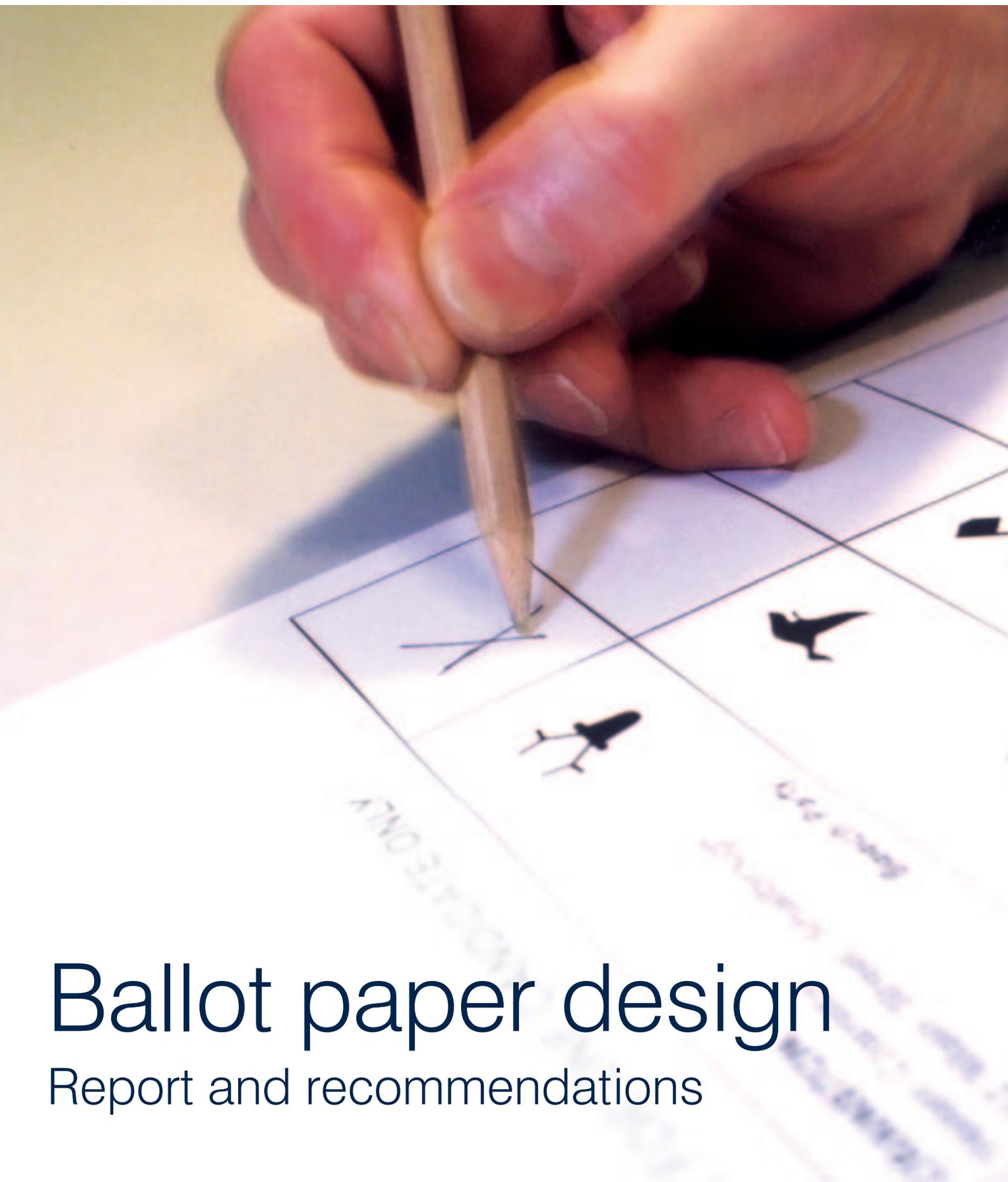


June 2003

The
Electoral
Commission



Ballot paper design

Report and recommendations

The Electoral Commission

We are an independent body that was set up by Parliament. We aim to gain public confidence and encourage people to take part in the democratic process within the United Kingdom by modernising the electoral process, promoting public awareness of electoral matters, and regulating political parties.

On 1 April 2002, The Boundary Committee for England (formerly the Local Government Commission for England) became a statutory committee of The Electoral Commission. Its duties include reviewing local electoral boundaries.

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Executive summary

Among The Electoral Commission's statutory functions is a duty to keep under review a range of electoral and constitutional matters. The Electoral Commission's report on the 2001 general election indicated that the design of ballot papers was an issue we wished to review, including whether a case existed for (and the practicalities of introducing) positive abstention.

This review fulfils that commitment and indicates where the Commission wishes to make recommendations to Government for legislative change to improve the current arrangements for ballot paper design. It also indicates where we believe it would be helpful to introduce additional guidance to improve design of ballot papers, making them more user-friendly for the voter and ease the task of counting undertaken by electoral administrators.

The ballot paper is one of the key components in the electoral process; its design and accompanying guidance are crucial to the success of elections. We have looked at ballot papers used in all statutory elections in the UK (except parish council), but did not consider ballot papers used for referendums.

The review began in August 2002 and a consultation document was issued in January 2003, which identified a range of strategic and detailed points relating to ballot paper design. Consultees were encouraged to raise issues with us, even if this meant proposing changes that might take some time to achieve, or ideas which, if adopted, would mean significant changes and adaptations to the current system. The Commission also indicated at that time that certain suggestions under discussion may not be practicable in certain parts of the UK or would need to be adapted, if introduced, to suit local circumstances.

Priorities and principles

The priority for the review has been to promote and protect the interests of the electorate. In reviewing the law and practice in relation to ballot paper design, we have recognised that there is often a tension between promoting access and making ballot papers more user-friendly for the voter without making the task of the electoral administrator more difficult and time-consuming. The production of ballot papers is undertaken in a very short period between close of nominations and the issuing of postal votes. The more complex ballot production is made, the more time and financial resources are needed to deliver a satisfactory product. Complexity of specification can also reduce the possible sources of production for Returning Officers.

The Commission's recommendations are designed as a package which, taken together, strike a balance between seeking to improve the ballot paper's user-friendliness for the voter and recognising the concerns of those who administer the election, while being set in the context of the constraints of the electoral timetable and production opportunities.

Conclusions and recommendations

Candidate issues

We intend to support research to establish the extent of the influence of alphabetic listing prior to making a final recommendation to Government. In the meantime, we recommend that legislation be introduced to enable the piloting of alternative listing methods in order to assist in determining the impact of the present arrangements.

The use of numbers to the left of candidates' names should not be permitted.

In parallel with separate changes to the descriptions permitted for independent candidates, such candidates should be required by law to use of the initials 'IND' in the area of the ballot paper where a party emblem is otherwise placed.

Specific legislative provisions should give Returning Officers the power to allow candidates to omit their full forenames from the ballot paper in favour of their common name, provided their full name is given on the nomination paper. We shall develop guidance for Returning Officers to support the legislative provision.

Voter information issues

The law should require:

- information concerning the type of election to appear on the front of the ballot paper at the top, rather than on the back as at present. The statement should be phrased as 'Ballot paper for the election of [institution name and electoral district]';
- a short statement to appear at the bottom of every ballot paper highlighting the right of the elector to vote in secret. This should be included on all ballot papers and not only those issued for postal voting;
- clear and concise information to be included on the ballot paper to explain how an elector votes. The wording should be prescribed in law and developed in consultation with organisations experienced in providing accessible text to the public.

The provision of information for electors in ante-rooms to polling stations should be the subject of electoral pilots in order to test and assess their impact on voter participation, prior to any final recommendations.

Returning Officers should be given legislative power to provide pictorial or visual guides to voting in polling stations, and to provide examples of ballot papers in Braille, large print and relevant languages for the local community in polling stations to assist voters. However, the ballot paper that voters complete should continue to be available only in English or Welsh.

As a matter of good practice:

- ballot papers should comply with RNIB guidelines on the printing of forms while including the additional information which this report recommends;
- ballot papers should be white with black ink. However, we acknowledge that the use of non-white ballot papers can be of assistance to the voter when presented with more than one ballot paper on polling day.

Further research into the use of photographs on ballot papers should be undertaken and we recommend that legislation be introduced to enable the piloting of photographs in order to assist in undertaking such research.

Administrative issues

Following our analysis of the May 2003 local election pilot schemes, the Commission expects to:

- recommend the introduction of some form of alternative to the current official mark (for example, watermarks or half-tone marks) in order to eradicate the disenfranchisement of voters through human error in the polling station;
- make final recommendations on the replacement of serial numbers by barcodes. The Commission will consider separately the wider issue of whether

providing for the possibility of vote tracing in the event of allegations of fraud is a necessary feature of our electoral system, given the anxieties of some voters over the possible misuse of serial numbers to trace their vote.

As a matter of good practice, we recommend the use of portrait style ballot papers in all elections.

Returning Officers should be required by law to give candidates (or their agents) an opportunity to proof-read a copy of the ballot paper prior to printing. However, final decisions on the text of the ballot paper should continue to rest with the Returning Officer.

It is too early in the process of developing electronic voting to make final recommendations with regard to design of ballot papers for use in e-voting or counting, or to propose definitive guidelines on candidates' selection webpages. However, the Commission will make recommendations on good practice in its report on the pilot schemes taking place in May 2003.

We recognise the importance to some electors of having the candidates' addresses on the ballot paper and we do not recommend its removal. However, we may return to this issue in due course, in the light of further consideration of the issues of principle and practice involved.

Strategic considerations

More research should be undertaken at coming elections to explore whether, and to what extent, electors' motivation for voting might be influenced by the availability of an opportunity for 'positive abstention', prior to any final decision on the merits or otherwise of its introduction.

The names of candidates on closed list ballots should continue to be included on ballot papers.



