

Electoral Reform Society's submission of evidence to Cabinet Office

Individual Electoral Registration White Paper & draft legislation

Executive Summary

The Electoral Reform Society welcomes the introduction of Individual Electoral Registration (IER), but we remain concerned that whilst the White Paper sets out some positive measures that will address the inaccuracy of the register and fraud (*accuracy*), the UK Government's plan fails to sufficiently guard against a projected drop in the number of registered individuals (*completeness*).

Key Points

- The UK Government must address completeness and accuracy together. The legislation will improve accuracy and counter fraud, but risks bringing registration rates down to 60—65% (Electoral Commission);
- Any measure that leads to a significant reduction in levels of voter registration runs contrary to the UK Government's stated intention to distribute power and opportunity to people, and carries a number of unintended consequences in other policy areas;
- Mechanisms such as the retention of a full household Annual Canvass in 2014 will help Electoral Registration Officers frontload registration and prevent any drop-off caused by IER.

Top recommendations

The UK Government should:

- Drop the proposal for individuals to 'opt out' from being asked to register within a specific period, and maintain the threat of legal penalty to individuals who fail to register;
- Maintain the full household Annual Canvass in 2014;
- Publish a plan on how the projected drop in the number of registered individuals, particularly in socially excluded groups, will be prevented.
- Give the Electoral Commission regulatory powers to ensure better consistency of performance amongst EROs.

About the Electoral Reform Society

The Electoral Reform Society was founded in 1884 and has over 100 years of experience and knowledge of democratic processes and institutions.

As an independent campaigning organisation working for a better democracy in the UK we believe voters should be at the heart of British politics. The Society works to improve the health of our democracy and to empower and inform voters. As well as our campaigning and lobbying work, the Society also conducts expert research on electoral systems and outcomes.

The Electoral Reform Society welcomes the opportunity to respond to this consultation and looks forward to working further with the UK Government, Parliament, all political parties, civil society and others as this draft legislation develops.

Further information on the Electoral Reform Society's work on Individual Electoral Registration is available from our website: <http://www.electoral-reform.org.uk/IVR/>.

Summary of Evidence & Recommendations

The Electoral Reform Society welcomes the introduction of Individual Electoral Registration (IER).

The UK Government is right when it asserts in *'Our Programme for Government'* that the "political system is broken" and that fundamental reform to the UK's political system is necessary. IER, if effectively and fairly implemented, is one important step towards repairing our political system.

Main conclusion on the White Paper

The White Paper will improve accuracy and counter fraud, but the removal of mechanisms such as the full household Annual Canvass in 2014, and the proposed 'opt-out' from being contacted about registration and absence of a legal penalty for individuals failing to register, presents a serious risk to completeness.

The Electoral Reform Society is mindful of the Electoral Commission's statement that registration rates could fall to 60-65%¹. While such a warning is based on an assumption that cannot be tested until IER is operational, the UK Government must be alert to the potential risks, and appreciate the groups that are most likely to be affected – including, but not limited to, young people, residents of private rental accommodation, and Black and Ethnic Minority British residents.²

Any measure that leads to a significant reduction in levels of voter registration runs contrary to the UK Government's stated intention to distribute power and opportunity to people, and carries a number of unintended consequences in other policy areas.

There should be a further examination of the role of the Electoral Commission; both in terms of registration compliance and performance, but also increasing participation in elections. Serious consideration should be given to the Electoral Commission having regulatory powers to improve the quality and consistency of EROs' performance.

More innovative proposals to improve registration (and participation in elections) should be considered including widening the opportunities for individuals to register.

Government's overall approach: risks reducing registration levels

While the White Paper contains a number of positive measures that will address the inaccuracy of the existing register, and counter electoral fraud (the instances of which are small, yet disproportionately undermine confidence in the political system); the Electoral Reform Society strongly recommends that a number of changes are made.

¹ Electoral Commission (2011) Response to the Government's White Paper and draft legislation on Individual Electoral Registration, http://www.electoralcommission.org.uk/_data/assets/pdf_file/0003/141294/Electoral-Commission-IER-White-Paper-Response-2011-10-14-FINAL.pdf

² The Electoral Commission (2005) *Understanding electoral registration: the extent and nature of non-registration in Britain*

Overall, the UK Government has yet to achieve a balanced approach on introducing IER. While the White Paper contains a number of proposals that will improve accuracy and counter fraud; many of the proposals will have a negative effect on the completeness of the Electoral Register.

Our evidence argues that the introduction of IER must achieve an overall increase in the level of voter registration, avoid a disproportionate impact on groups already less likely to be registered whilst also improving accuracy.

