



Office for Democratic Institutions and Human Rights

**UNITED KINGDOM OF GREAT BRITAIN AND
NORTHERN IRELAND**

GENERAL ELECTION

5 May 2005

OSCE/ODIHR Assessment Mission Report



**Warsaw
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TABLE OF CONTENTS

I.	EXECUTIVE SUMMARY.....	1
II.	INTRODUCTION AND ACKNOWLEDGEMENTS	2
III.	BACKGROUND TO THE ELECTION	2
IV.	LEGISLATIVE FRAMEWORK.....	3
	A. OVERVIEW	3
	B. ELECTORAL SYSTEM.....	4
	C. VOTER REGISTRATION.....	5
	D. NOMINATION OF CANDIDATES	6
	E. BALLOTS.....	7
	F. POSTAL VOTING.....	8
	G. PROXY VOTING.....	9
	H. VOTING BY PRISONERS.....	9
	I. OBSERVERS.....	9
V.	ELECTION ADMINISTRATION	10
	A. OVERVIEW	10
	B. UK ELECTORAL COMMISSION	10
	C. RETURNING OFFICER	11
	D. FUNDING OF THE ELECTION ADMINISTRATION	11
VI.	CAMPAIGN	12
VII.	MEDIA.....	13
VIII.	PARTICIPATION OF WOMEN.....	14
IX.	POLLING	14
X.	COUNTING	15
XI.	COMPLAINTS AND APPEALS	15
ANNEX:	RESULTS.....	17
	ABOUT THE OSCE/ODIHR.....	18

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I. EXECUTIVE SUMMARY

In response to an invitation from the Delegation of the United Kingdom of Great Britain and Northern Ireland (UK) to the Organisation for Security and Co-operation in Europe (OSCE), the OSCE Office for Democratic Institutions and Human Rights (OSCE/ODIHR) deployed an Election Assessment Mission (EAM) to the 5 May 2005 general election. The EAM conducted interviews with representatives of the authorities, the election administration, political parties and media during the week prior to the election, in order to get an overview of the election process and of specific legislative and administrative issues.

The United Kingdom has a long-standing tradition of democratic elections, and the 5 May 2005 general election was conducted in keeping with this tradition. The election was administered in a professional manner and according to well-established procedures that enjoy the overall trust of candidates and voters. The registration process for parties and candidates was generally straightforward, and a substantial number of candidates and parties participated in the election. Voters were thus offered genuine choices in a competitive political environment. The voter turnout was reported as 61.3%.

Campaigning took place in a fair and open atmosphere in which the parties and candidates were able freely to present their views. Self-regulated free media extensively covered the election campaign and provided voters with a broad range of views and information in an equitable manner. Paid political broadcasting was not permitted.

The legislative framework is based on a range of laws, regulations and court decisions, and it could usefully be consolidated into a single, integrated text to reflect accumulated amendments and established practice. The law should also be amended to permit access for international observers invited by the authorities, as well as domestic non-partisan observers, to all stages of the election process, in order to comply fully with Paragraph 8 of the 1990 OSCE Copenhagen Document. Current legislation restricts access to polling stations on election day for international and non-partisan domestic observers. However, OSCE/ODIHR EAM members were permitted access to counting centres to follow the vote count, including the review of the postal vote in some constituencies.

Although the election process and procedures overall enjoy a high degree of trust among both candidates and voters, the introduction of postal voting on demand in 2000, without the need to present a reason for the application, has demonstrated the vulnerability of any trust based electoral process. This was underscored by the 2004 local elections, when the abuse of the postal voting provisions in some areas of the city of Birmingham resulted in a case of proven electoral fraud, which was subsequently discovered and the election results were challenged and ultimately did not stand. Although the legal and administrative procedures in this regard appear to have been developed to prioritise enfranchisement, the issue of postal voting raised lingering doubts about the ability to securely regulate this aspect of the process.

II. INTRODUCTION AND ACKNOWLEDGEMENTS

The OSCE/ODIHR received an invitation from the Delegation of the United Kingdom to the OSCE on 5 April 2005 to observe the 5 May 2005 UK general elections. The OSCE/ODIHR responded by deploying an Election Assessment Mission in the period between 28 April and 7 May 2005. The OSCE/ODIHR EAM was headed by Mr. Kåre Vollan (Norway) and consisted of 11 experts from 10 OSCE participating States.

