
REVIEW OF ABSENT VOTING - CONSULTATION PAPER

1 SUMMARY

- 1.1 This report summarises the main points in the Electoral Commission's consultation paper on the review of absent voting in Great Britain. Comments on the consultation document are required by 29 November 2002.

2 INTRODUCTION

- 2.1 The purpose of the consultation paper is to seek views on the way in which absent voting and in particular postal voting, should be managed in the future. The responses to the consultation paper will inform the Commission's final recommendations to Government and guidance on best practice which are due to be published in early 2003.

- 2.2 The key issues highlighted in the paper are:-

- **Fraud** - Electoral Commission research suggests that the perception of fraud among voters and politicians may exceed the reality. However, public confidence in the system of absent voting is paramount and therefore, any relaxation of security measures to increase turnout should be balanced by other safeguards.
- **Secrecy** - The secrecy of the ballot, particularly the secrecy of the act of voting, is critical where voting takes place away from the polling station. The consultation paper considers possible measures to encourage a climate of secrecy when casting a postal vote.
- **Administration** - The electoral system must be capable of dealing efficiently and effectively with an increasing proportion of postal ballots in a way that maximises voter choice and convenience. The consultation paper considers possible arrangements designed to achieve this end.
- **Turnout** - The potential impact of absent voting on levels of participation in election underpins the analysis in the consultation paper. The Commission is committed to identifying ways of encouraging turnout whilst maintaining safeguards against fraud and breaches of secrecy.

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- 2.3 There has been a significant increase in the takeup of postal voting since it first became available to all electors on demand in 2001. At the General Election in 2001, the number of postal votes issued was almost double the number at the 1997 election, rising from 937,205 to 1,758,055. As a result of this public and media attention has been more focussed on the possibility of fraudulent absent votes than in the past. The Commission regards it as a matter of the highest importance to maintain the integrity and security of the ballot, but points out that traditional polling stations are not themselves absolutely secure, as there is no requirement to declare or prove your identity before voting.

3 FRAUD

- 3.1 It is not possible to be certain of the extent of fraud in postal and proxy voting in the United Kingdom since no central records are kept. However, it is vital to maintain public confidence in postal voting arrangements and to have in place arrangements that discourage abuse and malpractice.
- 3.2 The Commission suggests that fraudulent applications for postal and proxy votes should be recognised in law as an offence. The Commission proposes that where someone votes as some other person ("personation") this should be made an arrestable offence based on "reasonable suspicion" and that it should be possible to make an arrest in any location not just at the polling station. It is believed that these measures should be supported not only as a deterrent but also to enhance public confidence.
- 3.3 The consultation paper discusses whether electoral administrators should do more to identify offences, and whether the Returning Officer should carry out random checks on a sample of voters signatures on the declaration of identity which accompanies a postal vote. The priority for a Returning Officer is to administer the electoral process within a rigorous timetable and there is unlikely to be adequate time and resources to undertake checks for fraud. In any event, the actions of the Returning Officer should not infringe on the investigative role of the Police, and this proposal is not supported.
- 3.4 The consultation paper questions whether measures should be introduced to prohibit, scrutinise or require an explanation for the redirection of multiple postal ballots to one address. However, as postal voting is now on demand without reason, this would seem to place an extra obstacle in the way of the majority of voters who genuinely wanted their vote to be sent to a different address, if for example, they were away on holiday or business at election time. It is suggested instead that the Returning Officer should have the ability to ask questions of any applicant for a postal ballot to be sent to an address other than the one where he is registered based on "reasonable

suspicion". Currently, the Returning Officer has no powers to ask for an explanation and it is recommended that the Returning Officer should be given such powers.

