



National Assembly for **Wales**
Cynulliad Cenedlaethol **Cymru**

Electoral Administration Bill

This paper provides a short background to the Electoral Administration Bill which received its First Reading in the House of Commons on 11 October 2005.

The aim of the Bill is to improve the overall administration of elections and it proposes a range of measures relating to electoral registration; preventing electoral fraud and promoting participation.

November 2005

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Executive Summary

The paper provides a short background to the *Electoral Administration Bill* which received its First Reading in the House of Commons on 11 October 2005.

The aim of the Bill is to improve the overall administration of elections and it proposes a range of measures relating to electoral registration; preventing electoral fraud and promoting participation.

The Bill responds to a series of reports by the Electoral Commission relating to voter registration, turnout, access and security. There are particular concerns about the security of voting following prosecutions for voter fraud in Birmingham following the 2004 Local Elections.

The Bill is a UK Bill as the Department for Constitutional Affairs (DCA) has responsibility for co-ordination on UK-wide election matters and UK-wide electoral law.

The National Assembly for Wales Local Government and Public Services Committee is conducting a scrutiny project electoral arrangements for local government and Assembly elections in Wales. It has taken evidence from a range of key stakeholders and visited the Netherlands, Denmark and Belgium to collect evidence of electoral practices in other countries. On this basis, it was decided to conduct scrutiny of the Electoral Administration Bill with a view to contributing to debates at the Committee stages in Parliament.

The Bill is intended to improve the electoral registration process for voters by enabling people to register to vote after an election has been called and establishing a new duty for registration officers to take all necessary steps to ensure comprehensive registers. It also introduces a framework for the Co-ordinated Online Record of Electors (CORE) intended to improve the accuracy and integrity of electoral registers and support national access.

The Bill is aimed at enhancing security, especially for postal voters, by establishing two new electoral fraud offences, introducing a marked register of postal votes to prevent fraud and piloting the collection of personal identifiers at registration.

The Bill aims to simplify administration, particularly for postal votes, and gives new powers to administrators to help them deliver electoral services more effectively and responsively.

The Bill also aims to promote participation in elections, lowering the qualifying age for standing at election to 18 and simplifying rules for candidates and political parties. It will also aim to improve information available to voters in polling stations, enabling returning officers to provide guidance in languages other than English and in a variety of formats.

Key stakeholders, including the Electoral Commission, broadly welcomed the Bill but expressed disappointment that there was no provision to introduce individual voter registration.

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Electoral Administration Bill 2005-06

1 Background

The Electoral Administration Bill was introduced into the House of Commons on 11 October 2005, having been announced in the Queen's Speech on 17 May 2005. The Bill is intended to improve the overall administration and improve the security of elections. It will provide a framework for the reform of electoral law across the UK.

Since its establishment in 2000, the Electoral Commission has made a series of recommendations for improving the voting system in the UK to which the Government responded.¹ These include the reports; *Securing the vote*; *The marked electoral register* and *Understanding registration*.

In particular, the removal of restrictions to postal voting and the all postal voting pilots held in parts of England for recent local elections and the 2004 European elections has raised concerns about the security of voting, especially following some high profile prosecutions for electoral fraud after the 2004 local elections. The Electoral Commission found that these concerns have centred on the scope for coercion or undue influence during the completion of ballot papers. Most allegations received by Returning Officers and police related either to voters being coerced to vote a certain way, or to voters being coerced into handing over their uncompleted ballot paper for completion by someone else. There have also been concerns over the integrity of the electoral register.²

The Commission brought out its own recommendations on 20 May 2005 in a report, '*Securing the Vote*'.³ The UK Government undertook to consider the Electoral Commission's recommendations and the Bill addresses many of them. However, the Government has not adopted the replacement of household registration with individual registration which the Commission advocates, preferring instead to test the use of personal identifiers and assess in practice the security benefits of such a system, as well as the extent to which it compounds the problem of under-registration.⁴

This paper is intended to provide a brief introduction to the key points of the Electoral Administration Bill and place them in the context of the ongoing Scrutiny Project on Electoral Arrangements being undertaken by the Local Government and Public Services Committee of the National Assembly. The House of Commons Library has produced a detailed Research Paper (05/65) on the Bill.⁵