The Mission met with officials from the Foreign and Commonwealth Office, the Department of Constitutional Affairs, the UK Electoral Commission (EC), representatives of the major political parties, the judiciary, media, returning officers and election staff, and others. In addition to experts based in London, the OSCE/ODIHR EAM deployed mission members in Cardiff, Belfast and Glasgow, and visited Birmingham, Edinburgh, and a number of other cities in Wales and Scotland.

The OSCE/ODIHR expresses its appreciation to the UK Foreign and Commonwealth Office for the support granted to the mission throughout its stay, as well as to the EC and all authorities and individuals for their co-operation.

The work of the EAM also benefited from previous OSCE/ODIHR assessment missions sent to the UK in 2003 in order to assess elections for the devolved administrations in Scotland, Wales and Northern Ireland.

III. BACKGROUND TO THE ELECTION

The population of the United Kingdom is estimated to be 59.5 million. The vast majority lives in England (49.8 million, 83.7 per cent), with Scotland (5 million, 8.5 per cent), Wales (3 million, 4.9 per cent) and Northern Ireland (1.7 million, 2.9 per cent) making up the rest.¹ Minorities make up some 7.9 per cent of the UK population.²

The United Kingdom is a constitutional monarchy. The bicameral Parliament is comprised of the House of Lords and the House of Commons. Members of the House of Lords are appointed for life and include some 500 peers, 92 hereditary peers and 26 high clergy. The House of Commons comprise 646 Members elected by popular vote to serve five-year terms, unless the House is dissolved earlier.

For the last 150 years, Great Britain³ has had a predominantly two-party system. Since 1945, either the Conservative Party, originating in the 18th century, or the Labour Party, which emerged in the last decade of the 19th century, has held power. The Liberal Democratic Party (LDP) was formed in 1988 through a merger between the Liberal Party, which also traces its origins to the 18th century, and the Social Democratic Party founded in 1981.

Other parties include the Party of Wales (Plaid Cymru) founded in 1925, and the Scottish National Party (SNP) founded in 1934. There are a number of political parties in Northern Ireland. These include the Ulster Unionists formed in the early part of the 20th century, the

¹ Figures as of 2003, UK national Statistics office, <http://www.statistics.gov.uk/>.

² Census data, 2001.

³ Great Britain includes England, Scotland and Wales.

Democratic Unionists, founded in 1971 by a group that broke away from the Ulster Unionists, the Social Democratic and Labour Party founded in 1970, and Sinn Féin.

The Labour Party was elected to govern in 1997, ending 18 years of conservative administration. The party has been led by the current Prime Minister, Tony Blair, since 1994.

On 5 April the Prime Minister formally asked Her Majesty Queen Elizabeth II to dissolve the House of Commons for a 5 May 2005 general election. The nomination of candidates had to be completed by 19 April, and the ballot papers had to be printed immediately to accommodate postal voting.

IV. LEGISLATIVE FRAMEWORK

A. OVERVIEW

Elections in the United Kingdom are conducted under a complex legal framework including Acts, Statutory Instruments, Regulations, Orders, and Rules. Also relevant to the administration of elections are court decisions that have interpreted various provisions of the legal framework. The primary legislation regulating the conduct of elections is the Representation of the People Act of 1983. Other laws have been enacted specifically for conducting elections in Northern Ireland, including the Electoral Law Act of 1962, the Elected Authorities Act of 1989, the Northern Ireland Act of 1998, and the Electoral Fraud Act of 2002.

Another important piece of legislation is the Political Parties, Elections and Referendums Act of 2000 (PPERA), which introduced regulations regarding registration of political parties, and reporting of donations to and expenditures by political parties. The law establishes limits on campaign expenditures during a specified period before elections. The limits, and the period for which they apply, depend upon the type of election. The registration of a political party is an easy and straightforward procedure.⁴ However, once registered, a party must comply with detailed rules regulating funding, campaign expenditure limits and transparency of campaign accounts. The PERA creates two registers for political parties, a Great Britain register and a Northern Ireland register. Both became effective 16 February 2001. The fee for registration of a political party is £150.

