# The Review on Electoral Fraud

## Submission of Evidence to

## Sir Eric Pickles and the Cabinet Office

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**Introduction and overview**

- On 13 August 2015 the Minister for Constitutional Reform requested that Sir Eric Pickles, in his position as the government's Anti-Corruption Champion, reviews electoral fraud and suggested measures to tackle the problem.[1] This review follows concerns that have been raised about the integrity of the electoral process raised by the Tower Hamlet's case. Specifically, the terms of reference are to:

  - 'examine what steps are necessary to stop voter registration fraud and error, postal voting fraud, impersonation, intimidation, bribery, treating and undue influence
  - review the role of councils, the police and the Electoral Commission in deterring, identifying and prosecuting fraud
  - consider the recommendations of Richard Mawrey QC in his recent Election Court judgment on fraud in the London Borough of Tower Hamlets
  - recommend to government what practical changes are needed to legislation, guidance and practice'

- This policy brief makes recommendations based on research that we have either individually or jointly have undertaken on electoral administration.   We suggest that:
  - The available evidence is that electoral fraud at the polling place is a localised problem.
  - Measures should not be introduced to tackle electoral fraud if they adversely affect already chronically low voter registration and turnout _unless_ other provisions are also introduced to offset this.
  - The main problem experienced at polling stations at the May 2015 General Election, our new study shows, was citizens not being able to vote at polling stations because they were not on the register.  Over two-thirds of polling stations turned at least one would-be voter away.
  - Further resources for local authorities and provisions to bring about a complete register (such as the introduction of automatic registration) will deal with this problem and may also make election officials better able to investigate suspicions of electoral fraud when they occur.

**Levels of electoral frauds**

- There have been some high profile cases of electoral fraud in Britain overseen by Richard Mawrey QC since 2000, notably in Birmingham (2004), Slough (2007) and the Tower Hamlets (2014).  In his verdict on the 2014 Tower Hamlet's case Richard Mawrey recommended making the elections petitions system more streamlined and effective.  The Law Commission has already made recommendations here, and since one of us is also a member of their advisory board, we would like to stress complete support for the need for a swifter legal process for dealing with concerns about electoral fraud.  The petitions system is not fit for purpose [2]

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[1] Cabinet Office (2015), 'Sir Eric Pickles to examine electoral fraud', 13 August 2015, https://www.gov.uk/government/news/sir-eric-pickles-to-examine-electoral-fraud
[2] http://www.hendersonchambers.co.uk/wp-content/uploads/2015/04/Richard-Mawrey-QC-Judgment-23-April-2015.pdf paragraphs 662-671.

- Mr. Mawrey has also previously made further suggested that postal voting on demand allows fraud 'on an industrial scale' and should be abolished.[3] There have been concerns raised elsewhere that electoral fraud might also be taking place in polling stations by personation or undue influence.[4]
- Recent cases of electoral fraud have understandably led to concerns about the integrity of the registration and voting processes. The international evidence is clear, however, that while allegations and cases of electoral fraud in democracies grab the headlines, this does not necessarily mean that fraud is widespread. Often, allegations are partisan, made by political opponents, trying to discredit the 'winner.' While there are therefore undeniably cases of electoral malpractice, the question is that is commonly asked is whether cases of electoral fraud are like cases of aeroplane crashes (rare, but highly reported) or car crashes (common, but rarely reported).
- The balance of evidence from the US, for example, is that electoral fraud is actually extremely rare. One study found 31 actual credible cases of fraud in the US out of over a billion ballots cast between 2000-2014.[5]