¹ Department of Constitutional Affairs, Elections Publications web-page:
<http://www.dca.gov.uk/elections/pubs.htm>

² Electoral Commission, *Delivering Democracy*, August, 2004:
http://www.electoralcommission.gov.uk/files/dms/DeliveringDemocracyfinalcomplete_16306-10935_E_N_S_W_.pdf

³ Electoral Commission, *Securing the Vote*, May 2005.
http://www.electoralcommission.org.uk/files/dms/Securingthevote_17643-12944_E_N_S_W_.pdf

⁴ 10 Downing Street website, Prime Minister's Spokesperson's Briefing, 20 May 2005:
<http://www.downingstreetsays.org/archives/001602.html>

⁵ HoC Research Paper 05/65 *The Electoral Administration Bill 2005-06*, 19 October 2005.
<http://www.parliament.uk/commons/lib/research/rp2005/rp05-065.pdf>

The Bill aims to simplify administration, particularly for postal votes, and gives new powers to administrators to help them deliver electoral services more effectively and responsively.

In the light of falling turnout at elections, particularly amongst young people, the government also hopes that measures in the Bill will promote participation in elections, lowering the qualifying age for standing at election to 18 and simplifying rules for candidates and political parties. It will also aim to improve information available to voters in polling stations, enabling returning officers to provide guidance in languages other than English and in a variety of formats.

4.2 Key Measures

4.2.1 Improving access and promoting participation

- ◆ Enables people to register to vote after an election has been called (until 11 days before polling day).
- ◆ Establishes a new duty for Electoral Registration Officers to take necessary steps to ensure a comprehensive register.
- ◆ Gives Returning Officers a new power to promote elections and provides a ring-fenced fund for publicity and promotional activity.
- ◆ Provides for pre-poll information to be sent to all electors ahead of polling day, including details about their vote.
- ◆ Allows parents or those with caring responsibilities to take children into polling stations with them when they go to vote.
- ◆ Improves information available to voters by enabling administrators to provide guidance in a variety of languages and formats.
- ◆ Establishes a framework for administrators to review polling stations regularly to ensure that they provide proper access.
- ◆ Introduces a declaration of identity for postal voters, removing the need for a witness and requiring the postal voter to sign a 'postal voting' statement.
- ◆ Reduces the age of candidacy from 21 to 18.
- ◆ Introduces clearer rules for candidates and political parties participating in elections and reduces bureaucracy for smaller parties and independent candidates. Clause 23 (*Description of Independent Candidates*) allows a six word description for independent candidates. In Wales this provides for six words in English and six words in Welsh.

4.2.2 Enhancing security

- ◆ Creates two new elections offences in order to provide stronger deterrents against electoral fraud. These are a new offence for supplying false information or failing to supply information to the electoral registration officer at any time.
- ◆ Introduces a framework for the Co-ordinated Online Record of Electors (CORE) to improve the accuracy and integrity of electoral registers and support national access to a single, accessible, national register of voters
- ◆ Provides for pilots of personal identifiers (signatures and dates of birth) at registration.
- ◆ Introduces a marked register of postal votes received, similar to that currently used for polling station voters.
- ◆ Revises the offence of undue influence, enabling the offence to be effective even where influence has not led to any action being taken.
- ◆ Improves the security of ballot papers, replacing stamping instruments with a security mark and enabling the use of barcodes on ballots to help with the administration of lost or stolen postal votes / replacement ballot papers.



- ◆ Establishes a system of anonymous registration for people whose safety could be compromised if their details were published in the electoral register.
- ◆ Allows accredited observers into polling stations to observe the electoral process, and at other parts of the process, such as the count.
- ◆ Requires voters to sign for their ballot paper at the polling station to deter fraud.
- ◆ Increases the length of time available for the police to carry out investigations into electoral fraud.
- ◆ Provides for statutory secrecy warnings to accompany postal and proxy voting papers to deter anyone from unlawfully attempting to influence another person's vote.