The PERA established the UK Electoral Commission (EC), and consequently, for the first time, the UK now has a state body responsible to administer national and regional referendums. The EC is also responsible for the registration of political parties and receives their reports on donations and campaign expenditures. Furthermore, the PERA provides that The Boundary Committee for England⁵ became a statutory committee of the EC, responsible for reviewing local electoral boundaries and, after the 2005 general elections, boundaries for constituencies in general elections.

⁴ Registration can be denied to a political party if its name is: longer than six words; including anything but Roman script; offensive or obscene; including words which would likely constitute commission of an offence; so similar to the name of another party that the electorate would be confused; found in an Order made by the Secretary of State prohibiting use of that word or expression.

⁵ Formerly the Local Government Commission for England.

Public and election officials may face challenges implementing the complex legal framework. Election officials acknowledged⁶ that, in some instances, complying with one provision could result in a possible violation of another one that was not brought into conformity with the most recent amendments. Furthermore, implementation could be complicated by the reliance on secondary sources that may not be broadly accessible.⁷ Election-related legislation could usefully be integrated into a single text to reflect accumulated amendments and established practice, and consequently make election legislation more accessible for election officials and the general public alike.⁸

An in depth review of the election legislation could be conducted, to identify possible inconsistencies, with a view to consolidation in a single, integrated text. This would enhance the accessibility of election-related legislation for voters, candidates, and the general public, and simplify implementation for election administrators.

B. ELECTORAL SYSTEM

The Members of the House of Commons are elected under a plurality system, in one round of voting and in single member constituencies (First-Past-the-Post system, or FPTP). Each voter in a constituency votes for one candidate proposed by a political party or running as an independent. The candidate who receives the highest number of votes wins the seat. The average number of electors per constituency is 68,390.

Under the FPTP, the delimitation of constituencies is of major importance. A key requirement is that constituencies include approximately the same number of voters. Additionally, UK law emphasises that constituency boundaries consider administrative units and local conditions. A review of the constituency boundaries is carried out approximately once every ten years by independent commissions. There do not appear to be complaints about the delimitation process. However, there are examples where the number of voters in some constituencies differ considerably (30–40 percent) from the average, possibly indicating that local conditions have taken precedence.

⁶ According to the EC, “[UK] electoral law ... is to be found in no fewer than 36 separate pieces of legislation dating back to the Parliamentary Elections Act of 1695. Although the Representation of the People Act 1983 was a consolidation Act, there are no less than 19 extant new Acts and 63 pieces of subsidiary legislation affecting electoral law since that time. ... In short, there is now a complex matrix of electoral law that leaves practitioners – let alone voters – uncertain as to the rules that apply in any given election.” *Voting for Change*, page 29 (The Electoral Commission June 2003; ISBN 1-904363-22-9).

⁷ An example concerning candidate nomination papers is found in the EC’s guidance manual, *Managing a UK Parliamentary General Election*, (page 47, The Electoral Commission 2005; ISBN 1-904363-62-8). The EC has noted that “most professionals working in the electoral field ... have developed their own pool of resources to help them find their way through electoral legislation. Current guidance materials (publications such as Schofield’s *Election Law* and Parker’s *Law and Conduct of Elections*, as well as books produced by experienced electoral practitioners) are designed to provide proxies for the legislation itself”. *Voting for Change*, page 29 (The Electoral Commission June 2003; ISBN 1-904363-22-9).

⁸ Paragraph 5.8 of the 1990 OSCE Copenhagen Document recognizes that legislation should be accessible to citizens.

*Such exceptions could be reviewed by the UK Electoral Commission, in line with electoral best practices concerning the equality of the vote.*⁹

There has been a lasting debate in the UK about the electoral system. Advocates of reform of the system advance the concept of a proportional system, either by single transferable vote, or variants of mixed member systems.

C. VOTER REGISTRATION

Voter registers are compiled by local government officials. The law requires that each household should be contacted during an annual canvas conducted between September and November. The annual publication date of the voter registers is 1 December.