**New Research from the 2015 General Election Poll Worker Survey**

- One way of finding out is to ask the people on the frontline of elections. We undertook the first ever survey of UK poll workers (presiding officers and election clerks) to establish the problems that take place in elections. The provisional results of this was disseminated at a recent international conference in San Francisco.[6]
- Our survey took place in May 2015 at the general election. In total, 3350 questionnaires were distributed, achieving a response rate of 38.8 per cent. The analysis is therefore based on responses from around 1300 polling station workers in a mix of rural, urban and mixed local authorities and constituencies. The survey covered eight local authorities – four in the North East and four in Norfolk.
- Table 1 summarises the provisional data on the number of concerns by poll workers. It shows that some poll workers did suspect cases of electoral fraud – but these were extremely few and far between. In total, 11 out of the 1289 poll workers were suspicious that one voter had committed electoral fraud. It should also be noted that these were suspicions, and not proven cases.
- Of those 11, two provided some qualitative comments about why they thought fraud had taken place. In one case two Lithuanian citizens approached a polling station confused as to whether they were allowed to vote because one was on the register and one was not. In the event, an ineligible elector did vote. This type of 'fraud' was described by the poll worker as

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[3] BBC News (2014) 'Postal voting 'allows industrial scale fraud', 11 March 2014, http://www.bbc.co.uk/news/uk-politics-26525910, also see: BBC News (2005) 'Postal votes "wide-open to fraud"', April 4 2005, http://news.bbc.co.uk/1/hi/uk_politics/4408101.stm.

[4] Peter Golds (2015) 'An urgently needed plan of action to stop electoral fraud', 21 May 2015, http://www.conservativehome.com/platform/2015/05/peter-golds-an-urgently-needed-plan-of-action-to-stop-electoral-fraud.html

[5] Justin Levitt (2014) 'A comprehensive investigation of voter impersonation finds 31 credible incidents out of one billion ballots cast', *Washington Post*, 6 August 2014 http://www.washingtonpost.com/news/wonkblog/wp/2014/08/06/a-comprehensive-investigation-of-voter-impersonation-finds-31-credible-incidents-out-of-one-billion-ballots-cast/

[6] Alistair Clark and Toby S. James (2015) 'The Unsung Heroes of Electoral Democracy: Poll Workers and Electoral Integrity in Britain,' *Paper for the Pre-APSA Workshop on Electoral Integrity, San Francisco, September 2015*. Available from: https://tobysjamesdotcom.files.wordpress.com/2013/11/clark-james-poll-workers-eipapsa-final.pdf

not intentional and would have been prevented by the new system of individual electoral registration.

- In the second case a poll worker was: 'concerned about a voter who, when lining up for issue of the ballot paper, already seemed to have a used ballot paper partially hidden behind a leaflet she was carrying. The perpetrator was from an ethnic minority and not a fluent English speaker, so it could have been a genuine error.' The poll worker explained that the long queues prevented this being investigated fully. This suggests that sufficient poll workers and additional resources are crucial for polling stations if any cases are to be investigated. Evidence from our research has consistently shown that there is a direct link between additional resources for election administrators and the delivery of higher quality elections.[7]

| | None | 1 | 2-5 | 6-10 | 10+ |
|---|---|---|---|---|---|
| Suspected cases of electoral fraud | 99.1 | 0.9 | 0 | 0 | 0 |
| People ask to vote whose identity I was unsure of | 94.4 | 4.8 | 0.7 | 0 | 0.1 |
| People taking photos of ballot/polling stations | 94.6 | 4.6 | 0.9 | 0 | 0.0 |
| Members of parties being where they shouldn't be | 94.7 | 3.9 | 1.2 | 0.1 | 0.1 |
| Members of parties intimidating public | 94.5 | 2.4 | 2.4 | 0.6 | 0.2 |
| People asking to vote but not on register | 31.3 | 16.2 | 39.5 | 9.8 | 3.2 |

*Table 1: Problems Experienced by Poll Workers (%).*

**Problem of levels of voter registration and voter turnout**

- It is notable that our study found that other problems were more common. In particular, the most widespread problem was people asking to vote who were not on the register, presumably because they were not registered or had gone to wrong polling station. Over two thirds of polling stations turned away at least one citizen from voting.
- This points to how electoral fraud is not the only problem that needs to be considered when this review makes recommendations. Levels of voter turnout in the UK are low, especially at local and PCC elections. Levels of voter registration are in long term decline, having fallen from 96% in the 1950s, to 82% in 2011.[8]
- In addition, measures to increase security in the electoral process can have the direct effect of making it more difficult for citizens to participate and could exacerbate this problem, evidence suggests.[9]