4.2.3 Improving administrative effectiveness

- ◆ Provides a new power for administrators to rectify clerical and administrative errors (such as mismatched serial numbers on postal votes) during the course of the election, and on polling day.
- ◆ Supports the administration of postal votes by enabling automated production of postal vote documents, including by replacing the counterfoil on ballot papers with a separate list to record ballots issued to electors.
- ◆ Establishes performance standards in the administration of elections.
- ◆ Introduces a requirement for returning officers to submit to the Electoral Commission annual statements of elections expenditure.
- ◆ Changes the nominations process, providing administrators with a dedicated period of 24 hours to check nominations before the publication of the statement of persons nominated and enabling administrators to correct minor errors on nomination papers.
- ◆ Gives new powers to the Electoral Commission, enabling it to fulfil its statutory duties to monitor and advise on electoral law and processes.

4.2.4 Secondary legislation

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The Government is also progressing with a package of secondary legislation. It is intended that, subject to parliamentary time, these will be made in good time prior to the May 2006 local elections in England. The legislation will be made under the Representation of the People Act 1983. The Regulations will focus on improving the security of the postal voting system such as the postal vote application or replacement process, how postal votes are returned to administrators and collected on polling day. It will also look at the issue of standard polling hours for elections. The Regulations will also deal with access to and supply of the electoral register. Both sets of regulations will be subject to the affirmative resolution procedure in Parliament.

In terms of territorial extent the regulations will apply to England and Wales. Scotland is intending to replicate its own regulations on a similar timescale and Northern Ireland is to follow at a later date.

5 Stakeholder Views

5.1 Electoral Commission

The Electoral Commission broadly welcomed the Bill but was disappointed that the Government had not introduced provisions for individual registration:

The Bill includes almost all the Commission's key recommendations on making the system more accessible and convenient for voters and on improving the security of the voting process. But the Commission is disappointed and concerned that the Bill does not provide for the introduction of individual registration which is needed both now - to tackle the urgent problem of security for postal voting - and for the future, so that voters can participate with confidence in an up-to-date voting system.

The Commission believes that registering yourself to vote is a democratic right, and that the current system of household registration is outdated and open to abuse and error. Without individual registration it is not possible to carry out reliable checks to prevent postal voting fraud, or to introduce new methods of voting which will promote participation.¹³

5.2 Local Government Association (LGA)

In a briefing note prepared in advance of the Bill's Second Reading in the House of Commons on 25 October 2005, the Local Government Association (LGA) indicated that its believed 'the Bill takes forward a number of welcome proposals for increasing accessibility and strengthening the security of the electoral process'.¹⁴

With regard to the provisions relating to performance indicators for electoral administration it stated:

The LGA recognises the need to maintain high standards in electoral administration and supports the idea of performance standards to promote best practice in electoral administration. We believe that any such standards should not include electoral turnout however, since this is largely beyond the direct influence of the local council. The Electoral Commission's role should be to promote the standards via good practice and the further development of its benchmarking tool rather than to evolve into an inspectorate. Within this context we are not convinced of the need to place new duties on registration officers to prescribe the way in which they should carry out their duties. We believe that this is a matter for guidance and standards rather than prescriptive primary legislation.

With regard to registration, the LGA stated:

The LGA has long supported the principle of individual registration as a means of enhancing the security of the electoral process and as a tool to prevent fraud. However we recognise that there might also be practical difficulties involved in introducing individual registration – particularly the potential detrimental impact on registration levels.

It was also concerned that new burdens on local authorities should be properly funded:

Elections must be properly and adequately funded if we are to maintain the current high standards of electoral administration. Many of the proposals to strengthen the administration of elections place new burdens on local councils. The LGA believes that these will have resource implications that will need to be properly funded by Government if electoral administrators are going to have the capacity to deliver them effectively.

¹³ Electoral Commission, *Electoral Administration Bill welcome, but more needed*, 11 Oct 2005
<http://www.electoralcommission.gov.uk/media-centre/newsreleasereviews.cfm/news/484>

¹⁴ Local Government Association, *Electoral Administration Bill, House of Commons 2nd Reading*, 24 October 2005: Briefing
<http://www.lga.gov.uk/Documents/Briefing/Lobbying/Electoral%20Administration%20Bill%20-%20second%20reading%20brief.pdf>

5.3 *Electoral Reform Society*

The Electoral Reform Society welcomed the Election Administration Bill but, in a press release on 25 October 2005, described it as weak:

Although there are several useful measures in the Bill, on the key issues it is weak and wishy-washy.