- 3.5 The Commission looks at the official mark certified on the ballot papers. This has traditionally been applied by a stamping instrument which leaves a perforation through the paper. However, this process is susceptible to human error if polling staff forget to apply the official stamp which can then lead to a vote being rejected, and is also labour intensive which limits the scope to introduce modern mailing techniques when batches of postal votes are prepared for issue. The Commission suggests that the use of a watermarked ballot paper could potentially offer a way of overcoming the drawback of using a stamping instrument, whilst still minimising the risk of fraud. A further safeguard could be the use of paper, which did not photocopy. It is considered that the use of a watermark or similar security device should be tested in future electoral pilot schemes as there is a need to review the use of stamping instruments.
- 3.6 The consultation paper considers that "lost" postal ballot papers are an area of concern. There is no definition of what constitutes "lost"; only the provision that if the ballot paper has not arrived by the fourth working day before polling day, an elector may apply for replacement until 5.00pm on the eve of polling day. The Returning Officer must have no reason to doubt that the postal voter did not receive the original postal ballot paper and be satisfied as to the voters identity before issuing a replacement. The Commission suggests that it could provide guidance on what is statutory evidence of identity when a replacement ballot paper is requested. This is not thought to be necessary as the Returning Officer exercises discretion currently on what to accept as evidence, such as drivers licence, passport or utility bill. Instead, to increase safeguards, there may be merit in requiring the applicant to sign for the replacement ballot paper on the Returning Officer's list and putting greater emphasis on advising the elector that it is an offence to vote twice.

4 **SECRECY**

- 4.1 The next section of the consultation document considers the need to keep voters free from duress and unlawful, undue influence.
- 4.2 The Commission reports an area of concern where a candidate (or someone acting on his behalf) collects, or agrees to deliver, postal ballot papers either to the voter or from the voter to the Authority. The Commission recognises that genuine efforts by a political party to improve turnout are to be encouraged. However, it believes that it is in the interests of probity that candidates and their agents (and anyone acting on their behalf) should be discouraged from handling postal

ballot papers, but is inclined to the view that any statutory action in this respect is unlikely to be enforceable.

- 4.3 The Commission considers whether there would be benefits in postal vote application forms and leaflets carrying a warning that voters using postal ballots have a right to secrecy and that they are entitled not to be put under undue influence. Anything that can be done to alert voters through information on leaflets should be encouraged.
- 4.4 The Commission proposes producing guidance about managing the potential difficulties in multi-occupation properties, such as the possibility of undue influence being exerted on voters living in nursing and care homes. The Commission accepts that most of this criticism is anecdotal but proposes to prepare specific advice for owners of such properties for issue by the Returning Officer. Whilst this is not believed to be an area of great concern, guidance would be welcome.
- 4.5 The consultation paper considers at length the issue of the declaration of identity. Some voters are deterred from voting by the additional effort of filling in the declaration of identity or have not had access to a witness. Some electors have made mistakes in filling in the declaration, which has invalidated the ballot and thus disenfranchised them. The need for a witness may effect the secrecy of the ballot and provide opportunities for pressure to be exerted on the voter. In any event, election officials checking the declaration of identity have no way of verifying that the signatures on it belong to the voter or to the purported witness. However, despite its drawbacks, the Commission reports that there are strong feelings amongst the political parties and others that the risk of fraud is too great to abandon the declaration of identity and therefore recommends that alternatives to the traditional declaration of identity should be tested through pilot voting schemes.

5 ADMINISTRATION

- 5.1 The consultation paper then considers the administration of the election process. There are set deadlines for the receipt of absent voter applications, and then for the dispatch of the absent votes themselves. There has been some concern that the reduction in the closing date for postal vote application left little time for their approval and issue. The Commission asks whether, in order to assist the administration of postal votes, the deadline for receiving applications for postal and proxy votes should be advanced by two days from the 6th to the 8th day before polling. However, in terms of maximising participation, it is believed that the closing date should be kept as close as possible to polling date and that a change in timetable is not necessary.
- 5.2 The consultation paper considers the situation of whether postal voters should have the facility to vote on polling day if they wish to do so. The

ability to deliver a postal ballot by hand to an official address until the close of poll overcomes this problem in most cases. However, where a voter has not received their ballot paper the Returning Officer cannot at present issue a replacement after 5.00pm on the eve of poll. The Commission therefore suggests there could be merit in extending the time when a "lost" ballot paper could be replaced to around 5.00pm on polling day. The Commission believes that the extra demands this would place on the Returning Officer would be more than off-set by the time that would otherwise be spent explaining to annoyed voters why a postal vote could not be issued on polling day. In such a situation, the elector would be expected to collect the replacement ballot paper from the Returning Officer. This suggestion by the Commission is thought to be a useful facility for postal voters.