Application for Registration: innovation needed

The draft legislation makes it possible to integrate a number of international innovations into the registration process. This includes enabling individuals to register to vote at government offices; while applying for passports, drivers licenses, claiming benefits and tax credits, and when dealing with council tax, National Insurance and other aspects of the taxation system.

Opportunities exists to extend the registration deadline before an election and to investigate the merits of Election Day Registration.

Verification of Entitlement to Register: potential barriers

The White Paper provides effective methods for expanding the registration verification process, but our evidence warns that use of National Insurance Numbers (NINO) is a potential barrier to registration.

Amendment to Current Offences: opt-out must be dropped, current offence retained

We are strongly against the White Paper's proposal to provide an 'opt-out' from electoral registration, and the removal of the threat of legal penalty for those failing to register. Our evidence outlines in-principle as well as in-practice reasons why the UK Government should drop this proposal.

Annual Canvass 2014 and 2015: retention to guard against drop in completeness

Given our concern regarding the completeness of the register following the full introduction of IER, our evidence outlines why there must be a full household Annual Canvass in 2014 and retained thereafter until IER is proved to be fully working.

Impact on older people and disabled people, including those living in care settings: compliance on equalities impact

We are concerned that the Equality Impact Assessment lacks sufficient detail and evidence on how IER will impact on various social groups. We further express anxiety that proposed mitigation measures will prove to be ineffective. We accept the challenges in terms of developing a robust evidence base, and a comprehensive set of policy solutions. We therefore call for further, urgent work, to guard against a drop in the completeness of the register.

Recommendations in Full

The Current System of Electoral Registration & Implementing IER in Great Britain

Recommendation 1: In drafting legislation, the UK Government must ensure that any revised system of electoral registration not only improves the accuracy of the register and reduces the potential for electoral fraud, but also reduces the problem of under-registration.

Recommendation 2: Voters should be able to register at all the publicly-accessible offices of UK Government departments, Devolved Administrations, local government and other public agencies, and post offices.

Recommendation 3: Individuals applying for official documentation (passports, drivers licenses); benefits; and in correspondence with government agencies regarding taxation (including council tax, tax credits, child benefits and National Insurance) should also be given the active opportunity to register to vote.

Recommendation 4: The UK Government extends the registration deadline to 6-7 days before Election Day to further improve access to electoral registration and participation in elections.

Recommendation 5: The UK Government considers and consults further on the advantages of introducing Election Day Registration for future UK elections.

Verification of entitlement to register (Clause 2); Address Verification; Checking Nationality

Recommendation 6: The UK Government should urgently bring

forward additional proposals on how it will seek to mitigate against a significant fall in the number of those registered to vote (particularly those individuals and communities traditionally excluded from the democratic process), for scrutiny and consultation prior to the Bill's presentation to Parliament.

Amendment to Current Offences

Recommendation 7: The UK Government should maintain an obligation on individuals to register by ensuring that the offence of failing to comply with an ERO's request for information and the fine as a penalty for non-compliance applies to them as well as to the household canvass.

Annual Canvass for 2014

Recommendation 8: The UK Government should retain the full household Annual Canvass for 2014.

Annual Canvass for 2015

Recommendation 9: The UK Government should retain the Annual Canvass for 2015 and beyond until it is clear IER is proved to be working effectively.

Impact on older people, disabled people including those in care

Recommendation 10: Adoption of Recommendations 7, 8 and 9 (retention of annual canvass, compulsion to register, threat of penalty) will help mitigate the negative impact on democratically excluded individuals and groups.

Recommendation 11: In addition to Recommendation 10, the UK Government should establish a Task & Finish Group with representatives from

the Electoral Commission, the Equalities & Human Rights Commission, and expert and representative groups from civil society and political parties. The Task & Finish Group should consider the impact of IER on different social groups, and make recommendations as to how registration and participation can be increased. The Task & Finish Group's final report should be presented to Parliament.

Additional Points to consider

Recommendation 12: The UK Government should establish an external review into the powers and remit of the Electoral Commission including an examination of Commission's power to direct, and the benefits of a greater regulatory role in electoral registration.

Recommendation 13: The UK Government should reintroduce and promote more widely an Electoral Participation Fund, targeting areas with greatest down-fall.

Detailed Evidence & Recommendations

The Current System of Electoral Registration & Implementing IER in Great Britain

- **Overall approach**

The Electoral Reform Society supports Individual Electoral Registration and welcomes the UK Government's basic policy approach, as laid out in its White Paper. The Electoral Reform Society argues that the major weaknesses of the existing electoral registration system, under-registration and inaccurate registration, cannot be resolved in isolation.

Executed fairly and correctly, Individual Electoral Registration will improve the accuracy of the Electoral Register and reduce instances of electoral fraud which, while small in occurrence can disproportionately erode public confidence in the electoral system.