The “householder” is required to fill out a single form listing all eligible voters in the household. While registration is not compulsory for individuals in Great Britain, it is obligatory to return the form and provide accurate information. Financial penalties exist for failure to comply, but it appears that these are rarely applied. A voter who fails to register during two subsequent annual canvases is excluded from the register on the third year.

Since the year 2000, voluntary “rolling registration” was introduced to enable voters to currently amend their registration. Updated lists are prepared monthly, except when the annual canvas is taking place. According to election officials, the introduction of rolling registration has improved the accuracy of the lists. While this process may create opportunities for proactive voter registration, it may have been misunderstood by voters as permission for registration right up to election day.

There is no national voter register. Voter registration is a decentralised and local responsibility, and there is no single standard for the format of the voter registers. As standards are developed locally, according to their various formats, they may not be electronically fully compatible. There is no check on possible double registration. For example, students may register both at home and at university and may even vote in two separate local council elections provided they are considered to reside at both addresses. However, it is illegal to vote more than once in the same national election.

A state-wide database for registered voters could be a useful tool to identify or prevent possible multiple registrations.

The electoral registers are public documents available for inspection. Until 2002, it was possible for anyone, including commercial organizations, to purchase a copy of the entire register. Since 2002, the registers have been maintained in two separate forms, “full” and “edited”. The full registers contain voters’ names, addresses and electoral numbers.¹⁰ Individuals may choose not to have their full details included in the edited registers by ticking a box on their annual canvas or rolling registration forms. The full registers are still available for inspection, but only the edited registers are available for purchase.

⁹ OSCE/ODIHR Election Observation Handbook (fifth edition); Code of Good Practice in Electoral Matters, European Commission for Democracy through Law (Council of Europe / Venice Commission).

¹⁰ The sequential number assigned to each entry in the voter list.

In Northern Ireland, registration is compulsory, and it is an obligation for each eligible voter to register. Failure to comply may result in a fine of up to £1,000.

Following the adoption of the Electoral Fraud Act of 2002, additional information is required to be included on the voter registers in Northern Ireland.¹¹ Since a personal signature is required, it is no longer possible for a single individual, such as the head of the household at a particular residence, to fill in the registration form for others.

Consideration could be given to review the legal framework for voter registration with a view to ensure consistency throughout the UK and emphasize individual voter registration.

D. NOMINATION OF CANDIDATES

Persons seeking registration as candidates must be aged at least 21 years on election day, and be a citizen of the UK, a citizen of another Commonwealth¹² country or a citizen of Ireland. Incompatibilities with the status of a candidate for Member of the House of Commons include Members of the House of Lords, senior civil servants, judges, ambassadors, army and police officers; bankrupts; persons found guilty of the electoral offences of corrupt or illegal practices; offenders sentenced to more than 12 months imprisonment.

Candidates must be proposed and seconded by two registered voters and supported by eight “assentors” (also voters). A candidate must consent in writing to his or her nomination. An individual may stand as a candidate of a party only if his or her application is accompanied by a certificate of authorization from the party. Otherwise, an individual may be presented as an “independent”. Candidates of political parties may also include a six-word description that appears on the ballot-paper along with the party emblem. A special provision applies to the Speaker of the House of Commons, who may include the description “The Speaker seeking re-election”.

Candidates are required to make a financial deposit of £500. The purpose of the deposit is to discourage those candidates without serious intentions from standing. The deposit is returned if candidates obtain at least one-twentieth (5 percent) of the total valid votes cast. A candidate can be nominated in more than one constituency, but can only represent one constituency if elected in more than one constituency.

The requirements for standing as a candidate are easy to satisfy. However, political parties that would appear to be less influential have complained that the requirement for an electoral deposit of £500 for each candidate could be a substantial obstacle provided that candidates are fielded in most constituencies.

¹¹ This information includes the date of birth, the personal signature, the UK insurance number (or a statement that the voter does not have such a number), the details of other residences in the UK at which the individual might be registered as a voter and a statement that the individual had been residing in Northern Ireland for the previous three months.

