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Electoral reforms would reduce confusion and bring elections into the 21st Century

- Victorian-era electoral laws are out-dated, confusing and no longer fit for purpose
- Reforms from the Law Commissions would modernise laws and bring them into a single, consistent legislative framework
- The changes include simplifying the nomination process, adding imprinting for digital advertisements and updating the circumstances that could result in a poll being suspended

Reforms to simplify, clarify and improve electoral law have today [17 March 2020] been published by the Law Commission of England and Wales and the Scottish Law Commission (the Law Commissions).

Electoral law in the UK is currently spread across 25 major statutes. It has become increasingly complex and fragmented, and difficult to use. The reforms, if enacted, will reduce the confusion around the electoral process and introduce a range of improvements to ensure that elections are fit for purpose in the 21st Century.

The Law Commissions are making a series of recommendations to improve the effectiveness of electoral law including rationalising existing law into a single, consistent legislative framework, introducing reforms to online campaign material and updating the conditions required for suspending a poll.

Nicholas Paines QC, Public Law Commissioner at the Law Commission of England and Wales said:

"Elections are fundamental to democracy yet the laws governing them are no longer fit for purpose. If left as they are, there is a very real risk of the electoral process losing credibility which could be catastrophic."

"Our reforms will simplify, modernise and rationalise the law. This will make it easier to amend legislation so elections are able to overcome future challenges, and help to maintain confidence in the electoral system."

Lady Paton, Chair of the Scottish Law Commission, said:

"For both Scotland and the wider UK, it's vital that the law on elections is easy to administer, accessible and user-friendly."

"These reforms will achieve this, ensuring elections work and are fit for the 21st century. Our recommendations also take into account the emerging devolutionary framework for Scotland."

Sir John Holmes, Chair of the Electoral Commission, said:

“The Electoral Commission has worked closely in support of the Law Commissions, and welcomes this final report. Without clear and up-to-date electoral laws, there is a risk to the effective delivery of elections, and the confidence of electors in the process can be undermined. The Law Commissions’ recommendations are comprehensive and have widespread support from electoral administrators, political parties and campaigners.

“I very much hope the UK’s governments and parliaments will now work towards a consolidated and consistent legislative framework that will improve our electoral processes for all involved.”

Electoral laws; in need of reform

The UK’s electoral laws are out-dated, confusing and no longer fit for purpose.

Many of the laws are found in the Representation of the People 1983 Act which originates from Victorian-era legislation. Much of it has not been updated since. The law needs to be modernised to meet current and future challenges, such as the impact of new technology.

Additionally, as new elections have been introduced (e.g. combined authority mayoral elections in 2017), new legislation is required to provide the election’s rules. Any new legislation tends to copy significant chunks of the 1983 Act almost word-for-word.

As a result, UK electoral law is now spread across 25 major statutes and 30 sets of regulations. There is simply too much (largely identical) legislation, which has become confusing to understand and cumbersome to change. An update to policy would be ideally achieved by one legislative change, rather than up to 12 changes over several years.

For example, when the law was changed to allow those queuing at the close of polls to cast their vote, changes had to be made to **ten distinct pieces of legislation**. The innovation was intended to apply at all elections, but the election-specific approach to electoral legislation meant it had to be implemented bit by bit over several years.

Law Commissions’ recommendations for reform

The Law Commissions have made a series of recommendations to bring electoral laws into the 21st Century and ensure they work for everyone. The recommendations include:

- The current laws governing elections should be rationalised into a single, consistent legislative framework with consistent electoral laws across all elections, except where there are clear and necessary differences, for example due to different voting systems
- Reform over the conditions required for suspending polls. Currently, polling can only be suspended by a presiding officer in response to rioting and open violence but our recommendations would allow for any incident where a significant portion of electors are affected and unable to vote, including flooding and adverse weather or an act of terrorism.
- To introduce just one single set of nomination papers for candidates, replacing the current confusing mixture of forms and authorisations, and to make candidates responsible for delivering these to the returning officer. Currently, a UK Parliamentary nomination involves up

to 7 different forms. Some are sent by the party nominating officer, and some are sent by the candidate; some must be delivered by hand, and others can be delivered by post. (Further details in the Notes to editors)

- The introduction of digital imprints for online campaign material, including for social media advertisements. This would include who has paid for the advert, as is the case for leaflets and traditional advertisements.
- Improving how election results can be challenged. Our reforms would modernise and simplify the system, allowing returning officers to bring challenges and giving the court the power to weed out ill-founded claims that waste court time. We also recommend making it clear that parties can rely on protective costs orders (protective expenses orders in Scotland), to limit their exposure to costs.
- A single set of electoral offences should be set out in primary legislation which should apply to all elections. This will include a simplified offence of bribery, for anyone acting with an intention to procure or prevent the casting of a vote at an election.

Next steps

The Law Commissions have given the report and recommendations to the Cabinet Office and the Scottish Ministers, who will provide an interim response in due course. The Law Commissions will be on hand to support with implementing the reforms outlined in today's report.

Ends

Notes to editors

The scope of the Law Commissions' report was agreed with Government following a public consultation exercise. The report does not cover issues such as electoral boundaries, voter identification at the poll, or the regulation of national campaigns, which it was decided were too political in nature for the Law Commissions to look at.

Nomination paper example

For a UK Parliamentary election, a candidate needs a nomination paper, home address form, consent to nomination form (all delivered by hand), a certificate of authorisation and request for party emblem (if standing for a party), as well as notification of election agent, and notification of sub-agent (delivery by hand or by post).

Who's who

Registration officer	An official of a local authority who is responsible for maintaining a register of people residing in the local authority area who can vote at elections.
Returning officer	The official responsible for conducting an election in a specific area. In England and Wales, the returning officer is usually also the registration officer. In Scotland the posts are usually held by two different officials.

Presiding officer	The person appointed by the returning officer to preside over a particular polling station.
The Electoral Commission	<p>The independent body which oversees elections and regulates political finance in the UK. It works to promote public confidence in the democratic process and ensure its integrity by:</p> <ul style="list-style-type: none"> • enabling the delivery of free and fair elections and referendums, focussing on the needs of electors and addressing the changing environment to ensure every vote remains secure and accessible • regulating political finance – taking proactive steps to increase transparency, ensure compliance and pursue breaches • using its expertise to make and advocate for changes to our democracy, aiming to improve fairness, transparency and efficiency. <p>The Commission was set up in 2000 and reports to the UK and Scottish Parliaments.</p>

Contact details

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