Almost all election experts agree that we need to be using personal identifiers such as signatures and dates of birth to help stamp out vote fraud. But, as the Electoral Reform Society warned, the Government has watered down its commitment to introducing them by making them the subject of pilots.

We believe that the case for personal identifiers has been made and pilots will be just a delaying tactic. We are asking MPs to throw out the idea of pilots."

We had also hoped that the Government would move to lower the voting age to 16 as part of this Bill. We regret that they have not done so but note that there are many MPs from all sides who will be pressing an amendment on this issue.¹⁵

5.4 *RNIB, Scope & Sense*

The RNIB, Scope and Sense prepared a joint briefing for MPs prior to the Second Reading in which they welcomed Bill as having 'the potential to deliver better access to electoral registration and voting for disabled people'.¹⁶ However, they expressed disappointment that:

the Bill does not recognise the benefits of Individual Voter Registration, which we believe to be essential in ensuring the security and accessibility of the electoral process, and therefore the ongoing, and we hope increased, participation of disabled people. In addition we believe that individual voter registration is essential for multi-channel voting.

They further stated:

We do not believe that it is necessary to have household registration pilot schemes, as the passage of the Bill should allow sufficient discussion of what security measures are needed, and these pilots would only slow the introduction of multi-channel voting.

The bodies also wish to see the Bill cover the following issues:

- ◆ guidance on issues around capacity to vote, for example, the registration of people in residential accommodation for older and disabled people and who decides whether they have the capacity to vote;
- ◆ guidance for managers of residential accommodation for older and disabled people on how they can facilitate the right of their residents to vote, whilst respecting their right to vote in secret.
- ◆ polling stations should be subject to access standards, setting out what every polling station should be expected to achieve in terms of access for disabled people.

¹⁵ Electoral Reform Society Press Release on the Electoral Administration Bill, 25 October 2005.

<http://www.electoral-reform.org.uk/publications/pressreleases/elecadmin251005.htm>

¹⁶ Electoral Administration Bill, Second Reading Briefing for MPs by SENSE, SCOPE and RNIB, 25 October 2005.

<http://www.sense.org.uk/campaignnews/campaigns/responses/electoraladminbill2ndbrief.htm>

6 Early Day Motion (EDM): Votes at 16

86 MPs, as at Monday 21st November, have put their names to an EDM calling for the Bill to be amended to include a provision lowering the voting age to 16.

That this House believes that the time is right to lower the voting age to 16; recognises that at 16 and 17 young people's lives are as rich and varied as at any other age, that they have considerable responsibilities that routinely involve making complex decisions and that are unrecognised in their current democratic rights, that many youth-led organisations have been campaigning for the voting age to be reduced, and that lowering the voting age could play a huge role in helping young people feel more connected with political processes which would strengthen local and national democracy and is the next logical extension for citizenship education; and calls on the Government to use the Electoral Administration Bill to legislate to lower the voting age to 16 for all public elections in the UK.¹⁷

7 The Second Reading Debate¹⁸

The Constitutional Affairs Minister, the Rt. hon. Harriet Harman MP commended the Bill to the House and highlighted the key objective of getting hard to reach groups in society to register to vote:

As the Constitutional Affairs Committee pointed out in its report of March this year, people who are white owner-occupiers in non-metropolitan areas will be on the register. However, about 3 million people—most of whom are poor, council tenants, black and living in inner cities—will not be. In those areas, low registration and low turnout compound each other to create what I call democracy deserts, where it is the norm not to vote. Therefore, the Bill contains measures to ensure that those hard to reach people are included on the electoral register.¹⁹

On the question of individual registration the Minister explained why the Government had not followed the Electoral Commission's recommendation:

In the Bill, we allow local authorities to pilot a scheme making identifiers such as someone's signature or date of birth a condition for inclusion in the electoral register. Hon. Members will know that the Electoral Commission recommended individual registration. We have decided that rather than go straight to a national roll-out, we should test the proposal first. We need to be able to assess in practice the security benefits of such a system, as well as the extent to which it compounds the problem of under-registration.²⁰

The Conservative opposition put down an amendment summing up its criticism of the Bill:

That this House declines to give a Second Reading to the Electoral Administration Bill because it fails to introduce necessary and sufficient measures to restore public confidence and integrity in the electoral system, owing to the absence from the Bill of the tried and tested Northern Ireland system of individual registration; because it

¹⁷ HofC EDM No.801 *Votes at 16*, 19 October 2005.