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1 Introduction

The Electoral Commission is a public body established on 30 November 2000 under the Political Parties, Elections and Referendums Act 2000 (PPERA). The Commission is independent of Government and political parties, and is directly accountable to the UK Parliament. Among the Commission's general statutory functions is a duty to keep under review a range of electoral and political matters.¹ The Commission's review of the ballot paper design falls within this remit and is part of a wider programme of reviews being conducted by the Commission following our statutory report on the 2001 general election.²

Background

1.1 This review has examined the law and practice in relation to the design of ballot papers. It fulfils the commitment given in the report on the 2001 general election to consider whether legislative change was necessary to improve the current arrangements for ballot paper design, including whether there was any case for (and the practicalities of introducing) positive abstention. The review has also considered the need for the Commission to provide additional guidance to Returning Officers to improve the design of ballot papers, making them more user-friendly for the voter, and make easier the task of counting undertaken by electoral administrators.

1.2 In undertaking this review, the Commission has been keen to approach the issue with a fresh eye even if this meant proposing changes, which might take some time to achieve, or ideas which, if adopted, would mean significant changes and adaptations to the current system. The Commission has also been willing to examine options for change which might not be practicable in certain parts of the UK or would, if introduced, need to be adapted to suit local circumstances.

Review process

1.3 The report sets out the views and recommendations of The Electoral Commission. It has been prepared by staff of The Electoral Commission working with a Project Board chaired by Commissioner Pamela Gordon, and involving SOLACE (Society of Local Authority Chief Executives), AEA (Association of Electoral Administrators), SOLAR (Society of Local Authority Lawyers and Administrators in Scotland), the Plain English Society and Professor Patrick Dunleavy of the LSE. However, any views expressed in this report are those of the Commission alone, and do not necessarily reflect the views of Project Board members.

1.4 Through liaison with the Project Board and Reference Group members, and the wider public consultation processes, the Commission has aimed to involve stakeholders in the review with the aim of ensuring its recommendations are soundly based and supported.

¹ Section 6 of the Political Parties, Elections and Referendums Act 2000.

² The Electoral Commission (2001) *Election 2001 – The Official Results*. London: Politicos.

Following preliminary research and initial consultation with key stakeholder organisations, the Commission issued a public consultation paper in January 2003. The consultation paper identified a range of strategic and detailed points relating to the design and use of ballot papers which the Commission wished to consider as part of the review. In order to consider the implications in practice of the suggestions in the consultation paper, the Commission placed on its website mock-ups of ballot papers which incorporated the ideas contained in the consultation paper. Those commenting on the paper were encouraged to view the examples.

1.5 In total, 115 responses were received. The majority of these were from local councils or individual electoral administrators. Responses were also received from political parties, members of the public, elected representatives, representative organisations and those involved in the production and delivery of ballot papers. A list of respondents to the consultation exercise is given in Appendix 1. Individual responses can be viewed in person at the Commission, except where confidentiality was requested. Some respondents raised issues outwith the remit of the review; the Commission will consider these issues separately.

1.6 Copies of the consultation paper are available from the Commission and can be viewed or downloaded from our website.³

Priorities and principles

1.7 The design of ballot papers in the UK has not changed significantly in over a century. In reviewing its future use, the Commission has no wish to seek change for its own sake and we recognise the considerable benefits of familiarity and simplicity. Nevertheless, there are changes already under way in the design of the ballot paper prompted by the use of new technology, a growing awareness of the need to make the electoral process fully accessible to all electors and new types of elections.

1.8 In this review, as with others, the Commission has taken the view that our main priority should be to

promote and protect the interests of the electorate. Nevertheless, in reviewing the law and practice in relation to ballot paper design, we recognise that there is a tension between promoting access and making ballot papers more user-friendly for the voter and the practicalities of ensuring the production of accurate ballot papers in a very tight timeframe by electoral administrators. We also acknowledge that many of the ideas put forward to us for improvements in the design of ballot papers might be helpful to the voter in isolation but, when combined with other changes, could cause confusion and remove the simplicity that is the hallmark of the current ballot paper. It is also the case that the more complex ballot paper production is made, the more time and financial resources are needed to deliver a satisfactory product.

1.9 The Commission has therefore developed its recommendations as a package which, taken together, strike a balance between seeking to improve the ballot paper's user-friendliness to the voter and recognising the constraints of the electoral timetable and production opportunities. This has led the Commission in some instances not to recommend changes which it might otherwise have done. In such cases, the Commission has recommended the adoption of alternative strategies to provide information to the elector in the polling station, or to propose the piloting of new approaches before final decisions are taken.

Scope

1.10 This review has examined ballot papers used in all statutory elections in the United Kingdom (except parish council elections), but has not considered ballot papers used for referendums. A number of respondents during the consultation exercise expressed concern that the review did not include parish council elections. The Commission does not have any specific statutory remit to examine the operation of parish council elections, but we would suggest that in many respects there is no need to distinguish in the implementation of our recommendations between different types of elections. The Commission would, therefore, encourage the Government to consider how our recommendations might be given effect in relation to parish council elections.

³ www.electoralcommission.org.uk.

Recommendations

1.11 This report has been submitted to the Lord Chancellor and Deputy Prime Minister (Secretary of State) in accordance with section 6 of PPERA. While the Commission has a statutory duty to keep these matters under review, the Commission's role with respect to electoral law is advisory. It is not for the Commission to make the final determination as to how arrangements might be changed and we have no powers to ensure implementation of any of the recommendations we make. It is for the Government to initiate and ultimately the UK Parliament to decide on any changes to procedures and proposals for legislative change.

1.12 The report has also been submitted to the Minister for Finance and Local Government, Scottish Executive as the remit of the review, at the Scottish Executive's request, included local government elections in Scotland, which are a devolved matter.



2 Candidate issues

It is a fundamental requirement of any fair electoral process that the ballot paper should offer no advantage to any particular candidate or party. The Commission has considered a number of issues relating to the design of the ballot paper which may have an impact on the candidates standing for election.

Alphabetical listing

2.1 At present, the law for all elections in the UK requires that the names of candidates appear on the ballot paper in the order dictated by the alphabetical listing of candidates' surnames. This practice is also widely followed in elections overseas, although not universally. It has been strongly argued by some that alphabet-based ballot paper order discriminates against those candidates with surnames starting with letters towards the end of the alphabet because they generally appear lower down the ballot paper. Their argument is that electors may be more inclined to vote for those nearer the top of the ballot paper for no other reason than they read the names positioned nearer the top of the ballot paper first.

2.2 During our consultation process, we asked respondents to provide evidence or research in an attempt to assess the extent to which this theory is borne out in practice. In the main, respondents to the consultation paper did not support the perception that alphabetical listing led to discrimination against those lower down the ballot paper. Many electoral administrators drew on long years of experience in managing elections in arguing that they had not perceived a bias towards those positioned higher up the ballot paper.

2.3 Moreover, little evidence has been provided to the Commission to support the case that alphabetical discrimination exists. Even among those who argued or accepted that an advantage for candidates whose names appear towards the top might exist, few were able to provide any indication of the impact at single vacancy elections. Table 1 is based on analysis of the elected candidates at the 2001 general election and indicates the following ballot paper position for successful candidates.

Table 1: Position of elected MPs on ballot paper at 2001 general election

Candidates' position on ballot paper	Number elected	Percentage elected	Number of constituencies
1	143	21.7	659
2	148	22.5	659
3	124	18.8	659
4	124	20.2	614
5	74	17.8	416
6	30	14.4	208
7	10	13.5	74
8	5	20.0	25
9	1	20.0	5

Note: all figures are row percentages not voting

2.4 The data in Table 1 indicate that at the 2001 general election an almost equal split occurred, with approximately 20% of all winning candidates having been in the first, second, third or fourth place on the ballot paper. Of the five contests where nine candidates stood 20% of the ninth placed candidates were elected.

2.5 Several local councils provided an analysis of recent elections which provided similar conclusions to that shown in the 2001 general election results for single vacancy elections. Taking all the available evidence into account, the Commission has concluded that there is insufficient evidence to demonstrate the existence of 'alphabetic discrimination' in single-vacancy elections.

2.6 The Commission is, however, concerned that there may be a discriminatory effect through alphabetical listing in multi seat elections. Academic research analysing the London Borough elections in 1994 and the English shire districts elections in 1995 supported the view that in multi-member wards alphabetical discrimination did occur against those candidates lower down the ballot paper. The research indicated that a smaller proportion of ballots were cast for candidates found in the middle or at the bottom of the alphabetical order. Further, it showed that when voters did cast all the

available votes for one party's candidates, there was a marked bias towards those listed higher in the alphabetical order.⁴

2.7 Several local councils have also provided the Commission with evidence to support their belief that alphabetical discrimination does occur in multi-seat elections. Voters who in such instances are faced with often 12 or more candidates for three seats often appear to vote for only one or two party candidates and do not 'find' the third party candidate on the ballot paper. The Electoral Services Manager at the London Borough of Hammersmith and Fulham has provided an analysis of the 2002 borough elections in London which shows that votes received by party candidates had a strong correlation with their surname and suggests that alphabetical listing had an influence.⁵

2.8 Anecdotal experience has also been given to the Commission indicating that, particularly in parish council elections, where electors are asked to choose a significant number of candidates from 25 or more on the ballot paper, that candidates higher up the ballot paper will tend to receive many more votes than was expected by comparison with locally well-known candidates lower down the ballot paper.

The Commission is concerned that alphabetical discrimination could exist in elections to multi-seat elections, but acknowledges that the information available at present is inconclusive. We intend to support further research to establish the extent of the influence of alphabetic listing prior to making a final recommendation. In the meantime, we recommend that legislation be introduced to enable the piloting of alternative listing methods in order to assist in determining the impact of the present arrangements.

⁴ C. Rallings, M. Thrasher and C. Gunter (1998) 'Patterns of voting choice in multi-member districts: the case of English local elections', *Electoral Studies*, 17.