¹² The modern Commonwealth of Nations (until 1949, the British Commonwealth of Nations) is an association of sovereign states, former colonies of the pre-war British Empire, committed to racial equality, respect for human rights, peace and cooperation between member states and beyond, and good governance. The latest document of significance adopted by the Commonwealth was the 1971 Singapore Declaration of Commonwealth Principles. It gave the association a formal code of ethics, and committed members to improving human rights and seeking racial and economic justice.

E. BALLOTS

Ballot papers are printed according to a prescribed form. Ballots do not contain instructions, but instructions for completing the ballot are posted at the polling place. An explanation on how to vote is also given by the polling clerks if requested. Voters are not requested to present an ID in order to receive a ballot.

Ballot papers are torn from booklets, leaving a counterfoil (or stub). Both the ballot and the counterfoil contain a serial number. The voter's number from the electoral register is written on the counterfoil when the ballot is given to the voter. The ballot is stamped¹³ before it is given to a voter.

The justification for including the serial number on the ballot is that it is a safeguard for the integrity of the vote intended to enable Returning Officers to know exactly which ballots were issued to each polling station, and to allow Election Courts¹⁴ to investigate cases of impersonation. Ballots can be checked only under court order when there has been an allegation that an electoral offence has been committed. Safeguards are in place to ensure the counterfoils are kept in separate sealed containers from the ballots. They are then destroyed one year after the polls.

This procedure has changed little since the secret ballot was introduced in 1872. It appears to have worked in the UK because it is considered to be honestly applied and because of the high levels of public trust in the integrity of the electoral process.

However, including the serial number on the ballot paper creates opportunities to breach the secrecy of vote. It seems that voters occasionally complain to election officials that their ballot is not secret, and electoral officials are routinely supplied with guidance on how to respond to such complaints. While the secrecy of the vote has virtually always been respected, the procedure has recently been an issue of debate.

The possibility of tracing individual ballots back to the voters during a fraud investigation has hardly been used for decades. In both of the Birmingham postal vote cases of 2004, the ability to check the signature during the processing would have meant that the court would not have needed to trace the elector's ballot.

The current procedure that allows the possibility to trace a marked ballot to a particular voter may be contrary to the UK's OSCE commitment that elections should be held by secret ballot or by equivalent free voting procedure. It may also be contrary to suffrage provisions of the European Convention for the Protection of Human Rights and Fundamental Freedoms. If greater safeguards are considered necessary, other procedures that do not risk compromising the secrecy of the ballot might be instituted. Ballots should remain secret even to members of a court during an investigation of electoral fraud.

¹³ The ballot is perforated, but the law uses the word "stamp" understood as perforation, as opposed to a seal (stamp).

¹⁴ In local government elections, an "election court" is a court consisting of one High Court Judge. In general elections, an election court consists of two High Court Judges. The election court presides over the trial of petitions challenging election results.

In order to ensure the secrecy of each ballot under any circumstances, consideration should be given to abolishing the printing of serial numbers on the ballots and replace them with other safeguards for the integrity of the voting process, such as presenting an identification document in order to receive a ballot.

F. POSTAL VOTING

Postal voting procedures have been established, as exceptional voting procedures, in order to enfranchise eligible voters who are not able or do not desire to come in person to their assigned polling stations and cast their ballots there for a variety of reasons. Postal voting presumes marking the ballot in person, outside the assigned polling station.

As a matter of principle, and outside any particular country context, postal voting presents challenges with regard to the secrecy of the vote, and the possibility of undue pressure on voters at the time of marking the ballot.¹⁵ This may be of particular concern with regard to segments of the community that may be perceived as being most vulnerable. Postal voting is also a challenge to any electoral administration in terms of the integrity of the ballot¹⁶, logistics, voter education and timely announcement of results.

Postal voting is now available “on demand” in Great Britain, without the need to present a reason for the application, with a view to increase voter participation. Any voter can apply, only in writing, for a postal ballot up to six days before election day. A postal ballot must be received by the Presiding Officer of a polling station or the Electoral Registration Office (ERO) by 22:00 hours on polling day in order to be counted.

