Public Administration and Constitutional Affairs Committee

The Work of the Electoral Commission

1.3 The Commission's role should be extended beyond its current remit of overseeing elections and referendums and regulating political finance in the UK. In addition to its current roles and functions, the following additional roles should be considered:

1.4 The quality of electoral administration in the UK is uneven.[1] There is evidence both in the UK and US that where electoral administration is devolved, the level of electoral integrity varies. In the UK, this is particularly the case in very urban areas.[2] Coupled with that, while the Electoral Commission collates candidates' election spending returns, these are rarely 100% complete.

1.5 Given the close relationship between national and candidate spending,[3] there is a good case for the enforcement of candidate spending coming under the remit of the Commission. The separation is an historic anachronism – while candidate spending has been regulated since 1883, national party spending has only been so since 2001.

1.12 Relatedly, I would advise against the Commission being able to bring prosecutions before the courts for potential offences under election finance laws. When the Commission was first established, the only sanctions available were those of criminal prosecution. There was a reluctance to invoke these resulting both in non-compliance going unpunished, and the behaviour of the regulated, cognisant of the fact that criminal prosecution is unlikely to be used. [9] A better solution is a wider range of civil sanctions being available to the Commission, with the most serious cases being referred to the Crown Prosecution Service.

1.13 Overall, it is also important to remember that the effectiveness of the Commission is in part driven by the quality of legislation for which it is responsible. Specifically: poorly drafted or conceived legislation – especially in relation to referendums; uncertainty over the legal boundaries in respect of national and candidate election expenditure; and the failure to adopt fines of a sufficient size to effectively deter parties from breaches of the law. Such matters can only be addressed by Parliament.

2. The governance of the Electoral Com mission

2.1. The 2009 Political Parties & Elections Act introduced party-nominated Commissioners. At the time, I had reservations about the inclusion of party nominees as Commissioners, since the appointment of party nominees ran the risk of diminishing the independence of the Commission.

2.2. In addition, the allocation of the fourth appointments (for smaller parties) is based solely on representation at Westminster. This remains problematic, since the Commission is also responsible for oversight of elections at other levels of government. The current allocation of four appointments arguably continues to fail to recognize the multiparty character of much of modern British politics.

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problems exist, they are rarely universal. As a consequence, recourse to public opinion alone is rarely a good guide to political reform.

3.2.

are generally driven by electoral success or failure, party difference and geography.[16]

4. The international reputation of and comparators for the UK Electoral Commission

4.1. In terms of reputation, I can only comment in respect of my experience of working with the Council of Europe on party and election finance regulations in the Czech Republic, Georgia and Poland, and with the Electoral Commissions (or equivalent) of Albania, Ethiopia, Japan, Tunisia and the Ukraine. In all cases, the UK Electoral Commission was regarded very positively – especially in respect of its approach for working with those whom it regulates.

4.2. As a comparator, the Committee may wish to look at Canada, where there is a well-established Electoral Commission.

5. What, if any, reforms of the Electoral Commission should be considered?

5.1. I have not seen a strong case to suggest that significant reform of the current responsibilities or structure of the Electoral Commission is either desirable or practical. However, as outlined in my evidence, the following proposals may enhance the Commission's effectiveness:

5.2. The enforcement of candidate spending should come under the remit of the Commission.

5.3. Consideration should be given to whether the administration and funding of elections should fall under the Commission's remit.

5.4. Consideration to be given to whether the educational role of the Commission should be restored.

5.5. The Commission's investigatory powers should be enhanced.

5.6. The maximum fines available to the Commission should be increased.

5.7. Consideration should be given to the appointment of a Commissioner