However, the Electoral Reform Society remains concerned that the White Paper fails to provide proposals aimed at resolving under-registration; indeed a number of the existing proposals laid out by the UK Government risk further under-registration, undermining the UK Government's basic principle that power should be dispersed to individuals and communities.

Concern has been raised by a variety of stakeholders that the move to IER will lead to a reduction in the number of registered voters. One relevant comparison would be Northern Ireland which experienced an immediate 10% drop in registered voters following the introduction of IER in 2002.³ At the time the Electoral Commission put this down to a reduction in fraudulent and duplicate entries.⁴ However, the fact remains that in 2005 the Northern Ireland authorities were forced to reinstate tens of thousands of electors onto the list who had failed to complete the forms or to provide the correct personal information to arrest a continuing decline in registration.⁵

The most frequently quoted estimate of the number of unregistered voters in Britain is 3.5 million, or about 10% of the eligible electorate. This is based on old data from 2000 and is likely to be an underestimate of the current number given that the eligible electorate has since grown to 46 million. New Electoral Commission research to be published before end 2011 will provide a better picture. Exact numbers are difficult to verify, however if we take 10% as the current proportion of unregistered voters and include an expected 10% drop following the adoption of IER as was experienced in Northern Ireland, it can be estimated that between 7 and 10 million voters are not registered to vote.

³ The Electoral Commission. *Northern Ireland Desk Research - Final Report* (2003) http://www.electoralcommission.org.uk/_data/assets/electoral_commission_pdf_file/0010/16120/PWCFinalFinal_11397-8960_ENSW.pdf

⁴ Ibid.,

⁵ See, <http://www.parliament.uk/documents/commons/lib/research/rp2005/rp05-015.pdf>

Recommendation 1: In drafting legislation, the UK Government must ensure that any revised system of electoral registration not only improves the accuracy of the register and reduces the potential for electoral fraud, but also reduces the problem of under-registration.

- ***Application for Registration (Clause 1 & Schedule 1)***

In the ministerial foreword recognition is given to the need to both modernize the electoral system (making it more convenient and efficient) as well as keep pace with technological advances. While the draft legislation rightly allows for a greater degree of choice of how to register, the White Paper itself is disappointingly light on practical proposals. The Electoral Reform Society believes the UK Government should use this draft legislation or any future review to transform the nature and process of electoral registration.

The proposals enabled by the draft legislation make it possible to integrate electoral registration into other day-to-day transactions with the Government. This is common in the United States where citizens can register in many venues including local, state and federal offices; the motor vehicle agency offices; universities; schools and hospitals. The National Voter Registration Act 1993 requires states to provide citizens with the opportunity to register or re-register at public agencies when applying for drivers licences or social security benefits. About 40% of US voters register at the Department of Motor Vehicles alone.

Recommendation 2: Voters should be able to register at all the publicly-accessible offices of UK Government departments, Devolved Administrations, local government and other public agencies, and post offices.

Recommendation 3: Individuals applying for official documentation (passports, drivers licenses); benefits; and in correspondence with government agencies regarding taxation (including council tax, tax credits, child benefits and National Insurance) should also be given the active opportunity to register to vote.

Prior to the Electoral Administration Act 2006, the deadline for registering to vote was ahead of the notice of election being published, the formal beginning of the election campaign. This could be six or seven weeks before Election Day. The Act extended the deadline to 11-days before polling day.

The final weeks and days of the election campaign period are always the most intense and interesting. Electors are more alert to the need to be registered and are likely to be significantly more receptive to registration campaigns.⁶ It is important that unregistered electors who may have their interest peaked during this time, or have a pang of civic duty, do not lose their opportunity to vote.

Recommendation 4: The UK Government extends the deadline to 6-7 days before Election Day to further improve access to electoral registration and participation in elections.

⁶ Electoral Commission (2010) p.88

A further innovation would be to eliminate the deadline for registration entirely. Election Day Registration (EDR), or same day registration, is a method that is increasingly being used in the United States in response to some of the lowest registration levels in the democratic world. Currently, nine US states (including the District of Columbia) now have some form of same day registration.⁷ As the name suggests, EDR would allow voters to turn up at the polling station, register and vote all in one go. There is now a considerable body of evidence to show that EDR increases registration and turnout rates significantly. A fairly typical summary of the literature reveals that a 2-6% increase in registration can be expected as a result of EDR.⁸ In addition, demographic groups with lower registration rates see the largest gains, especially among those who have recently moved address.⁹ Dēmos is one of the biggest proponents of EDR in the US. They point out that on average the states with EDR found their turnout rates were 10-12% higher compared to those which did not.¹⁰

Recommendation 5: The UK Government considers and consults further on the advantages of introducing Election Day Registration for future UK elections.