More stringent requirements are in place in Northern Ireland. There, in order to be permitted to vote by post, a voter must explain why absentee voting is necessary and submit an attestation by another voter confirming that it is in fact the case. Voters seeking to vote absentee in Northern Ireland must also provide their date of birth and UK insurance number (or indicate they do not have one). Upon receipt of the application, these details, together with the voter’s signature, are to be verified.

The number of postal voters has increased substantially. This has led election administrators in a number of areas to request contractual support of private companies in order to handle the postal ballots in a timely manner. Thus, at times, sensitive election materials have been processed by individuals, other than election officials, some of whom may have been party representatives or supporters.

Improvements should be considered in the legal framework to address concerns over the security and logistics of postal voting, and to ensure that postal voting materials are handled only by election officials. More stringent requirements, such as those applicable in Northern Ireland, whereby a voter must submit more information and explain why absent

¹⁵ The right of a secret ballot is enshrined in the 1966 International Covenant on Civil and Political Rights, the OSCE Document of the Copenhagen Meeting 1990 and the European Convention for the Protection of Human Rights and Fundamental Freedoms.

¹⁶ Postal voting became more controversial in 2004 when it was used to fraudulently change the results of local elections for the Birmingham City Council. Although the election results were challenged and successful election petitions determined that the results be set and not permitted to stand, the evidence presented in the trial of the petitions disclosed how easily the postal voting system can be abused.

voting is necessary, and an attestation by another confirming that it is in fact the case, could be considered for application throughout the UK. Possibilities could also be considered for out-of-country voting or voting by absentee voting certificate in order to enhance voting in person, rather than postal voting.

G. PROXY VOTING

A voter is allowed to vote by a designated proxy, if he or she can convince the ERO that he or she cannot attend his or her polling station on election day due to physical incapacity, or because he or she will be away from home for good reasons.¹⁷ A voter, who has requested to vote by proxy, may vote in person if the proxy has not already cast his or her vote. This system is well established in the UK and seems to be broadly accepted. The introduction of postal voting would appear to render proxy voting unnecessary.

H. VOTING BY PRISONERS

A convicted prisoner serving his or her sentence in a penal institution is prohibited from voting. The European Court of Human Rights found – in a case still pending -¹⁸ that the unconditional ban on voting by convicted prisoners violated the European Convention for the Protection of Human Rights and Fundamental Freedoms.

The ban on voting by convicted prisoners does not apply to a prisoner who is incarcerated under an intermittent custody arrangement where the offender spends part of the week incarcerated and part of the week in the community. Such a prisoner is able to vote if the prisoner is not in jail on election day. The number of such prisoners is small, estimated to be around 40 persons.

I. OBSERVERS

The United Kingdom's legislation is not yet in full compliance with its OSCE commitments regarding election observation. Admission to polling stations is limited to voters, candidates and their election agents, polling officials and clerks appointed for that station, constables on duty, and the companions of voters with disabilities. Thus, the OSCE/ODIHR EAM had no access to polling stations during voting hours.

Attendance at the count is generally limited to the Returning Officer, his or her clerks, the candidates and their wives or husbands, election agents, and counting agents. However, the Returning Officer has the discretion to permit other persons to attend. Before he does so, the Returning Officer must be satisfied that efficient counting of the votes would not be impeded. OSCE/ODIHR EAM members were allowed to attend counts including reviews of postal votes in some constituencies.

¹⁷ A voter may vote in a polling station other than the one to which the voter is assigned if he or she cannot go in person to his or her assigned polling station due to employment as an election worker or constable. In such a case, the voter can vote in person at any polling station in the constituency by presenting a certificate signed by a voter's supervisor of a specified level.

¹⁸ *Hirst v. The United Kingdom* (No. 2), Application No. 74025/01 (30 March 2004). This case is currently pending before the Grand Chamber of the European Court of Human Rights. It remains to be seen whether this judgment, which found there was a violation of suffrage rights due to the UK's blanket prohibition denying all convicted persons of the right to vote without regard to the principle of proportionality and consideration of the nature of the underlying crime, will be changed.

The UK should adopt legislative provisions enabling international observers from OSCE participating States invited by the authorities, to attend all stages of the election process, in line with Paragraph 8 of the OSCE 1990 Copenhagen Document.