⁵ For full details see Appendix 2

2.9 In the course of the review, we have considered and consulted on a number of possible alternatives to alphabetic listing, including:

- names on the ballot paper being rotated to ensure that each candidate appears at the top, middle and bottom an equal number of times;
- drawing of lots for the placement of candidates on the ballot paper;
- listing the candidates in the order that nominations were lodged with the Returning Officer;
- placing the candidates on the ballot paper according to the first letter of their party's name.

2.10 Many respondent to our consultation exercise raised concerns about some or all of these suggestions, especially in relation to their management and administration. Having taken into account the points raised with us, the Commission is convinced that any proposal to rotate names on the ballot paper, especially on a paper-based ballot paper, would complicate the printing and preparation of papers to such an extent that it would cause problems in the preparations for the elections and confuse counting clerks to such an extent that any perceived gain for candidates could be negated.

2.11 We recognise that listing candidates in the order of nomination could cause unnecessary errors on the nomination paper. Similarly, the proposal that candidates be listed in the order of party name could lead to parties changing title simply to circumvent the process. Simply rushing to complete nomination papers or changing a party's name for advantage on ballot paper position does not, in the Commission's view, assist in what should be a dignified process.

2.12 Of the available options, we regard the drawing of lots for position on the ballot paper as the most appropriate measure by which to negate any impact of alphabetical discrimination.

It was generally accepted by respondents to our consultation paper that using the Australian double randomised system – where the first draw gives each candidate a number and the second draw determines the order in which each candidate appears on the paper – was the most attractive option. This approach should be tested in the UK through the pilots recommended above.

2.13 In testing this approach in multi-vacancy elections, the Commission suggests that grouping party candidates together could help assist both the electors and counting clerks. This could be achieved by substituting party for candidate in the first draw with the candidates being listed alphabetically (or randomly drawn) in the party block. Independents could be treated as a party for draw purposes. Any ballot paper draw would of course need to be undertaken by the Returning Officer soon after close of nominations with candidates or their agents invited to be present.

Numbers on ballot papers

2.14 During the Commission's initial research into the design of ballot papers, the suggestion was made that the practice of placing numbers on the left-hand side of the ballot paper might produce an unfair advantage to candidates who happen to be at the top of the ballot paper and therefore numbered 1, 2, etc. Numbers to the left of candidates' names are currently required in many but not all elections.

2.15 There was little consensus on this issue among respondents to our consultation exercise. Many felt they were not discriminatory, while others considered that they could be and offered anecdotal evidence to support their contention. Some respondents thought numbers would be helpful to voters with sight impairments while others thought that counting clerks in counting centres would find them of assistance, particularly where large numbers of candidates or parties appeared on the ballot paper, which is a trend in the list elections to the devolved institutions. The Chief Electoral Officer for Northern Ireland also pointed out that numbers could not be used in any STV system as they could draw the elector to vote in that order.

2.16 Some respondents argued that it is useful for candidates to be able to mention in their election literature their numbered position on the ballot paper, especially where surnames are the same or very similar. It was also felt that this could be beneficial for electors who did not use English as their first language.

2.17 The Commission has noted the many varied points of view on this matter. We are concerned, however, that much of the opinion given is simply that and very little evidence has been provided to support the contentions made. In response to the suggestion that numbers assist those with sight impairments, it can be argued that the device generally provided by electoral administrators has numbers on it which suffice and, for every respondent who argued that numbers assist counting clerks, others have argued that it is irrelevant to a clerk in a counting centre. The argument that parties can use the position on the ballot paper to highlight to their supporters their candidate can be refuted by highlighting emblems which can easily draw the elector to a particular party and is a much more easily identifiable image, and more frequently seen by electors, than a number on a ballot paper.

2.18 Consequently, the Commission is not convinced that numbers to the left of a candidate's name on the ballot paper assists the voter or counting clerk. However, the Commission is equally unconvinced that the use of numbers has any discriminatory effect on those numbered further down the ballot paper. In general terms, the Commission is concerned that only information that is of proven use to the elector is included on the ballot paper. Our recommendation is based on this principle.

The Commission recommends that the use of numbers to the left of candidates' names should not be permitted.

Use of emblems

2.19 Under present legislation, a candidate whose nomination is supported by a certificate of authorisation issued by, or on behalf of, a party's registered Nominating Officer can request in writing to have that party's emblem, or one of them, printed next to their name and other

particulars on the ballot paper. In the case of a registered party list of candidates, the registered Nominating Officer may request the inclusion of the party's emblem, or one of them, on the ballot paper. Parties can choose to use any of the emblems they have registered (they can register up to three). Parties operating in Great Britain often register a Scottish, Welsh and English version of their emblem. Where a party has more than one registered emblem, the candidate must specify which emblem he or she wishes to use.

2.20 During initial research it was put to the Commission that the current system disadvantages those who do not have a registered emblem. To rectify this, it was suggested that parties or individuals standing as candidates without an emblem should be allowed to use a photograph of the candidate instead; others proposed that unregistered emblems could be permitted on an ad hoc basis regulated by the Commission or the local Returning Officer. Alternatively, it was suggested that if one of the candidates who did not have an emblem was standing, then all other candidates should not be permitted to use their emblem.

2.21 The political parties and electoral administrators that responded to our consultation exercise generally felt that the current system had not been in place sufficiently long to reach a firm view as to whether or not it was working well. However, independent candidates have indicated to us that they feel the current use of emblems is discriminatory. In particular, the independent group of councillors within the Local Government Association believe they are disadvantaged against party candidates able to stand with and use a logo. They proposed that for independent candidates the word 'Independent' or the initials 'IND' should be permitted to be placed in the spot where a party emblem would normally be placed on the ballot paper. The Commission notes that there is no specific evidence of the impact of independent candidates not being permitted to use emblems. However, we recognise that such evidence would be difficult to obtain and accept the point of principle that, if the political parties are so entitled, all candidates should be entitled to some form of emblem on the ballot paper.

2.22 When responding to the Commission's consultation paper on this subject, many respondents raised the issue of the inability of independent candidates to be able to use a more specific description than simply the word 'Independent'. This matter has been addressed by the Commission's separate report on the nomination process. That report recommends that independent candidates should not be restricted to a single word description and should instead be able to use up to six words subject to certain controls. In the light of this separate recommendation, the Commission has considered whether there would be advantage in not only permitting but requiring independent candidates to use a standard emblem to indicate to electors that they are not party candidates. The recommendation below reflects this approach.

The Commission recommends that independent candidates should be required to use the initials 'IND' in the area of the ballot paper where a party emblem is otherwise placed, to complement other changes recommended in the Commission's separate review of the nominations process, in relation to the use of descriptions on ballot papers.

'Commonly known as'

2.23 In our earlier consultation paper, we indicated that we were minded to favour the introduction of a provision allowing candidates to omit the use of their full name from the ballot paper in favour of their 'common' name, provided that the full official name was given on the nomination paper. This view was founded on widespread support among all types of stakeholders in the electoral process during the Commission's initial research.

2.24 At present, the law requires that nomination papers and ballot papers include candidates' full forenames and surname. At the discretion of the Returning Officer, candidates occasionally include the name they are commonly known as in addition to the name appearing on their birth certificate (e.g. 'Elizabeth Jones, commonly known as Liz Jones'). Some Returning Officers are happy to accept this and allow the 'commonly known as' name

to be included on the ballot paper as well as the full name while others do not and require that candidates be known only by their full official name. This is because currently there is neither legislative permission to allow candidates to be known as their common or informal name nor any prescription in law which explicitly prevents the practice.

2.25 A large majority of respondents to the consultation paper indicated their support for the introduction of a provision allowing candidates to omit the use of their full name from the ballot paper in favour of their common name, provided the full name is given on the nomination paper itself. It has also been indicated to the Commission that in certain cultures and areas of the United Kingdom, for example Wales, it is common for men to be known by their middle name rather than their first given name.

2.26 The Commission believes it would be a relatively minor but positive step to give Returning Officers the ability to accept nominations which allow candidates to appear on the ballot paper under the forename by which they are known locally. There should not, however, be any scope for candidates to use an alternative surname. If the official use of 'commonly known as' names is introduced, then a standardised approach would also need to be instituted. It would, for example, be important to have clear procedures for dealing with candidates who may wish to stand under a name which associates them with someone famous or well known, or otherwise seek to use the new facility to undermine the integrity of the election process.

The Commission recommends the introduction of specific legislative provisions giving Returning Officers the ability to accept nominations which allow candidates to omit the use of their full forenames from the ballot paper in favour of their common name provided their full forenames are given on the nomination paper. The Commission would develop practice guidance for Returning Officers to support the legislative provision, especially in order to avoid abuse of the provision by candidates seeking to undermine the process or cause confusion with other candidates.



3 Voter information issues

The ballot paper has a crucial role in our democratic system. It allows the elector to understand the choice of candidates available and should enable the voter to make a valid choice simply and clearly. The ballot paper may, in some cases, provide the only information about the candidates that a voter has seen. During the Commission's initial research in this area, a number of ideas for inclusion of more information on the ballot paper to improve voters' understanding of the process were suggested.

Election information

3.1 The Commission accepts that for some electors the ballot paper can be a confusing form with little instruction as to how it should be completed. However, we are also acutely aware of the need to strike a balance in order to ensure that the provision of new information on a ballot paper does not make it more cluttered and difficult to understand.

3.2 The most glaring omission from most ballot papers is any clear indication of what election they are concerned with or the specific electoral district to which they refer. Although this information is on the back of the ballot paper, the Commission is of the view that virtually no electors would ever be aware of the information's presence. Many respondents to the Commission's consultation paper supported proposals to provide clearer information about the election on the face of ballot papers.

The Commission recommends that the law should be amended to require that information concerning the type of election be moved from the back of the ballot paper and included instead on the face of the ballot paper and at the top. The statement should be phrased as 'Ballot paper for the election of [institution name and electoral district]'.