Verification of entitlement to register (Clause 2); Address Verification; Checking Nationality

The White Paper proposes that in the early period of IER, the process for electoral registration will involve each person supplying the ERO their national insurance number (NINO) and the date of birth (DOB) – or an alternative method of identification if they are unable or unwilling to give this information. We believe that supplying these personal identifiers will be effective method of ensuring that the entry on the register is a genuine one. However, not everyone has a NINO and it is not always the most readily available piece of information to have at hand. This could potentially create a barrier to registration.

We believe there should be as many alternatives to providing NINO data as possible. The fact that NINO data is not intended to establish the eligibility to vote (they say nothing about residence or nationality status for example) but rather to verify that the entry in the register is genuine, this means that a range of possible alternatives could be used. The obvious alternatives might include drivers licences or passport numbers. As with NINOs, the personal data would be destroyed after the verification process is complete. We would like to see a practical assessment at the likely voter experience. For

⁷ Idaho, Iowa, Maine, Minnesota, Montana, New Hampshire, Wisconsin, Wyoming and Washington DC

⁸ See, Alvarez, R. M & Nagler, J. (2011) Election Day Voter Registration in California *Demos Policy Brief*. Spring 2011. http://www.demos.org/pubs/CA_EDR_Report-Demos.pdf; Alvarez, R. M., Ansolabehere, S. & Wilson, C. H. (2002) *Election Day voter registration in the United States: How one-step voting can change the composition of the American Electorate*. http://minnesotaindependent.com/wp-content/uploads/2009/10/vtp_wp5.pdf; Brians, C. L. & Grofman, B. (2001) Election Day registration's effects on US Voter turnout. *Social Science Quarterly*, Vol 82:1, 170 – 181; Fenster, M. J. (1994) The impact of allowing day of registration voting on turnout in US elections from 1960 to 1992. *American Politics Quarterly* Vol 74 22(1)

⁹ Caltech/MIT Voting Technology Project. *Election Day Voter Registration in the United States* (June 2002) http://minnesotaindependent.com/wp-content/uploads/2009/10/vtp_wp5.pdf

¹⁰ Dēmos (2009) *Voters Win with Election Day Registration* (Summer 2009) http://www.demos.org/pubs/voterswin_09.pdf

example, are voters more or less likely to be able to retrieve a NINO, drivers licences, passport or other form of identification? We think it is important to remove as many barriers to registration as possible, particularly in the transition period.

Low registration levels are closely associated with low turnout. Low turnout is an issue of deep concern to the Electoral Reform Society because of the damaging effect on legitimacy and accountability, and is a sign of a 'sick democracy'.¹¹ Furthermore, there is considerable evidence to show that both voter registration and voter turnout in Britain are unevenly distributed, reflecting the political alienation of certain black and minority ethnic groups (although not others) and young people in particular, who are often identified as having lower levels of participation in the formal democratic process.¹² Official turnout statistics (based on the registered electorate) hide the true extent of this political dissonance in society. People who aren't registered to vote miss out on opportunities to influence political decisions that affect their lives at both national and local level. Their voices are not heard and their opinions and needs are not addressed.

The White Paper includes some proposals to help assuage the expected decline in registration following the introduction of IER, for example data-matching schemes and opening up alternative online channels of registration. We look forward to seeing the results of the data-matching pilots.

Recommendation 6: The UK Government should urgently bring forward additional proposals on how it will seek to mitigate against a significant fall in the number of those registered to vote (particularly those individuals and communities traditionally excluded from the democratic process), for scrutiny and consultation prior to the Bill's presentation to Parliament.

Amendment to Current Offences

The Electoral Reform Society is strongly against the proposal to both drop the offence (and maximum fine of £1,000) contained within the Representation of the People (England & Wales) Regulations 2001 and the Representation of the People (Scotland) Regulations 2001; and the UK Government's assertion that compulsion placed on the individual to register to vote should be abolished.

The Electoral Reform Society's position is informed in part by an in-principle objection, but also an in-practice concern that such a proposal will severely undermine the UK Government's efforts to devolve power from the State to the individual and forge a Big Society.

On a practical level, these two proposals risk a severe weakening of the completeness of the Electoral Register. The Electoral Commission has warned that so called 'opt-out'

¹¹ L. Baston & K. Ritchie. *Turning out or Turning off: An analysis of political disengagement and what can be done about it.* (2004) <http://www.electoral-reform.org.uk/images/dynamicImages/file4de9706c9bf74.pdf>

¹² The Electoral Commission *Understanding electoral registration: the extent and nature of non-registration in Britain.* (2005) http://www.electoralcommission.org.uk/_data/assets/pdf_file/0020/47252/Undreg-FINAL_18366-13545_ENSW.pdf

could risk bringing registration rates down to voter turnout level (60-65% in a General Election, or 30% for a typical local election)¹³. This is because those who largely intended to vote would register.