The presence of domestic non-partisan observers enhances the transparency of the electoral process and has a positive impact on public confidence. This is particularly the case where voters come from a diverse background and where one political party dominates local administration.

The UK should adopt legislative provisions enabling registered domestic non-partisan observer groups to monitor all stages of the election process.

V. ELECTION ADMINISTRATION

A. OVERVIEW

Legal responsibility for UK general elections in Great Britain is vested with the UK Government. The responsibility for UK general elections in Northern Ireland rests with the Electoral Office for Northern Ireland, based in Belfast and run by the Chief Electoral Officer (CEO), who is appointed by the Secretary of State for Northern Ireland. The CEO provides advice to the Secretary of State for Northern Ireland on all electoral matters and is both the Registration and Returning Officer. For the UK general election, the CEO appoints nine Deputy Returning Officers, each responsible for the electoral administration in two constituencies.

There is no central election management structure in the United Kingdom, and the administration of elections is highly decentralized. Responsibility for administering elections is given predominantly to local government authorities. This has resulted in a broad diversity of implementation practices considerably impacted by local tradition.

The Lord Chancellor and the Home Office do retain authority over some generic aspects of elections. The Department of Constitutional Affairs is responsible for the oversight of the legislation related to all national elections, which in all cases is administered by local governments.

B. UK ELECTORAL COMMISSION (EC)

The Electoral Commission was established on 30 November 2000 by the PPERA. It consists of a Chairman and four Commissioners, all appointed by a Royal Warrant, after debate in the House of Commons and subsequent presentation of a Humble Address to Her Majesty. Names approved by the House of Commons and submitted to Her Majesty are initially proposed by the Public Appointments Commissioner. The EC is a non-partisan body, which is funded directly by the House of Commons following consultations between the Speaker and the Treasury, and reports to the House. It has no direct role in the administration of elections and maintains offices in London, Belfast, Cardiff and Edinburgh.

The EC carries out studies and reports on matters related to electoral law and practice. It plays an active role in the testing of new electoral initiatives and pilot projects. It also

provides advice and assistance on best practices to Registration and Returning Officers, and carries out voter and public education programs. The EC has issued a range of publications such as fact sheets, analytical reports and detailed guidelines for candidates and polling station officials. Separate publications are issued for Northern Ireland election officials.

The EC plays a major role in relation to parties and candidates. It is responsible for both registering political parties and for overseeing the statutory controls on party and candidate finance during and after elections throughout the UK. It is anticipated to play a more active role in the determination of electoral boundaries.

C. RETURNING OFFICER

For the most part, Returning Officers are appointed local government officials. Often they are the Chief Executives or other senior officials of the local councils and are perceived as politically impartial. The Returning Officer's role mostly consists of receiving the legal document to conduct the election (the writ), at times announcing the election results and returning the writ. In England and Wales, the Returning Officer appoints an Acting Returning Officer who is responsible for administering the election at the constituency level. Returning Officers also appoint Presiding Officers and Poll Clerks to administer voting in polling stations.

The decentralized nature of UK government implies that Returning Officers implement the electoral framework in different ways. While the diversity of practices¹⁹ appeared to stem mostly from custom and local democratic tradition, it could require additional efforts from political parties to respect local practices in constituencies where they were sponsoring candidates.

Consideration could be given to establishing a greater degree of uniformity in administering elections by developing minimum standards for those aspects of the electoral process that are critical to its integrity.

D. FUNDING OF THE ELECTION ADMINISTRATION

The Secretary of State for Constitutional Affairs is responsible for making the Parliamentary Elections (Returning Officers' Charges) Order 2005 or simply the Charges Order, which specifies the kind of services or charges that the Returning Officer is entitled to recover expenses for in connection with a general election. It also sets out the mechanism, through which Returning Officers recover charges for these expenses. The source of funding for general elections is the UK government's Consolidated Fund.

The Department of Constitutional Affairs (DCA) is the central government department with responsibility for elections to the UK Parliament in England and Wales. This responsi-

¹⁹ The processing of the Declaration of Identity for postal ballots was an example of the diverse practices among Returning Officers. Some required the name of the voter to be removed from the declaration after it was returned by the voter and verified, while others retained the voter's name. Another example was the use of a form, in some polling stations, to record the names of those voters who claim that they have not applied for absentee ballots and are therefore not permitted to vote, while others made no record.

bility includes paying (Acting) Returning Officers expenses and issuing guidance on expenses.