- 5.3 The paper refers to concerns that have been raised about the situation where a prospective voter is informed at their polling station that they have been issued with a postal vote and are therefore not entitled to vote in person. Currently, the elector is barred from voting even if he states that he had not requested a postal vote. The Commission believes this is similar to where someone arrives to vote in person and the register is marked to show that the person has already voted and so a tendered ballot paper is provided for voting purposes. The Commission believes that it might be appropriate to make provision for the presiding officer to extend the facility of a tendered ballot paper in cases where the voter insists they did not apply for a postal vote. It could be considered that not only would this avoid the possibility of a genuine elector being prevented from voting but this process would also provide a record of the event for reconciliation in any instance of fraud.
- 5.4 In respect of the opening of postal votes this usually takes place a couple of days before polling day. Candidates (and/or their agents) may attend the opening. Concerns have been raised that advance intelligence on the way the poll has gone could be gained by political observers no matter how diligent the counting staff may be and where they have followed the best practice of placing ballot papers face down on opening. However, from the administrative point of view, prohibiting the early opening of postal ballots would cause complications at the count, as it would mean that all the declarations of identity would have to be brought to the count to allow any further matching of ballot papers and declarations that emerge when the envelopes are opened. It is believed that the potential for gaining early intelligence is small and that the Returning Officer can minimise any potential for this by the careful management of the room layout. It is believed that the practice of allowing advance opening of postal votes should be continued to enable the efficient and effective management of the counting process.

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- 5.5 There is currently no postal voting equivalent of the marked polling station register indicating who has voted. The marked register from polling stations is made available to the political parties after polling day who find it useful for a variety of reasons. It could be argued that the availability of a register showing actual postal votes cast would help to prevent fraud where a replacement ballot was requested in the event of a postal vote being "lost". It could also help to identify where postal votes have not been delivered. From an administrative point of view, if a marked register of postal votes cast is to be provided, then future electoral pilot schemes would need to test out the merit of putting bar codes on return envelopes or on the back of the ballot paper to facilitate this process.
- 5.6 A more contentious area is whether information about returned postal votes if collected, should be released to the political parties before the close of poll. The legal basis for the provision of information as to returned postal ballots to candidates in advance of the close of poll is unclear and it is not believed that this should be pursued.

6 PROXY VOTING

- 6.1 The consultation paper considers whether the facility of appointing a proxy (that is, someone else to vote on behalf of the registered elector) should be withdrawn, because of the increased availability of postal voting on demand. Whilst it is accepted that the increased availability of postal voting (and in the future other remote voting methods) may reduce the need for the proxy facility, it is believed that it should be retained at present, together with the current legal criteria for requesting a proxy vote.
- 6.2 It is often reported that someone who may be intending to vote in an election finds that their business sends them away at short notice for the week and therefore they become disenfranchised. In this situation there should be a facility for the person to apply for a proxy vote in the week of the election to enable them to retain their right to vote.
- 6.3 The Commission also looks at whether it should be possible for a "lost" postal ballot paper to be exchanged for a proxy vote on polling day, but it is not believed that this should be pursued.

7 RESOURCE IMPLICATIONS

- 7.1 The recommendations of the Electoral Commission and the consequent decisions of Government are likely to have an impact on the resource requirements for the administration of absent voting. If proposals such as requiring the Returning Officer to identify potential offences, make enquiries of any redirection of postal ballots, and to produce a marked postal vote register are introduced, it is likely that

additional administrative support will be required in the Elections Team.

- 7.2 The number of postal vote applications in Rochford is already increasing, from 397 in 1999 to 1,900 in 2001. If the number of postal vote applications increases dramatically, this too will require additional clerical support in the Elections Team, a dedicated telephone line for enquiries, and consideration of the outsourcing of the production and despatch of postal voting papers.

8 RECOMMENDATION

- 8.1 It is proposed that the Committee considers the summary of the Electoral Commission's consultation paper on absent voting and makes comments for submission to the Electoral Commission.

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Background Papers:

Absent Voting - A Review of Postal and Proxy Voting in Great Britain
Consultation Paper October 2002 Electoral Commission

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