This would not only massively hinder the UK Government's attempt to drive up democratic participation (at a time when the UK Government is attempting to increase public participation in the management of public services with free schools in England, and Policy & Crime Commissioners in England and Wales); but also severely undermine the public mandate and legitimacy of the UK Government, and Parliament as a whole.

There are many other ancillary uses for the Electoral Register, and the UK Government's proposal risks a number of unintended consequences in other areas. The Electoral Register assists local authorities with the planning and provision of public services and social welfare. It forms the basis for drawing constituency boundaries and for selecting people to undertake jury service.

By enabling an opt-out, the UK Government risks further alienating those already disengaged by the political process. Political parties use the Electoral Register for campaigning, often as the basis for identifying supporters and canvassing views on issues. A significant risk remains that non-registered individuals would not routinely be canvassed by political parties for their views or voting intentions, and as such the link between MP and constituents would be weakened.

Anecdotal evidence from EROs, for example the Rhyl West ward (rated the most deprived ward in Wales in the Index of Multiple Deprivation) illustrates that in important instances, the threat of a £1,000 fine is sufficient to significantly drive up registration levels.

Further, the Electoral Reform Society would argue that the proposed 'opt-out' represents a fundamental and unwelcome change in the relationship between the State and the citizen. Compulsion to register is not incompatible with the notion of personal choice, as presently voters are able to choose whether or not to vote in elections and referendums. The principle of individual responsibility is, after all, one of motivating factors behind the introduction of IER.

Recommendation 7: The UK Government should maintain an obligation on individuals to register by ensuring that the offence of failing to comply with an ERO's request for information and the fine as a penalty for non-compliance applies to them as well as to the household canvass.

Annual Canvass for 2014

The Electoral Reform Society believes that the full household Annual Canvass provides an important mechanism for conserving the accuracy and completeness of the Electoral Register. The Electoral Commission estimates that the accuracy and completeness of electoral registers degrade by about 10% over the year between canvasses. This is mainly due to people moving house, and new voters being added to the list.

¹³ See, <http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpolcon/uc1463-iii/uc146301.htm>

Approximately 5 million entries in the register are changed each year.¹⁴ The household canvass is the most effective method of recording these changes and without it, the UK Government risks excluding millions of voters from the 2015 General Election.

The IER Impact Assessment explains the Government's preferred implementation method of IER in 2014. All registered electors as of 1 July 2014 will be contacted and invited to register individually. This will be voluntary and if electors fail to provide their personal identifiers their names will be carried forward so they will be able to vote in the 2015 General Election. IER will only be compulsory for new or late registrations.

The Government says that it does not intend to hold a household canvass in 2014. The primary reason for not doing so appears to be cost: an estimated £85.5m net for a canvass and individual write out, compared to just £37.9m net for an individual write-out alone. The Impact Assessment also provides additional reasons, for example voters might find a two-stage process of filling out household enquiry forms and follow up IER forms confusing, and this might delay the completion of the register. However, these reasons appear rather weak given the Government's plans to introduce a two-stage process of household enquiry form and IER form in 2015 and subsequent years.

Electoral Commission research shows that the Electoral Register degrades in accuracy and completeness by approximately 10% over the course of the year between canvasses. Based on data provided by EROs, it is estimated that approximately 5 million entries on the register are changed each year due to people moving home and electors being added to the list. With nothing to refresh the list in 2014 (except for updates via the rolling registration method which accounts for just 2-3% of registrations), these changes will not be captured. The General Election in 2015 will, in effect, be based on the register compiled in December 2013 with a few updates. By this time it will contain millions of inaccurate entries. We believe this poses an unacceptable risk to the General Election.

The IER Impact Assessment estimates that about 20% of people eligible to re-register might not be included in the first individual write-out partly as a consequence of not holding a canvass in 2014.¹⁵ If a full household canvass was held in conjunction with the carry-over provision, this could close the gap by approximately 10%. It would also guarantee that the Electoral Register will be as accurate and up-to-date as possible for the first individual write-out, and ensure that millions of eligible electors will not lose their right to vote in 2015.

It remains the case that under our winner-takes-all system, where the majority of constituency seats are rendered safe for one party or another, the power to affect the outcome rests with the minority of swing voters in marginal seats. With the loss of 20% or more of electors through non-registration, the accumulative effect is to create a democratic wasteland where the ability to influence the important decisions that affect our lives will be concentrated in even fewer hands. Public policy will be skewed in order to win over the small pockets of voters whose votes actually count, while the views and opinions of everyone else will be ignored. This is highly damaging to our political system and we do not believe it is cost-effective to make temporary money saving measures in electoral registration, particularly in the critical transition year.