3.3 With the increased take-up of postal voting, concerns have grown over the potential increase in undue influence during the voting process of postal voters. In order to raise and reinforce public awareness of the right to complete the ballot paper in secret, the Commission believes a statement to that effect should be included on the ballot paper. The warning might also highlight the electoral offences involved in any person unduly influencing a voter's decision or infringing their privacy in casting a vote.

3.4 This issue has also been considered by the Commission in our absent voting review. The absent voting review concluded that Returning Officers should alert voters to the importance of the secrecy of the ballot through warnings contained in leaflets or the declaration of identity issued with postal ballot papers. That review

left open the possibility of a warning appearing on the face of the ballot paper itself, as the Commission believes that it is essential to ensure that ballot papers completed by postal voters cannot be distinguished from those completed by electors in the polling station and so any changes should apply to all ballot papers, however issued.

The Commission recommends that the law should be amended to require a short statement at the bottom of every ballot paper which highlights the right of the elector to vote in secret. This warning should be included on all ballot papers and not only those issued for postal voting.

3.5 The Commission has also considered a proposal to include a description of the body for which the election is taking place. Respondents to the Commission's consultation paper overwhelmingly felt that this proposed description would be extremely difficult to achieve succinctly and any description could in itself be the subject of controversy among candidates, thereby involving the Returning Officer in unnecessary discussion with candidates and agents. For this reason the Commission does not support the inclusion of such a description.

3.6 It had been proposed that, as an alternative to a description, the crest or logo of the institution for which the election was taking place be included on the ballot paper. On reflection, and having considered the comments received from consultation respondents, the Commission does not support the inclusion of such crests or logos. Crests and logos can themselves become political issues, which could lead to accusations of their inclusion on the ballot paper being undue influence in favour of one candidate as opposed to another.

Explanatory notes

3.7 Apart from the statement at the top of the ballot paper 'Vote for one candidate only', or a variation on those words where elections involve multi-preference voting, no explanatory notes are usually provided for the elector on the ballot paper as to how it should be completed. In almost all elections, there are a small number of ballot

papers not counted because they have been completed incorrectly. Where possible, the Returning Officer will usually seek ways of identifying a voter's intention, but in some situations, the votes are simply not capable of clear interpretation or include marks that would identify the voter and so must be disqualified.

3.8 Although information posters are situated in the polling station, it has been suggested to the Commission that some form of additional explanatory note or symbol direction should be included. Perhaps even as little information as 'mark your X in a box' would suffice where preferences are made using an X. The instructions would need to be different for elections involving proportional representation.

The Commission recommends that the law be amended to require the inclusion of clear and concise information on ballot papers to explain how an elector should vote. The wording should be prescribed in law and developed in consultation with organisations experienced in providing accessible text to the public.

3.9 Consideration has also been given by the Commission to the proposition that information be provided on how votes are counted either on the ballot paper or in the polling station. Most respondents felt this proposal was unnecessary and certainly should not be included on the ballot paper. The Commission agrees and accepts that to achieve this under some electoral systems would be very difficult.

Information about parties and candidates

3.10 The Commission has considered whether information relating to the parties and/or the candidates standing at the election should be available to the voter either in the polling station or in an ante-room. The information provided might include the election address freepost leaflet issued by candidates at all elections other than local elections; it might also extend to other information provided specifically for the purpose. If so, it would clearly need to be subject to some standard rules in relation to format and volume to ensure fairness and

avoid the provision of too much information. There would also be issues about whether any form of approval for the information made available in the room or ante-room to a polling station would need to be given and by whom.

3.11 Given the controls on other information and activities within polling stations, it seems necessary that information about candidates or parties should be similarly controlled. The freepost election leaflets are subject to some limited vetting for legal purposes by Royal Mail and so would probably not require any additional approvals. Other information would, however, need to be checked to ensure it was not defamatory or otherwise unlawful. It might be for the parties or candidates themselves to undertake this process and sign a declaration to this effect; alternatively, responsibility might fall to the Returning Officer. The introduction of such a change could also have implications for the positioning of polling stations and might have an effect on the type of building that could be used. It has been suggested that the provision of this information could lead to overcrowding in some stations and slow the voting process.

3.12 The majority of respondents to our consultation exercise expressed opposition to the provision of information in polling stations. The Commission accepts that candidate and party literature being available in the polling station or in an ante-room would present some practical problems. For instance, it would be necessary to determine how to 'police' the display arrangements and decide on the position of literature in order to achieve equal treatment of the candidates. Nevertheless, there is considerable research evidence to suggest that for electors (and especially those who are less inclined to turn out) the provision of information could play an important part in persuading them to participate in the election process. The Hansard Society's report *None of the Above*, based on opinion research conducted by MORI in 2001, specifically cited lack of information about candidates and policies as a key factor in dissuading non-voters from becoming involved in the 2001 general election.

3.13 It is also noteworthy that a number of pilot schemes at the local government elections in England in May 2003 have used new technology to provide electors with opportunities to find out more about candidates before casting their electronic vote. The Commission will be reporting separately on the response to these schemes in July 2003.

The Commission recommends that the provision of information for electors in ante-rooms to polling stations should be the subject of electoral pilots in order to test and assess their impact on voter participation prior to any final recommendations.

Production of ballot papers in other than English and Welsh

3.14 At present, the law does not permit ballot papers or other related explanatory material to be made available in languages other than English and Welsh. However, there are several parts of the country where there are significant populations for whom English or Welsh is not their first language. It is now standard practice for local authorities in such areas to produce information about a range of local authority services in the most commonly used local languages. It has, therefore, been suggested to us that ballot papers and related explanatory notes should be produced in languages other than English and Welsh.

3.15 The Commission is sympathetic to the idea of producing ballot papers and related material in languages other than English and Welsh. This would allow greater access to the electoral process and enable voters to make informed choices and would also minimise the scope for undue influence being exerted over voters whose first language is not English. We are aware that the Greater London Authority Returning Officer plans to provide explanatory notes in languages other than English in polling stations (but not polling booths) at the 2004 GLA elections. International practice suggests that it is unusual for countries to allow the official ballot paper to be produced in languages other than the country's official languages but other material is

often produced in a wider variety of languages. Pictorial guides, such as those produced by some electoral administrators already for dissemination prior to elections, have enabled voters to understand the process without the necessity of supplying information in many different languages. Such guides should also be permitted in polling stations.

3.16 The Commission recognises that an obligation to produce ballot papers or other materials in multiple languages would need to be both carefully targeted and adequately resourced. Even with the necessary funds, the tight statutory election timetable that operates in the UK would give rise to a number of practical difficulties – for instance, logistical problems in ensuring that translations of ballot papers, posters or other information were produced in time for submission to printers alongside English language versions. Such practical hurdles may, of course, be addressed over time through the developing use of technology. For example, the suppliers of e-voting services funded by the Government’s current electoral pilots programme have all been required to make available, or develop, the facility to produce electronic voting screens in non-English languages.

3.17 Beyond the issues of logistics, there are also issues of principle about whether it is appropriate to provide ballot papers in many different languages, and how to determine which languages would need to be provided for. Because of the demographic variations across the UK, it would be inappropriate to specify particular languages in legislation. One option would be for a minimum population threshold of the electorate to operate, so that if the population of a particular minority ethnic community in a constituency or ward exceeded the agreed threshold, ballots would be produced in that ethnic community’s language. However, our consultation exercise has not identified any ready means of establishing an appropriate threshold for the introduction of such ballot papers. Such provision is complicated to achieve and could bring a number of administrative problems in an already tight timescale.

3.18 The Commission believes that an obligation on Returning Officers to produce ballot papers in many languages would, until technology is further integrated into the electoral process, create too many difficulties in operation. We believe that the more appropriate approach for the immediate future is to create a permissive power for Returning Officers to provide translations of official forms in polling stations, and sample ballot papers in ethnic community languages. A permissive power of this sort would not require the application of statutory thresholds or any other specification of languages to be used, but would create significant new opportunities for improving the accessibility of the electoral process in parts of the country where there are significant populations of non-English speaking communities. The Commission would continue to keep under review the use of these new powers and promote good practice in this regard.

Returning Officers should be given legislative power to provide in polling stations:

- pictorial or visual guides to voting;
- official posters in non-English languages;
- examples of ballot papers in non-English languages. However, the ballot paper that voters complete should continue to be available only in English or Welsh.

3.19 The Commission has also looked, in the context of our review of equal access, at the possible provision of Braille or other formats of ballot paper designed for use by visually impaired people. Although many respondents to consultation were in favour of providing Braille ballot papers on request, the likely take up was considered likely to be low. Some respondents accordingly took the view that the provision of a Braille ballot paper at every polling station would be a disproportionate response given the existing provision for visually impaired voters at polling stations and alternative arrangements including assistance by companions or Presiding Officers and the voting device for visually impaired people. A further concern about using Braille or large-print ballot papers related to secrecy. Any alternative forms of ballot paper would lead to these ballot papers being highly visible at

the count to all those watching the process, and potentially allowing a connection to be made between individual voters and their vote. At present, all ballot papers are the same, so everyone has the same guarantee of secrecy. Our recommendations in this regard are designed to address these concerns.

Braille and large-print ballot papers should be supplied in polling stations as samples only. Visually impaired electors should, however, continue vote on a standard ballot paper, perhaps using the template or with other assistance currently permitted by law.

3.20 In situations where disabled voters or voters whose first language is not English or Welsh attend polling stations, well-trained Presiding Officers are crucial in ensuring that the voting experience of such voters is a positive one. This is something that the Commission intends to encourage administrators to emphasise to polling station staff in future local training initiatives, and to incorporate into implementation of our own training strategy for electoral administrators.