<http://edmi.parliament.uk/EDMi/EDMDetails.aspx?EDMID=29119&SESSION=875>

¹⁸ The Second Reading Debate discussed the principles of the Bill.

<http://www.publications.parliament.uk/pa/cm200506/cmhansrd/cm051025/debindx/51025-x.htm>

Subsequent debates have taken place in the Committee of the Whole House and the Standing Committee on the Bill. Links to these can be found in **Annex A**.

¹⁹ HofC Debates, Hansard, 25/10/05 col.193

²⁰ HofC Debates, Hansard, 25/10/05 col.201

lowers the threshold for lost Parliamentary deposits, which will assist extremists like the British National Party in spreading racist propaganda; because it perpetuates the flawed system of all-postal voting and fails to provide for the proper Parliamentary scrutiny of election pilot schemes; and because it exposes the Government's continuing preoccupation with electoral modernisation that has undermined the UK's reputation for free and fair elections.

The Conservative Spokesman, Oliver Heald MP argued in favour of cross checking personal identifiers with national insurance numbers, as is the practice in Northern Ireland:

The Electoral Commission and international observers support individual voter registration. It is true that the Electoral Commission has said that as a minimum it would want signatures and dates of birth, and has not specified national insurance numbers. I am arguing for that, passionately and effectively, I hope. If we do not have some independent way of verifying that such people exist we will fall short as regards security.

The Conservatives also expressed concern that lowering the threshold on deposits would benefit small extremist parties.

The Liberal Democrat spokesperson, David Heath MP, also raised the issue of individual registration and personal identifiers.

There are omissions from the Bill. The big one is the issue of personal identifiers and individual registration—in fact, two issues which, although not identical, are related. Here we come to the question of balance. What personal identifiers are appropriate to deter fraudsters, while not tipping the balance by reducing the incidence of registration or voting? That is the crucial equilibrium that we must achieve.

I believe that the Government have fallen on one side of that balance. We will seek to persuade them in Committee, but they have not yet been prepared to accept the wider palette of personal identifiers to reduce fraud. I believe that the hon. Member for North-East Hertfordshire has fallen on the other side, because I do not believe that national insurance numbers constitute a good personal identifier. I think that such an arrangement would deter many people.²¹

Chris Ruane, the MP for the Vale of Clwyd, expressed support for the Government's cautious approach to registration:

I hope that my right hon. and learned Friend will not rush headlong into single signature registration. I trust that she will give the matter careful thought. If pilots are to take place, I make the specific request that there should be no priority until we have those 3 million to 4 million people back on the register. Without that there will not be true piloting. We are talking of the people who are most likely to stay off the register if there is a single signature system.

He also advocated performance league tables for electoral performance:

Local authority electoral administrative performance should be made available to MPs and the public and should be in league table format. Successful electoral registration officers and departments should be recognised, while there should be sanctions against failing authorities and departments. There should either be financial sanctions or responsibility should be handed over to a more successful neighbouring authority or an outside agency. Democracy is too important to be left to a council with a devil-may-

²¹ HofC Debates, Hansard, 25/10/05 cols..214-5



care attitude to the basic building block of all elections, be they local, national or European—the electoral register.

Hywel Williams MP welcomed the Bill on behalf of Plaid Cymru and the SNP and raised the issue of whether other indigenous languages such as Scots Gaelic should have similar coverage afforded to Welsh in terms of party description. He also raised a further point:

I want to make one more point about language, which concerns the term Annibynwr, or independent. I have no truck with political correctness, but there are people who would contend that Annibynwr is gender specific.

It means "the independent man" rather than "the independent person"—Annibynwraig refers to an independent woman. The situation could be easily resolved by the use of the adjectival form Annibynniol, which avoids the gender issue, and I commend that construction to the Government.

A Passage of the Electoral Administration Bill to date

House	Stage	Date
Commons	Introduction and publication	11 October 2005
Commons	Second Reading	25 October 2005
Commons	Amendments to committee of the whole house	1 November 2005
Commons	Amendments to standing committee	1 November 2005
Commons	Committee of the whole house	8 November 2005
Commons	Standing committee B	14 November 2005
Commons	Standing Committee B	17 November 2005