¹⁴ Written evidence submitted by The Electoral Commission
<http://www.publications.parliament.uk/pa/cm201012/cmselect/cmpolcon/writev/1463/m10.htm>

¹⁵ *Individual Electoral Registration Impact Assessment* (June 2011)

The White Paper raises a concern regarding the potential confusion of running both a full household Annual Canvass and an IER invitation in 2014.

The Government is right to highlight the risk of confusing voters; however the Electoral Reform Society maintains that the risk associated with not running an Annual Canvass in 2014 presents a greater, more fundamental threat to the integrity of the electoral registration process.

To minimise any potential confusion, and reduce the resources assigned to the Annual Canvass in 2014, the Electoral Reform Society recommends that the Electoral Commission be tasked with further supporting EROs to run both a 2014 Annual Canvass and IER invitations. Such support should include clear performance standards on the operational process for a 2014 Annual Canvass and IER invitation, as well as the better sharing of communications best practice.

By allocating resources for such activity in 2014, the accuracy and completeness of the Electoral Register will be greatly improved (in comparison to what would otherwise be the case without an Annual Canvass in 2014). Starting off the new system with an accurate electoral register will reduce the call on resources for corrective action in future years.

Recommendation 8: The UK Government should retain the full household Annual Canvass for 2014.

Annual Canvass for 2015

Provisions in the draft bill allow the amendment or abolition of the annual canvass in Great Britain. The White Paper suggests there may be alternative approaches to maintaining the register, such as the system in Northern Ireland which relies on continuing registration and updates through data-matching.

Northern Ireland abolished its annual canvass in 2006 because it was found to suppress registration rates by about 2-3% per year.¹⁶ It was suggested that the reason for this was that electors were required to provide their personal identifier information every year, which for the vast majority did not change.¹⁷ Continuing registration means there is no need to repeat the registration process again unless elector's details change. However, there is nothing to refresh the register each year which means that inaccuracies build up over time.

The annual canvass provides the best opportunity for voters to notify EROs of changing circumstances. We agree with the White Paper proposal that electors who have already registered individually need not repeat the process unless their details change. However, with 5 million changes to the register each year in Britain, we think it is essential to retain

¹⁶ The Electoral Commission. Electoral Registration in Northern Ireland: Accuracy and Comprehensiveness Research Report (2008)
http://www.electoralcommission.org.uk/_data/assets/pdf_file/0009/64872/Accuracy-and-Comprehensiveness.pdf

¹⁷ Ibid.,

a full household canvass in the critical early years of IER and thereafter until IER is working effectively.

Recommendation 9: The UK Government should retain the full household Annual Canvass in 2015 and beyond until IER is proved to be working effectively.

Impact on older people, disabled people including those in care and Equality Impact Assessment

The Electoral Reform Society has two primary concerns regarding the validity of the findings of the Equality Impact Assessment.

Firstly, the Equality Impact Assessment asserts that IER is a positive opportunity to tackle under-registration longer term. Whilst we agree that changing the registration system does offer opportunities for new measures to target at risk groups, the weight of international experience of IER shows that the UK Government must be cognisant of the full risk IER poses for under-registered social groups. Making individuals responsible for their own registration and requiring personal identification will be a barrier for many and measures targeted specifically at each group will be essential to keep registration rates at current levels, let alone increase them.

Secondly, the Equality Impact Assessments points towards 'an extensive communications campaign at the time of implementation [that] will provide information about the changes to electoral registration in order to encourage registration'. However, the Electoral Reform Society remains cautious both as to the UK Government is able to execute such a campaign effectively, but also whether such a campaign is, by itself, sufficient to address the risks posed.

Recommendation 10: Adoption of Recommendations 7, 8 and 9 (retention of annual canvass, compulsion to register, threat of penalty) will help mitigate the negative impact on democratically excluded individuals and groups.

Recommendation 11: In addition to Recommendation 10, the UK Government should establish a Task & Finish Group with representatives from the Electoral Commission, the Equalities & Human Rights Commission, and expert and representative groups from civil society and political parties. The Task & Finish Group should consider the impact of IER on different social groups, and make recommendations as to how registration and participation can be increased. The Task & Finish Group's final report should be presented to Parliament.

Additional Points to consider

- **Long Term Implications for Constituency Boundary Reviews**

As discussed, the Electoral Register forms the basis of drawing constituency boundaries. It is therefore essential to have as complete and accurate electoral registers as possible. With the Coalition Government committed to fixed-term parliaments and reducing the number of seats and equalising their size, it will be necessary to have a boundary review after every General Election.