Size, colour and printing of ballot papers

3.21 Ballot papers for ‘first past the post’ elections have traditionally been approximately 15cm x 10cm and coloured white. Size of ballot paper is, of course, dependent on the number of candidates standing and has dramatically increased with list elections such as those for the Greater London Assembly, Scottish Parliament, National Assembly for Wales and the European Parliament. The Commission has considered the proposition that the average size of ballot papers should be increased to allow more information to be included for the benefit of voters. This approach would also assist administrators in complying with Royal National Institute for the Blind (RNIB) ‘Clear Print’ guidelines on printing of forms – which require a minimum of 12 point font size – and assist voters with sight impairments to understand the ballot paper more readily.

3.22 We recognise that the implications of such an increase in ballot paper size need to be considered not only from the point of view of including more information

and assisting the voter to understand the form, be they sight-impaired or not, but also from the point of view of the logistics of the printing process. Printing presses come in pre-specified sizes (A3, A2, A1) and therefore the size of paper determines how it can be printed. Most ballot paper printers are small local printers with A3 presses and a late change to a much larger size could necessitate a change of printer. In recent years, for instance during the production of the 1999 European and devolved legislature election ballot papers, Returning Officers faced added difficulties in sourcing a supplier able to meet their needs.⁶ Where e-counting machines are used, ballot paper size is also a critical issue.

3.23 The Commission acknowledges that any increase in the size of ballot papers can have an impact on the suitability of current voting booths and there can be difficulties in using the currently available devices for visually impaired voters when very large ballot papers are presented to them. Having acknowledged these practical concerns, the Commission is nevertheless convinced that, given adequate notice of the size required, print suppliers and account manufacturers of e-counting machines will be able to deal with requests for larger ballot papers. Similarly, it should be possible to develop existing voting devices to match the requirements of larger size ballot papers. However, these are issues where practice is likely to keep developing and it would be inappropriate to fix in statute requirements for a fixed paper size.

The Commission recommends that, as a matter of good practice, ballot papers should comply with the RNIB ‘Clear Print’ guidelines on the printing of forms while including the additional information which this report recommends.

3.24 The Commission has also considered the question of ballot papers being produced in colours other than white with black ink in order to provide greater contrasts which are more user-friendly to those with a sight impairment. Ballot papers coloured other than white are

⁶ The Commission acknowledges the assistance of the British Printing Industries Federation in providing useful advice throughout this review.

currently found in elections where more than one ballot paper is presented to the voter on polling day. For instance, the elections to the Scottish Parliament and local government in May 2003 used a combination of white, aquamarine and peach ballot papers.

3.25 Despite the potential benefits to administrators and electors in distinguishing between different ballot papers through colour, a number of difficulties surround the use of coloured ballot papers. Firstly, colours are often associated with political parties, so there is a limited colour spectrum available for Returning Officers to choose from which does not compromise the political impartiality of the ballot paper. In addition, non-white shades of ballot papers are slightly more expensive, often less readily available from stock and often require pre-ordering in large quantities. For local elections, this may well mean that a Returning Officer would have to purchase large amounts of paper for a small print-run which would then involve storage of the spare paper for future use. There are also issues of legibility for voters. RNIB's 'Clear Print' guidelines recommend that: 'The contrast between the background and the type is also extremely important. The better the contrast, the more legible it is.' This is not an area where we regard statutory prescription as appropriate. However, it is important that due consideration is given to the issues of readability.

The Commission recommends that, as a matter of good practice, ballot papers should be white with black ink. However, we acknowledge that the use of non-white ballot papers can be of assistance to the voter when presented with more than one ballot paper on polling day.

3.26 The Commission is also aware that in some countries colour banding is employed on ballot papers so that each part of the ballot paper relating to a particular candidate is differentiated by use of colour. While this makes candidates stand out on the ballot paper, it can be argued that this may not be helpful to people with some sight impairments; moreover, some colours are more attractive to the eye than others and may therefore give unfair advantage to a particular

candidate. In responding to our consultation exercise, the vast majority of electoral administrators and political parties who commented indicated they were not supportive of this approach. Most agreed with the previously identified concerns that the logistical printing problems of introducing such a banding system and the allocation of colours to candidates, both party representatives and independents, would not bring any tangible benefits to the elector.

3.27 With the introduction of party list ballot papers and some ballot papers for council elections having more than a dozen candidates, the Commission also acknowledges the possibility that there may not be sufficient numbers of distinctive colours available to use. Where large numbers of candidates were standing, Returning Officers might also be obliged to use colours for ballot papers which would not lend themselves to assisting sight impaired voters in reading the information on the ballot paper. For all the reasons set out above, the Commission does not support the introduction of colour banding on ballot papers.

3.28 In addition, having considered the use of colour on ballot papers, the Commission considers the introduction of coloured party emblems to be unnecessary for similar reasons.

Photographs

3.29 To assist voters in making their choice, it has been proposed to the Commission that photographs of the candidate should be included on the ballot paper, either in colour or black and white. International examples of this include ballot papers for elections in South Africa and several of the new Balkan democracies. The Republic of Ireland is also considering the introduction of photographs on their electronic voting machines in polling stations. If this were to be introduced in UK elections, the Commission believes that it would also be essential to fix a standard size of photograph and to establish rules or guidance about style to ensure some consistency, e.g. face only, plain backdrops. One option would be for all photographs to be taken by a photographer employed for the purpose by the Returning

Officer. If not, the Returning Officer would need to verify the photograph as a true likeness in some way, or perhaps another agency or individual could undertake this task.

3.30 In response to our earlier consultation paper, several respondents expressed support for the introduction of photographs on ballot papers. However, the majority of respondents (predominantly electoral administrators) opposed the introduction of such measures, stressing the logistical problems associated with their introduction. From a technical point of view, a number of respondents argued that if photographs were introduced, standardised conditions of photography would need to be guaranteed in order to avoid inappropriate variance in quality and to ensure that photographs were up to date. It was also stressed by some respondents that reproduction of a photograph can be variable through a print process. Photographs would also inevitably increase the cost of elections and impact on ballot paper production timescales, although no respondents to our consultation exercise offered any detailed estimates of the likely impact.

3.31 Concerns were also expressed by some consultees that the introduction of candidates' photographs on the ballot paper could potentially lead to racial discrimination – either because prejudice against certain minority groups by some electors might influence their voting decisions, or because photographs would make candidates more vulnerable to personal attacks. However, no firm evidence of this was provided to us. It is also the case that such risks already exist to some extent; standing for election inevitably involves an element of public exposure.

The Commission believes that further research should be undertaken into the likely benefits and disadvantages of photographs on ballot papers. We recommend that legislation be introduced to enable the piloting of photographs in order to assist in undertaking such research.

Multi-ballot papers

3.32 The Commission is aware that, increasingly, elections to more than one office or institution take place on the same day and the elector is faced with more than one ballot paper. The Commission has therefore considered the idea that the elector should be presented with a single ballot paper, which includes all of the elections on the same form. Such a form, if well designed, could help the elector to vote in all elections more easily and could be an alternative to the use of different coloured ballot papers to distinguish between the elections. A badly designed form could, however, lead to confusion among some voters and could prove difficult to use for those with sight impairment, particularly if such electors wished to use the blind voting device.

3.33 Respondents to the Commission's consultation paper overwhelmingly rejected the idea of multi-ballot papers. Many supported the concerns which the Commission identified, especially where electoral boundaries of the various offices up for election on polling day did not match (this could lead to the necessity of cutting up such ballot papers in count centres for part onward transfer to another count centre). In addition, it was noted that some electors may not be eligible to vote at all elections contained on the one ballot paper, thereby necessitating the production of a single election ballot paper in small numbers to cover such instances. The Commission, therefore, does not recommend the introduction of multi-ballot papers.

3.34 In taking this view, however, we are looking principally at the use of multi-ballot papers in a paper-based election. The Commission is aware that multi-ballot papers can be successfully used in electronic voting mechanisms and would not wish in any way to imply that such systems are not effective. We shall be evaluating such approaches in our statutory reports on the programme of electronic voting pilot schemes across Great Britain.

BALLOT
BOX



4 Administrative issues

Several proposals have been considered during this review which are administrative matters but which have an important role in ensuring the clarity of the ballot paper and the ease with which it can be completed.

Information currently included

4.1 The Commission has considered the range of information currently provided on the ballot paper and whether any of it is unnecessary. Deleting information would create more space to increase font size or add other information and thereby assist the voter in using the form efficiently and clearly. However, in practice, there is so little information on the current ballot paper form that the question of deleting information is somewhat academic.

4.2 The question of deleting information is a difficult one as little information is actually currently contained within a ballot paper. The question of deleting candidates' addresses has caused much debate. Opinion is divided as to whether the address should be taken off all ballot papers while others feel that it is legitimate to be included as many electors, from anecdotal evidence obtained, prefer to vote for a local candidate and often look at the address to ascertain this information. The Commission was provided with anecdotal comment that some candidates did use party offices as their address on the ballot paper, which indicates a belief among parties that electors find the address information of candidates useful. The Commission on balance sees the importance to some electors of the candidates' address as being worthy of continuation, although it would suggest addresses could be abridged to delete some unnecessary information.

4.3 We recognise the importance to some electors of having the candidates' address on the ballot paper and we do not recommend its removal at this stage. However, we may return to this issue in due course, in the light of further consideration of the issues of principle and practice involved.

Serial numbers

4.4 Anecdotal evidence suggests that at every election Returning Officers – and more often Presiding Officers in polling stations – receive a number of complaints or concerns from electors over the use of serial numbers on ballot papers. Electors are often concerned that the number allows identification of how they have voted. In fact, serial numbers are used specifically to allow for

the tracing of papers cast fraudulently and are checked only where a claim of fraud is being investigated and a court order obtained to allow the identification of the ballot paper as being that of a particular person. Nevertheless, the regularity of such complaints, although not great, is thought to have increased in recent years with the increased use of postal voting. This is an issue also considered in the Commission's separate review of absent voting.