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[7] Alistair Clark (2014) 'Investing in Electoral Management' in P. Norris, R. Frank & F. Martinez I Coma (eds.) *Advancing Electoral Integrity*, New York: Oxford University Press, pp165-188.; Alistair Clark (2014) 'Identifying the Determinants of Electoral Integrity and Administration in Advanced Democracies: The Case of Britain', paper to ECPR General Conference, University of Glasgow. Toby S. James (2014) 'Electoral Management in Britain' in P. Norris, R. Frank & F. Martinez I Coma (eds.) *Advancing Electoral Integrity*, New York: Oxford University Press, pp135-164.
[8] Gemma Rosenblatt, Phil Thompson & Davide Tiberti (2012). The Quality of the Electoral Registers in Great Britain and the Future of Electoral Registration. *Parliamentary Affairs*, 65(4), 861-876.
[9] Toby S. James (2012) *Elite Statecraft and Election Administration: Bending the Rules of the Game*, Palgrave Macmillan: Basingstoke, Chapter 2.

- The introduction of individual electoral registration has many advantages, but it has long been forecast that it will lead to lower levels of electoral registration.[10] If the transition is fast-tracked to December 2015, we may see more people being turned away in 2016's elections.
- There have been some suggestions that voter ID requirements should be introduced to counter electoral fraud. The review should be aware, that there is evidence that this could lead to a further decline in turnout, and that this effect could be disproportionate on poor and minority groups.
- There have been some suggestions that postal voting on demand should be removed. The introduction of postal voting on demand did not lead to a massive increase in turnout (although experiments with all postal voting elections did).[11] However, many years after its introduction, postal voting on demand is now an established part of the British electoral process. At the 2015 general election 7,592,735 postal votes were issued – a figure that has nearly quadrupled since 2001.[12] Removing this could therefore cause lower levels of voter turnout among many voters. The effect of this could be enormous at elections at the local level: for mayors, PCCs and other local elections where postal votes make up a significant proportion of the votes cast.

**Conclusions and Recommendations**

- Problems with electoral fraud are localised and do not represent a nation-wide problem.
- Sufficient resources for local authorities to equip and staff polling stations properly are a crucial issue in investigating and tackling fraud. There was evidence of localised queues and the 2015 general election.
- Many cases of the infrequent allegations of fraud are because of misunderstanding and are not deliberate attempts to subvert the electoral process.
- Further resources for electoral services could improve the ability of officials to investigate cases and take action. **We recommend that the financial needs of local electoral services should therefore be assessed and provided for.**
- A more significant problem with the polling process is citizens who wish to vote but who are not on the register.
- Ending postal voting on demand may affect voter turnout, especially in local elections.
- Introducing voter ID requirements may also have a small negative effect on voter turnout.
- **We recommend that the voting and registration process is not made more difficult for citizens unless other measures to redress crisis levels of participation and registration are introduced. In particular, we suggest that feasibility of election day registration, automatic registration and allowing citizens to vote at other polling stations is investigated. This could be done on a pilot basis initially, if necessary.**

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[10] Toby S. James (2014) 'The Spill-over and Displacement Effects of Implementing Election Administration Reforms: Introducing Individual Electoral Registration in Britain', *Parliamentary Affairs*, 67 (2): 281-305.
[11] Toby S. James (2011) 'Fewer "costs", more votes? U.K. Innovations in Electoral Administration 2000-2007 and their effect on voter turnout', *Election Law Journal*, 10(1), p.37-52.
[12] Colin Rallings and Michael Thrasher (2015) The 2015 General Election: aspects of participation and administration, London: Electoral Commission. Url: http://www.electoralcommission.org.uk/__data/assets/pdf_file/0008/191861/Plymouth-UKPGE-electoral-data-report-final-WEB.pdf