A switch away from the ethos of registering to vote as a civic duty to one of personal choice could have a very damaging effect. If a significant number of voters opted out of the register, this would create a false impression of the electorate. The next boundary imprint will be taken in December 2015 after the adoption of IER. Eligible electors who, for whatever reason, decide not to register in that year (perhaps because there is no salient election scheduled for 2016) would not be taken into account when the boundaries are redrawn.

The problem will be worse in areas that already have low rates of registration – particularly in urban and metropolitan areas. John Turner, Chief Executive of the Association of Electoral Administrators, said in evidence to the Political and Constitutional Reform Select Committee, the fall in registration was likely to be 10% in "the leafy shires" but closer to 30% in inner city areas.¹⁸ As a result, the projected 30% fall off in registered voters, weighted towards urban areas, would require the Boundary Commission to reduce the number of inner-city seats. This will create thousands of "invisible" citizens who will not be represented or taken into consideration in many of the decisions that affect their lives. This illustrates how critically important it is to get the transition to IER right.

- **The Role of the Electoral Commission**

The Electoral Reform Society supports the UK Government's intention to examine the role of the Electoral Commission in electoral administration. While the legal duty on local authorities to compile and maintain an accurate and complete register remains, consideration should be given as to whether the Commission's power to direct (as performed during referendums) could be extended to local, devolved, UK and European elections.

While the Electoral Commission undertakes important work issuing guidance to EROs and disseminating best practice, there is an inconsistency of performance outcomes amongst EROs that should be addressed. In particular, strong consideration should be given to strengthening the Commission's power to address poor performance, and whether the Commission could develop a regulatory role in electoral registration.

Recommendation 12: The UK Government should establish an external review into the powers and remit of the Electoral Commission including an examination of Commission's power to direct, and the benefits of a greater regulatory role in electoral registration.

- **The Electoral Participation Fund: financing and reintroduction**

EROs have a statutory duty to compile and maintain accurate and complete electoral registers, and local authorities are required to provide sufficient funds and resources to ensure they do so. However, funding of electoral registration and the costs of elections to local councils is not ring-fenced and there is no dedicated budget. The Government has announced it has no plans to penalise authorities which fail to provide sufficient funding and recourses to enable EROs to fulfil their duties.¹⁹ The Government has also made clear its view that local government should be more flexible in its decisions to

¹⁸ Ibid.,

¹⁹ HC Written Answers. 6 September 2010, c304W

prioritise resources to protect essential frontline services.²⁰ We are concerned that budget cuts will have a negative impact on electoral services at precisely the time when EROs will be expected to do more.

The Government has emphasised participation and accountability in its constitutional reform agenda. The Localism Bill for example states: “local voters [...] need more opportunities in which to make their voices heard.”²¹ Hence the Bill contains a package of reforms which include local referendums and elected mayors.²² Reductions in electoral services provision will deny many voters the opportunity to make their voices heard, and the disconnect between voters and politicians – exemplified by declining turnout – can only get worse as a result. We believe the Government cannot afford not to invest properly in electoral registration and that it should be seen as an essential component in their broader agenda to deliver power to people.

The IER Impact Assessment lays out the estimated cost of data matching schemes.²³ These schemes would allow EROs to access public databases for the purpose of identifying unregistered voters and checking entries for accuracy. If the pilots are deemed to be successful it will be rolled out more widely and may go some way to ensuring more complete and accurate electoral registers. However, it will be down to local authorities to decide whether to use data-matching schemes and the additional costs will ultimately be borne by local authorities. This coincides with the Government’s austerity package and cutbacks in the local government support grant.

Section 9A of the Representation of the People Act 1983, as inserted by section 9 of the Electoral Administration Act 2006 places a statutory responsibility on EROs to maintain complete and accurate voter lists, including making house-to-house enquiries, to ensure that the residents present are correctly included on the register.

Since 2009, the Electoral Commission has measured the performance of EROs against a series of standards.²⁴ The most recent report identifies 47 EROs that performed below standard in some aspects of their performance (34 of which have performed consistently below standard for three years) and ten EROs that did not meet their obligations to ensure the completeness and accuracy of electoral registration records. The subject area of encouraging participation in the electoral process was the worst performing area for the third year running²⁵

In attempting to explain why registration levels have fallen from previous levels in the 1990s, the Electoral Commission states that money saving measures such as stopping door-to-door canvassing and reducing overall amount spent on the annual canvass may

²⁰ HC Written Answers. 8 Jun 2010, c121W

²¹ *Decentralisation and the Localism Bill: an essential guide*, <http://www.communities.gov.uk/documents/localgovernment/pdf/1793908.pdf>