4.5 The human rights organisation Liberty has argued that the use of serial numbers or any mark whereby vote-tracing can take place after an election should be stopped. They also point out that other countries manage their elections without the use of vote-tracing mechanisms. Liberty's concerns are based on the fear that some voters have that security services can trace their votes; they acknowledge that while the fear may be unjustified it is an understandable one. Liberty also recognises that a consequence of the discontinuation of the vote-tracing provisions would be the need to re-run an election where personation was proved where the number of personated votes was greater than the winning candidate's majority. However, Liberty argues that this happens extremely rarely.

4.6 Liberty takes the view that vote-tracing does not help to deal with allegations of personation, rather it merely enables the result to be corrected afterwards if personation is proved and that the discontinuation of vote-tracing would make no difference to the prevention, detection or proof of offences of personation. In its opinion, a real safeguard against personation would be to require voters to provide some proof of identity when they go to vote and Liberty has expressed its support in principle for such a measure.

4.7 The Commission acknowledges the concerns that underpin the case put forward by Liberty and others against the use of serial numbers. However, we also recognise the arguments that vote-tracing can prove, and has proved, a valuable instrument in tackling electoral fraud. We believe there have been six cases where vote tracing has been ordered by the courts in the last 10 years. The key judgement is whether the benefits drawn from the ability of the courts to trace a vote outweigh any

possible concerns held by some electors that security services may be seeking to identify individual voters' ballot papers to ascertain for whom they have voted. In making this judgement, we also recognise the wider issues of principle about the use of serial numbers (or any other mechanism). Many international observers of UK election practice are astonished at the use of a mechanism designed to allow – even in controlled circumstances – for a link to be made between a vote and an individual. These issues need to be considered in relation to both traditional voting processes and the new electronic voting methods being tested through pilot schemes.

The Commission will consider separately the wider issue of whether providing for the possibility of vote tracing in the event of allegations of fraud is a necessary feature of our electoral system, given the anxieties of some voters over the possible misuse of serial numbers to trace their vote.

4.8 As long as the present system continues, it is clearly important that polling station staff are able to explain to any concerned voters how the serial numbers are used, and the exceptional circumstances in which any link might be made between the ballot paper issued and the vote actually cast.

4.9 The Commission has also examined the possible introduction of barcodes rather than serial numbers to allow identification of a ballot paper. Although a primary motivation for administrators in this context is improved efficiency, it has also been argued that the use of barcodes could bring some comfort to concerned electors in that scanning equipment would be necessary to identify ownership of ballot papers, thereby perhaps increasing the level of difficulty in the process of voter identification. A number of local electoral pilot schemes have been successful to date in testing the use of barcodes in place of serial numbers on ballot papers.⁷

4.10 The Commission is aware that the introduction of barcodes would necessitate a more sophisticated ballot

⁷ See The Electoral Commission (August 2002) *Modernising elections*, and The Electoral Commission, *Modernising elections II* (forthcoming).

paper production process. It would be necessary to digitally print the barcodes as opposed to the current system whereby most numbering is done with a mechanical device on a litho press. Also, special barcode origination would be required to ensure that unique and traceable barcodes were used. In addition, currently collation and bundling of ballot paper books is carried out according to serial numbers. If barcodes were used, it would make the checking of such books more difficult as barcode readers would be necessary rather than the standard visual check. This could, therefore, increase the instance of error in the printing process and reduce the pool of printers available to undertake such work. However, these issues appear to have been successfully resolved in the May 2002 pilot schemes. The Commission is currently reviewing the operation and impact of the May 2003 pilot schemes, and will publish evaluation reports in July 2003.

Following our analysis of the May 2003 local election pilot schemes, the Commission expects to make final recommendations on the replacement of serial numbers by barcodes.

Official marks

4.11 At every election a number of votes cannot be included in the count because the Presiding Officer in the polling station has not placed the official mark on the ballot paper. The Commission has considered whether a watermark or half-tone mark should replace the current use of stamping instruments, which would virtually ensure that such disenfranchisement stopped. To balance this argument, it can be said that the use of the current official mark does bring with it a different type of security as the addition of the official mark is undertaken, except in the case of postal votes, at the point immediately before use of the ballot paper by the elector, in the presence of officials. This needs to be weighed against the disenfranchisement of a small number of electors that occurs at every election through no fault of their own.

4.12 The use of anti-fraud devices to replace the official mark via the introduction of a security watermark has been tested in a number of pilot schemes in 2002

and 2003.⁸ Experience to date suggests that, from an administrative perspective, this is a practical and cost-effective alternative to the stamping instrument. However, a printed security device is not always infallible, as preventing fraudulent copying may not be possible even if a special half-tone mark was incorporated and printed on the ballot paper.

4.13 A further issue is that a watermark needs to be introduced during the papermaking production process. This would need to be arranged well in advance of the election so that the paper can be made and supplied to the printing companies responsible for producing ballot papers. Different colours of ballot papers might be required for those sent to postal voters. Security and storage of such paper would also be an issue. To avoid the timescales involved in producing watermarked paper in what is a time-limited situation, imitation watermarks or other security devices could be used to ensure that the design chosen was difficult to reproduce.

4.14 The Commission has also considered alternative security measures that could be adopted, such as a hologram on the ballot paper; however, the cost of using such devices could inhibit their use. Other options available include special inks or papers in ballot paper production, or the use of heat sensitive dots all of which make the act of forgery more difficult to achieve.

Subject to the evaluation of the May 2003 local electoral pilot schemes, the Commission is likely to recommend the introduction of some form of alternative to the current official mark, such as 'watermarks', or half-tone marks in order to eradicate the disenfranchisement of voters through human error in the polling station.

Landscape or portrait

4.15 The Commission has considered the layout of ballot papers. Traditionally, ballot papers have tended to be portrait in layout – running from top to bottom. However, in recent years, the use of landscape style – running from

⁸ See The Electoral Commission (August 2002) *Modernising elections; Evaluation of Aberdeenshire Electoral Pilot Scheme*, September 2002; *Modernising elections II*, July 2003 (forthcoming).

left to right – has been used in elections to, among others, the National Assembly for Wales list and the European Parliament ballot paper. Concerns have been raised with the Commission that this can pose difficulties in the counting process, particularly in instances where a ‘flick check’ of ballots is necessary. Voters unfamiliar with the landscape style might also find it confusing.

4.16 Respondents to the Commission’s public consultation exercise overwhelmingly supported the use of portrait style ballot papers for paper ballot papers as the standardised style for ballot papers. The Commission agrees with the view expressed that portrait ballot papers are easier to use in polling booths and to handle in the count centre. However, we do not regard this as an issue warranting legislation.

As a matter of good practice, the Commission recommends the use of portrait style ballot papers in all elections.

4.17 In coming to this conclusion in relation to paper ballot papers, the Commission is aware of concerns expressed over the use of landscape style for the European Parliament elections ballot paper in 1999. Respondents to the consultation paper indicated that the landscape nature of the ballot paper caused electors and electoral administrators problems in completing the ballot paper and its processing at count centres. The Commission believes that the use of a portrait style ballot paper, which is used in elections to the devolved legislatures, would negate some of these problems. However, we acknowledge that the use of landscape ballot papers may have a beneficial role in electronic voting and counting situations.

Proofing of ballot papers

4.18 Concerns have been raised with the Commission by political parties that there are regular but minor problems with errors on ballot papers, such as names being wrongly spelt or the wrong emblem used. One solution suggested would be for the candidate or agent to be given the right at a specified time and place to inspect a proof copy of the ballot paper before it is signed off

to the printer. Alternatively, an electronic (PDF) file containing the draft ballot paper could be sent electronically to agents for approval with a specified response deadline.

4.19 The Commission has considered the support for this proposal from political parties, which is widely held, as opposed to the view of electoral administrators that this would introduce an unnecessary delay in the production of the ballot paper which is already subject to a tight electoral timetable. The Commission, on balance, believes that candidates or their agents should be given an opportunity to proof-read the part of the ballot which is specific to their candidature – so long as technology permits this to be done without incurring any significant delay to the timetable.

4.20 However, the Commission stresses that such an opportunity should be very short (no more than, say, three hours) at an appropriate point in the development of the finalised ballot paper. The exact duration of the proofing period and the point in the timetable when it is offered should be a matter for the discretion of the Returning Officer but candidates and agents should have reasonable advance warning in order to make themselves available. The Commission believes the framework in which such a proofing exercise could be allowed will need to be the subject of further discussions with electoral administrators which we intend to undertake.

The Commission recommends the introduction of a new statutory requirement that candidates (or their agents) should be given an opportunity to proof-read a copy of the ballot paper prior to printing, at a time determined by the Returning Officer. Responsibility for deciding on the final text should also rest with the Returning Officer.

Means of marking the ballot paper

4.21 The Commission is aware that some electors occasionally raise concerns with Returning Officers or their staff about the use of the pencils provided in polling stations to make their mark on the ballot paper. In general terms, the use of pencils is sometimes seen as typifying an old-fashioned electoral system. Some electors have

also expressed concerns that their X could be rubbed out after submission of the ballot paper and another mark substituted. In fact, the pencils generally used are indelible and therefore, in practice, it is very difficult, if not impossible, to alter a mark. However, the concern does raise a potential educational need to be addressed perhaps via training of polling station staff. Alternatively, consideration could be given to the introduction of a different means of marking a ballot paper than pencils. In practice some voters already use their own pens.

4.22 The Commission, having considered this issue further in the light of responses to its consultation paper, believes that the concerns prevalent among the electorate are small in scale and the proper briefing and training of polling station staff to allay any concerns expressed by the voter can deal with them. Pencils are cheap, readily available and repairable. The Commission, therefore, does not make any recommendations to change the use of pencils. However, the Commission is keen to explore the possibility of a stamping instrument with an X being made available in polling stations to allow voters with disabilities who are unable to grip adequately a pencil to make their own mark unaided, perhaps through pilot schemes.

