,462 electors were affected by this issue. The link included in your letter in fact relates to a report following the release of our statement (which I have also included). This received wide coverage, including on [BBC News](#), in [The Guardian](#), [The Daily Mail](#), and [Metro](#), which included making clear that EU citizens cannot vote unless they meet other criteria. We have subsequently updated this figure having received the final 6 responses from those EROs which were affected, and the final figure is 3,502.

I can confirm again that the software patch issued by Xpress means that any postal ballot packs sent to these identified electors have been cancelled, which means that any postal ballot papers that are returned by these people will be identified and extracted by Counting Officers, and any ballot papers will not be counted. I can also confirm that the electoral registers which will be printed and supplied to polling stations on 23 June will show that EU nationals are not eligible to vote in the referendum as a

result of the software change. This means that Presiding Officers in polling stations will not issue ballot papers to these people, even if they have been sent a poll card.

As I explained in my letter last week, the legislative framework for electoral registration gives EROs powers to require further documentary evidence from applicants where there are any concerns in relation to their nationality, and they can also request checks of a person's immigration status against Home Office records. This is made clear to all those applying to register to vote on both paper forms and online. Parliament has not, however, specified that checks on nationality must be carried out on all registration applications, nor has it provided EROs with access to the data they would require to be able to do so.

These wider issues about the degree of checking and verification which should be made in respect of electoral registration applications will, I am sure, continue to be debated by Parliament, and the Commission and EROs will continue to provide evidence about the practical implications of any proposals for changes to the current requirements. The Commission previously recommended in our response to the UK Government's 2011 White Paper on individual electoral registration that the Government should explore the feasibility of enabling EROs to seek confirmation from relevant agencies (such as the United Kingdom Border Agency) of an applicant's nationality and immigration status. The Electoral Registration and Administration Act 2013, which implemented individual electoral registration in Great Britain, did not provide such a facility for EROs.

You have suggested that the Electoral Commission should do whatever is possible to identify any potentially mis-registered electors before polling day for the referendum. As Chief Counting Officer I do not have the authority to direct EROs to carry out any specific actions relating to electoral register entries, and nor does the Commission have any general powers to direct EROs. Nevertheless, as I explained in my letter last week, we worked with EROs as soon as the software problems were identified to agree the appropriate actions which should be taken.

We have also explored whether, as Chief Counting Officer, I could direct Counting Officers to ensure that Presiding Officers in polling stations remind electors about the eligibility requirements or ask an additional question before issuing ballot papers. The legislation for the referendum already prescribes specific statutory questions which can be put to voters in order to confirm their identity, and it would therefore not be possible to direct other questions to be asked.

You have also suggested that the Commission should make further public statements about those UK residents who are not eligible to vote in the referendum, and that it

would be an offence for someone to vote when ineligible. I reject entirely the suggestion in your letter that the Commission does not attach sufficient importance to this issue, particularly given the activity which the Commission is already undertaking.

The franchise for the referendum was clearly set out in the information booklet we sent to every household in the UK and on our [aboutmyvote.co.uk](http://aboutmyvote.co.uk) website that we have been directing the public to for information about the referendum. We have also produced a factsheet clarifying EU citizens' voting rights in the UK, and explaining that EU citizens cannot vote in the EU referendum unless they meet other eligibility criteria. The [factsheet has been published on our website](#), and we have contacted embassies in the UK for EU member states to ask them to spread this important message among citizens from their own countries who live in the UK.

We will be using our own social media networks to spread this message, and asking partners including local authorities and campaigners to also use their networks. In particular we plan to contact high membership Facebook groups for EU citizen communities in the UK. Our aim, as with all of our public awareness activity, is to reach the specific group of electors who need to know that they are not entitled to vote, rather than sending broad messages to the general public, and our strategy is designed to achieve this, using the appropriate forms of communication.

You have suggested a date of 14<sup>th</sup> June for a further evidence session if your Committee feels this is needed, which is just eight working days before polling day. I will of course attend, with the Deputy Chief Counting Officer, should the Committee feel that this is necessary once you have had the chance to consider the information contained within this letter.

Yours sincerely



**Jenny Watson**  
Chair

Enclosed:

Copy of letter from Jenny Watson to Iain Duncan Smith and Bernard Jenkin dated 2 June 2016

Copy of statement from the Electoral Commission issued on 3 June 2016