²² Ibid.,

²³ *Individual Electoral Registration Impact Assessment* (June 2011) <http://www.official-documents.gov.uk/document/cm81/8109/8109.pdf> p.4

²⁴ Electoral Commission. *Performance standards for Electoral Registration Officers in Great Britain First analysis of Electoral Registration Officers’ performance April 2009* http://www.electoralcommission.org.uk/_data/assets/pdf_file/0011/74099/ERO-REPORT-FINAL.pdf

²⁵ Electoral Commission (April 2011)

be a contributory factor²⁶ (personal canvassing is known to raise response rates.²⁷) This is largely attributed to the availability of postal voting on demand since 2000, which has placed an increasing burden on EROs with little or no extra resources. Reducing expenditure on the annual canvass allowed them to free up resources for managing postal voting, but this has come at a cost in the number of registered voters through reduced levels of canvassing.²⁸ One local authority report from this period justifying the move to an all postal canvass noted that stopping the use of personal canvassers would result in cost-savings of around £15,000 but would see a “potential drop in response of 5–8%”.²⁹

Eight EROs did not meet the standard for house-to-house canvassing in 2010, and three of these have not met the standard for three years in a row.³⁰ The Commission reports that in discussions, some EROs took the view that house-to-house canvassing was not always feasible due to financial constraints, especially in rural and densely populated areas. Another reason identified for not carrying out a check on all properties was the cost or difficulty of recruiting and retaining canvassers.³¹

EROs who fail to take sufficient measures to register electors can be convicted of an offence under section 63 of the Representation of the People Act 1983. To date, no ERO or electoral official has ever been fined for failure to discharge their section 9A duties.³² The Electoral Commission can make recommendations to improve performance and offer guidance on electoral registration practice. However, it has no power of sanction and cannot direct EROs (or Returning Officers) to follow their recommendations or comply with any of their guidance.

IER will involve a radically different approach to registration. The transition period also coincides with the prospect of fewer parliamentary seats and stricter controls for constituency size. It is therefore possible that some constituencies may straddle more than two local authority boundaries, and multiple EROs may end up operating in the same constituency. The patchy performance of EROs would result in registers that vary in quality across these local authority boundaries. It would be preferable to have some consistency during the transition to IER; not only across local authority boundaries but also across the nation as a whole. We would, therefore, like the Electoral Commission to take on a more regulatory role, similar to that of OFSTED, with stronger powers to raise standards and the ability to sanction under-performing EROs who continually fail in their statutory duties. We would also like to see improved best practice sharing between local authorities and EROs. For example, a UK-wide conference for heads of democratic services.

²⁶ Electoral Commission. (March 2010) *The completeness and accuracy of electoral registers in Great Britain* http://www.electoralcommission.org.uk/data/assets/pdf_file/0018/87111/The-completeness-and-accuracy-of-electoral-registers-in-Great-Britain.pdf p.42

²⁷ Devore, D. *Compiling the Electoral register 1996* (1996) London: HMSO.

²⁸ Electoral Commission. (March 2010) pp.42-43

²⁹ *Ibid.*,

³⁰ Electoral Commission (April 2011) *Report on performance standards for Electoral Registration Officers in Great Britain Third analysis of performance* http://www.electoralcommission.org.uk/data/assets/pdf_file/0020/116444/ERO-Performance-Report-Final.pdf

³¹ *Ibid.*,

³² HC Written Answers. 6 September 2010, c298W

In order to encourage participation and assist EROs to fulfil their duties, the Ministry of Justice made available a £2.5m Electoral Participation Fund in the financial years 2007-08 to 2009-10. The fund was under-used and under-publicised: only 73 local authorities applied for grants in 2009-10 totaling £427,000.³³ Out of the 34 EROs identified by the Electoral Commission as having consistently performed below standard,³⁴ only four made applications to the fund in 2009-10. The fund was terminated in the emergency Budget of 22 June 2010.

It is estimated that 20% or more of the eligible electorate will be missing from the register when the switch to IER is made. In order to meet this challenge and ensure that every eligible voter is able to do so in the 2015 General Election, we ask that the Government reinstate the participation fund. This should be widely publicised and EROs should be encouraged to make use of the fund.

Further, additional activities that EROs may be expected to perform in the future, such as data matching (if the review of pilots concludes such activities successful) need to be effectively resourced otherwise, the UK Government runs the risk that EROs will reduce house-to-house canvassing which is probably the best proven means of increasing registration.

Recommendation 13: The UK Government should reintroduce and promote more widely an Electoral Participation Fund, targeting areas with greatest down-fall.

³³ *Electoral Participation Fund Breakdown by Local Authority*, www.parliament.uk/deposits/depositedpapers/2011/DEP2011-0983.xls

³⁴ Electoral Commission (April 2011)