Adjudication

4.23 Although the aim of good ballot paper design is to make it easy for the elector to complete the form, on occasion electors do not make their choice obvious. In such circumstances the need for clear rules of adjudication are necessary. Inevitably, this is an area where the Returning Officer's judgement is paramount and all possible areas of uncertainty cannot be predicted in advance.

4.24 There are, at present, no clear rules in either legislation or official guidance in relation to the adjudication of ballot papers. However, experienced Returning Officers have published a book on the subject,⁹ available commercially but also recommended in government advice to electoral administrators. In addition, other publications such as

Schofield's *Election Law* and Parker's *Law and Conduct of Elections* provide advice to Returning Officers. These publications are updated periodically.

4.25 The Commission has considered whether it should develop guidance on adjudication of ballot papers. At present we believe that the advice available to Returning Officers is adequate and that the system whereby the judgement of the Returning Officer is final is appropriate, subject to any subsequent election petition being successful. However, the Commission may consider producing guidance on this matter at a later date.

Electronic voting and counting

4.26 The design of ballot papers for use in electronic voting and electronic counting machines must be driven by the same objective as that for traditional polls – that is, the need to consider the voter first and the administrator or machine second.

4.27 The use of electronic voting and counting has an impact on the possibilities for the design of the ballot paper. In the Commission's report on the May 2002 local government election pilots in England, *Modernising elections*, we noted that no significant problems were encountered from the software and hardware employed in the electronic counting and voting pilots. The report stated:

One area that was prescribed in law was that the pilots had to have a replication of the ballot paper on the voting screen. In practice, this did not work very effectively as it was based on a paper design principle and it did not fit with the general design concepts used on the web. The Commission intends to develop good practice guidelines on the design of 'candidate selection' webpages as part of its review of ballot paper design.

4.28 The variety of design in ballot papers to be used in electronic voting mediums is large and range from 'ordinary' ballots designed to be scan counted after the close of poll, a template ballot placed on the electronic voting machine which resembles the traditional ballot paper to an image of a ballot which is generated on a screen in a polling station, or a PC anywhere allowing internet voting. Visual images used in text voting also

⁹ D. Monks and G. Smith (2001/02) *Dealing with doubtful ballot papers*, Shaw and Sons Ltd.

need to be considered. This voting medium also opens up the possibility of the talking ballot paper which may have particular benefits to those with visual impairments.

4.29 Apart from the possibility of talking ballot papers, many of the ideas raised elsewhere in this paper are equally valid when considering ballot paper design for electronic voting and counting. In addition, thought needs to be given to the establishment of a simple set of guidelines on the type of navigation and the expressions used to move people through a site (e.g. 'proceed'; 'submit') where interactive ballot papers are used. Some initial work in this area has been undertaken by the Commission with SCOPE (a disability charity) and the Office of the Deputy Prime Minister in setting accessibility standards for the electoral pilot schemes that took place in May 2003.¹⁰ The Commission is using these standards in evaluating the pilot schemes. Details are given in Panel 1.

Panel 1: Standards for e-voting technology

General standards

In general, e-voting systems should be designed to enable the largest number of disabled people possible to vote independently.

Minimum standards for e-voting technology

- Voters' access to, and experience of, e-voting systems varies greatly. Suppliers should demonstrate that they have taken into consideration the specific needs of disabled people when planning and implementing all voting systems.
- User trials with people with a diverse range of impairments (e.g. people with visual, hearing, mobility, coordination and learning impairments) should be conducted and the results fed into the design of the system(s).
- E-voting platforms should be as simple to use as possible.
- Compatible with security considerations, PIN numbers and passwords should be kept to the minimum length possible.
- PIN numbers and passwords should be available in alternative formats (including audio-tape, Braille and large print) on request.
- Swipe-card and barcodes should not require a high degree of dexterity, strength or movement.
- A well-signposted 'help' function should be contained within each system.
- All voting instructions should be as concise as possible and all written material aimed at voters should be written in plain English.
- All printed materials aimed at the electorate should conform to the RNIB's clear print guidelines.
- To avoid confusing some voters and crowding out the text, no advertising, including any logo, banner or text unrelated to the process or act of voting should be displayed.
- The appropriate political party symbol should be included next to the name of each candidate on the ballot paper or voting screen.
- Where possible and appropriate, symbols should be used to aid comprehension of the voting instructions.

Standards suppliers should demonstrate that they are working towards

- In collaboration with The Electoral Commission, a vocabulary to be created for use within all e-voting mechanisms should be agreed. A 'family' resemblance should also apply to types of navigation, graphics and images used.
- A version of the system should be available for public demonstration purposes at least one week before voting starts.

¹⁰ *Access standards for e-voting and e-counting technology*, November 2002

4.30 It is also noteworthy that suppliers of e-voting systems on the ODPM 'framework agreement' have been required to develop systems capable of reproducing the option of a spoilt vote – that is, the voter must be entitled (if he or she so wishes) to submit a blank ballot.

4.31 In the course of the review, the Commission has received overwhelming support for the proposition that the needs of the voter should be considered first in the ongoing development of electronic voting. The Commission has received some interesting research from academics during the course of the current review of ballot paper design. We are also aware that the demands of e-counting are driving changes in ballot paper design already. For instance, the GLA is using the scope in the GLA election rules to allow it to develop ballot papers which are more user-friendly for the voter but also compliant with the demands of the technology they will use in their 2004 elections.

It is too early in the process of developing e-voting for the Commission to make final recommendations with regard to design of ballot papers for use in e-voting or counting or what should be included in guidelines on candidates' selection web pages. However, the Commission will make recommendations on good practice in its report on the pilot schemes taking place in May 2003, drawing on the information obtained during this review, and will continue to develop practice guidance



5 Strategic considerations

The review has also examined a number of more fundamental changes to the current design and purpose of the ballot paper, namely the possible introduction of positive abstention and whether candidates' names should be included on closed list ballot papers. We also consider here the implementation issues arising from the earlier recommendations.

Positive abstention

5.1 The Commission regularly receives representations arguing that voters should be offered the opportunity to register their preference for none of the candidates on the ballot paper – the so-called 'none-of-the-above' option. Such an approach would involve the voter marking a box, usually situated at the bottom of the ballot paper, indicating they did not wish to vote for any of the nominated candidates. This would have the effect of registering the number of electors who were not content with any of the parties or individual candidates standing.

5.2 Actively abstaining in this way can be seen as a more positive action than simply abstaining. It could also indicate how many voters opposed all candidates and differentiate them from those who simply were unable or unwilling, for whatever reason, to vote at the election. However, concerns have been raised that introducing such an option could lead voters not to vote for independents or smaller parties. Significant take-up of this option could also undermine the democratic system: ultimately, one of the candidates must be elected.

5.3 Supporters of positive abstention argue that the current system does not allow electors to register their dissatisfaction in a positive manner with the candidates on offer and condemns such electors to having to be seen as apathetic in that they must choose simply not to vote or spoil their ballot paper. In addition, research for the Hansard Society, funded by the Commission, suggests that there would be support for 'positive abstention' among some current non-voters.¹¹ If the views expressed in this research fed through to action, positive abstention could increase turnout and provide a barometer by which the parties could judge the electorate's satisfaction with candidates and parties on offer. It could also reduce the number of ballot papers considered via adjudication during the count.

5.4 Balanced against these suggestions is the view, strongly supported by respondents to the consultation paper, that electors would not actually avail themselves

¹¹ The Hansard Society (December 2001) *None of the above – Non voters and the 2001 election*.

of the opportunity to abstain positively, thereby providing an unreliable reflection of the electorate's views. Moreover, respondents argued that the concept of 'positive abstention' runs counter to the whole purpose of elections in that electors should, as a civic duty, choose who is to represent them; to introduce positive abstention undermines the importance of the democratic process and encourages a flippant attitude to what is an important act. Many respondents agreed with the proposition that 'none-of-the-above' (NOTA) could be justifiable only in a compulsory voting system.

5.5 There is reasonably widespread use of positive abstention in trade union and other non-statutory elections and ballots. There are fewer examples, however, of countries where forms of positive abstention are permitted in elections to democratic state institutions or where legislation has been introduced to enable such a system – examples include a number of the new democracies in Eastern Europe and a small number of American states. Perhaps surprisingly, positive abstention is not explicitly provided for in some countries where voting is compulsory, including Australia. However, the Australians do have a system whereby voters can effectively spoil their ballot paper,¹² referred to as 'informal option' abstention.

5.6 A significant concern over the introduction of positive abstention which was raised by many of the respondents to the consultation paper is the question of what to do if NOTA wins. Two possible options are:

- the 'second-place' candidate is declared the victor;
- re-runs of the election are required until a 'real' candidate is victorious.

5.7 In Nevada and Washington in the USA, non-binding positive abstention is practised, meaning that even if NOTA 'wins' the election, it has no effect other than to undermine the legitimacy of the winning candidate, although some also regard it as a means of sending a message to the parties about public dissatisfaction with the options available to them. In Massachusetts,

however, a binding form of NOTA exists whereby if NOTA is the 'winner' then a re-run of the election is organised (but only one election re-run is permissible; thereafter if NOTA 'wins' the second place candidate is declared the winner). This, of course, could lead to additional costs, and, unless the arrangement applied that the second election did not allow NOTA to 'win' as in Massachusetts, to perpetual re-runs of an election.

5.8 Respondents to the public consultation exercise, while in the main not supporting the introduction of NOTA, felt that it would be appropriate that the second placed candidate was declared the winner if 'None of the above' won the election rather than having to re-run the election itself. The Commission has considered this issue carefully.

5.9 While we are currently not persuaded of the merits of positive abstention, we do not believe that it would be appropriate to discard the issue without making further attempts to assess the likely impact on voter participation levels.

The Commission intends to undertake more research at coming elections to explore whether, and to what extent, electors' motivation for voting might be influenced by the availability of an opportunity for 'positive abstention', prior to any final decision on the merits or otherwise of its introduction.

Candidates' names on closed lists

5.10 During a review of the 1999 European Parliament elections undertaken by civil servants at the Home Office, electoral administrators and political parties expressed a range of views concerning the desirability of including the names of candidates on party lists on the ballot paper. Generally, electoral administrators favoured excluding such names because of the effect on the size of the ballot paper. They pointed out that the names of candidates on party lists could be included on notices posted in the polling station and in voting compartments. Including the names on the ballot paper, it was suggested, might actually mislead voters and

¹² See sample ballot link: www.aec.gov.au/_content/what/voting/how_hor.htm.

cause them to believe that they could in some way choose between or influence the order in which they were elected.

5.11 Counter arguments were also advanced. Parties attach importance to individuals standing within their list and this can be witnessed by ‘leading lights’ of various parties generally being placed first on the list in elections for devolved elections as well as standing in a constituency seat. As a matter of principle, it was also suggested that the electorate had a right to know who was on a party's list and to whose election their vote might contribute. It was also possible that electors’ decisions how to vote were influenced by the candidates on party lists. Notices in polling stations would not help postal voters.

5.12 The Home Office report on the election concluded that the question of whether or not to include the names of candidates on lists on the ballot paper is essentially a political one which touches on the whole question of the nature of a closed list system.¹³ The author of the Home Office official report felt it was for politicians to take a view on the issue and that it was inappropriate for their report to make a recommendation on the issue.

5.13 The Commission believes this is an important issue and one that should be addressed as soon as possible, especially since preparations for the 2004 European Parliament elections are currently underway. Of responses received to our consultation on this issue, political parties tended to continue to hold to the view that the inclusion of candidates’ names on the ballot paper should be continued while electoral administrators maintained the view that there was little value in including the names, if they commented at all. Other respondents questioned the value of including the list of candidates on the ballot paper, given that the elector has no way of influencing exactly which candidates get selected.

5.14 The Commission tends to the view, as outlined elsewhere in this paper, that the elector should be provided with as much information as possible on the

ballot paper without making the ballot paper difficult to read and understand. In practice, too, electors may be influenced in casting their vote by the selection of candidates offered by the parties. Even in elections where a closed list electoral system operates, the electors are entitled to know the candidates who are up for election, and may ultimately represent them.

The Commission recommends that, in elections which use closed list electoral systems, the names of candidates should be included on ballot papers.

Implementation and financial implications

5.15 The ballot paper must remain a clear, easy-to-use form and we have sought to avoid recommending change for the sake of it, as that could bring the potential for confusion in the mind of the elector. We have sought to make recommendations which, as a package taken together, strike a balance between seeking to improve the ballot paper’s user-friendliness for the voter and those who administer the election, whilst recognising the constraints of the electoral timetable and production opportunities. The Commission has made a number of recommendations in relation to the electoral timetable, which, if implemented, would allow the recommendations in this report to be accommodated more readily.

5.16 We recognise that a number of the recommendations in this report may require additional resources. In a number of areas, we believe further research is necessary prior to final recommendations being made. Consequently, we have suggested that pilots in some areas be undertaken. As a consequence of what the Commission has proposed, in our initial view, it will have marginal impact on the production costs of the ballot paper, as much of it is achievable at little or no additional cost. We intend, however, to seek the advice of the relevant professionals in ballot paper production to confirm and expand on our initial view. Moreover, these initiatives will interact with other proposals made in other reports. We intend to work with electoral administrators to develop a costed model of change for the package of measures outlined in this report and others.

¹³ ‘The European Parliament Elections 10 June 1999’
www.lcd.gov.uk/elections/euro/euro99/index.htm.

5.16 We have proposed a number of different types of courses of action which need to be implemented – legislation, pilot schemes and good practice. The Electoral Commission will also develop and disseminate good practice guidance for electoral administrators following publication of this report. In relation to proposals for primary legislation, we recommend that legislation to enable electoral pilots in the areas proposed should be pursued at the earliest possibility. Many of the recommended changes can be brought about through changes to the various election rules as these pieces of secondary legislation are revised.

Appendix 1

Respondents to our consultation paper

Respondents to the consultation paper are listed below. Copies of individual responses are available to view at the Commission's offices on request, except in those instances where respondents requested confidentiality. Local authorities' responses came variously from councillors, electoral administrators, Chief Executives, Returning Officers or as a 'corporate' response.

Political parties

Halstead Residents' Association
Labour in Wandsworth
Liberal Democrats
Molesey Residents' Association
No Candidate Deserves My Vote
Nork Residents' Association
North Lincolnshire Labour Group
Rainham Residents' Association
Runcorn Labour Councillors' Group
Runnymede Independent Residents' Group
Scottish Independence Party
The Conservative Party
The Labour Party
The Newham Independents Association
The Official Monster Raving Looney Party (twice)
The Populist Party
The Real Democracy Party
The Socialist Party
The Ulster Unionist Party
Third Way
United Kingdom Pathfinders
Wessex Regionalists

Councils

Birmingham City Council
Blaby District Council
Brentwood Borough Council
Bromsgrove District Council
City of Stoke on Trent Council
Coventry City Council
Daventry District Council
Enfield Council
Gateshead Metropolitan District Council

Great Yarmouth Borough Council
Harpenden Town Council
Kettering Borough Council
London Borough of Hammersmith and Fulham
London Borough of Sutton
North East Derbyshire District Council
Pendle Borough Council
Perth and Kinross Council
Purbeck District Council
South Ayrshire
Three Rivers District Council
Tunbridge Wells Borough Council
Wakefield Metropolitan District Council
Wandsworth Council
Wigan Metropolitan Borough Council
Wrexham Borough Council

Other organisations

Chief Electoral Officer for Northern Ireland
Powervote Ltd.
Royal Mail Group plc.
Welsh Assembly Government

Individuals

Andrew McBell
C. S. Guest
Councillor Janet Whitehouse
Councillor Prof. A. M. Moore
Dr Ben Fairweather
Rt. Hon. Donald Anderson MP
Dr Flora Isles
Eileen Cairnduff
J. Owen
Julia Drown MP
Liam Pennington
Paul Janik
Roger Morris
Roger Spiller
S. P. Bowers
Sarah Baird Murray
Sir Ronald Lindsay
One unsigned response

Returning Officers/electoral administrators (council from which the response was received)

Aberdeen City Council
Adur District Council
Amber Valley Borough Council
Basildon District Council
Belfast City Council
Burnley Borough Council
Charnwood Borough Council
City of Edinburgh Council
City of Gloucester Council
Clackmannanshire Council
Colchester Borough Council
Dacorum Borough Council
Dundee City Council
East Hampshire District Council
Exeter City Council
Glasgow City Council
Gosport Borough Council
London Borough of Enfield
London Borough of Hackney
London Borough of Islington
London Borough of Richmond upon Thames
Newport City Council
North Lanarkshire
North Tyneside Metropolitan Council
Penwith District
Peterborough City Council
Rotherham Metropolitan Borough Council
Sevenoaks Council
Somerset Borough Council
South Lanarkshire Council
Stirling Council
Stratford District Council
Tynedale District Council
Wellingborough Borough Council
West Dunbartonshire Council
West Lindsey District Council

Associations

SOLACE
Association of Electoral Administrators
Association of Electoral Administrators – Welsh Branch
Association of Electoral Administrators – Scottish Branch
British Print Industries Federation
Independent Group – Local Government Association
Liberty
Local Government Association
National Association of Local Councils
SOLAR

Appendix 2

Alphabetical bias on ballot papers: London Borough elections 2002

There are 623 wards in London. This analysis excludes nine two-member wards, the single one-member ward, and a three-member ward where three councillors were returned unopposed. This leaves 612 three-member wards.

The analysis only looks at cases where the parties put up a full slate of three candidates. It does not cover instances where the party put up no, one or two candidates only.

With three candidates from the same party, there are six possible combinations of how they can be declared elected. For instance, 'ABC' indicates the candidates were elected in strict alphabetical order, with Candidate A receiving the most votes, and Candidate C the least votes. 'CBA' is where the candidates are elected in reverse-name order.

If every voter used all three of their votes in a strict party block vote, ABC would account for 100% of cases – the three candidates would all have the same number of votes. This clearly did not happen at the London Borough elections.

If the effects of alphabetical position of the candidates had no effect, and other purely random factors were at work (such as cross-party voting, under use of the three votes, and voter confusion) one would expect to see each combination (ABC, ACB, BAC, etc.) occurring in 16.7% of cases.

Table A1 shows this is not the case. In 59% of cases (ABC and ACB), the higher placed candidate received more votes than their running mates. In only 15% of cases (CAB and CBA) did the candidate who was placed lowest on the ballot paper receive more votes than their colleagues did. In 40% of cases the order of votes the three party candidates received matched the pure alphabetical order of their names. It is interesting that the distribution across the six combinations is fairly consistent across parties.

This analysis suggests that there are factors at work such as alphabetical bias and voter confusion with the layout of the ballot paper.

Table A1: Alphabetical bias on ballot papers: London Borough elections 2002

Surname of candidate in order of votes received	All cases		Conservative		Labour		Liberal Democrat		Green		Others	
	No	%	No	%	No	%	No	%	No	%	No	%
ABC	712	40	240	42	246	40	174	38	38	43	14	35
ACB	339	19	100	17	130	21	82	18	17	19	10	25
BAC	331	19	108	19	115	19	90	20	10	11	8	20
BCA	120	7	34	6	36	6	41	9	6	7	3	8
CAB	162	9	59	10	46	8	41	9	13	15	3	8
CBA	106	6	34	6	39	6	26	6	5	6	2	5
Totals	1,770	100	575	100	612	100	454	100	89	100	40	100

The Electoral Commission

We are an independent body that was set up by Parliament. We aim to gain public confidence and encourage people to take part in the democratic process within the United Kingdom by modernising the electoral process, promoting public awareness of electoral matters, and regulating political parties.