The responsibility for UK Parliamentary elections in Scotland rests with the Scotland Office. The Secretary of State for Scotland is responsible for conducting and funding UK parliamentary elections in Scotland. The Scotland Office works closely together with the DCA to coordinate policy and legislation.

The responsibility for UK Parliamentary elections in Northern Ireland rests with the Electoral Office for Northern Ireland. This office supports the Chief Electoral Officer in providing advice to the Secretary of State for Northern Ireland on all electoral matters including the mechanism for recovering charges for general election expenses.

Returning Officers' expense claims are processed by the Election Claims Unit in England and Wales and by the Scotland Office in Scotland. The general requirements as to Returning Officers' accounts are set out in secondary legislation²⁰. Currently the deadline for submission of accounts is one year.

The Electoral Commission is being funded directly by the Parliament, outside the regular Government budget. The budget is proposed by the Speaker after consultation with the Treasury. The EC has issued a series of recommendations aimed at ensuring that sufficient funding is available to provide adequate and consistent support for the conduct of elections.

VI. CAMPAIGN

Campaigning took place in a fair and open atmosphere. A substantial number of parties and candidates were able to register without impediments and to freely present their views. The civil and political rights of candidates and voters were well protected.

As of March 2005, there were 286 parties registered in Great Britain and 45 parties registered in Northern Ireland; 25 parties were registered in both. Candidates were presented by 113 parties and had to register for the election by 19 April. A total of 3,521 candidates contested the 646 seats in the House of Commons.

While the elections were called on 5 April, informal campaigning had begun beforehand. The campaign focused mainly on health care, education, crime, immigration, the economy and the war in Iraq. All major parties actively encouraged their supporters, in cases they could not vote in person, to use postal ballots where possible.

The election legislation establishes limits on candidate and party spending for the campaign, which are equal for all candidates. Limits appear to allow candidates to collect sufficient funds for their campaign activities. An Order to increase the limits on candidates' election expenses was made in February 2005 to take into account inflation since the 2001 limits were established. The limit is pending on the number of electors in the candidate's constituency and is approximate to £12,000. The OSCE/ODIHR EAM did not receive reports regarding complaints on existing funding limits. However, less influential parties appeared to find the requirements of accounting and reporting to be burdensome.

²⁰ The Returning Officers' Accounts (Parliamentary Elections) (England and Wales) Regulations 1991 and The Returning Officers' Accounts (Parliamentary Elections) (Scotland) Regulations 1991.

The electoral legislation provides for strict reporting requirements on campaign donations and expenditures. During an election period political parties are required to submit weekly reports on received donations in excess of £5,000, for the period beginning 365 days before and up to the date of the poll, to the EC. Election expenditures by third parties (individuals and organizations), in excess of £500, are also regulated and UK-wide registered third parties²¹ must register with the EC if they intend to incur expenditures in excess of specified amounts.²² The election agent of every candidate must make a return of election expenses to the Returning Officer within 35 days after the day on which the result of the election is declared. Returning Officers make the returns available for public inspection.

The EC has instituted a good practice by listing on its website the sources of donations to parties. Although the spending limit for individual candidates is not high, approximately £12,000 for each candidate in these elections (based on the number of voters in the constituency), the candidates and parties appear content with this limit. Political parties may make additional expenditures up to a specified limit.

The EC is responsible²³ for holding organizations and institutions in compliance with the statutory registration and financial regulatory requirements of the PPERA and the relevant provisions of the RPA. It undertakes compliance reviews of the statutory returns submitted by political parties, candidates and recognized third parties and publishes registers of donations and statement of accounts, detailing the name of the donor and the precise amount of the donation on its website.

VII. MEDIA

Media freedom is well established in the UK and media coverage of the campaign was extensive. There are many print and electronic media outlets that freely and actively cover election campaigns, and the electorate is generally offered a range of views and information. No legal or administrative obstacles stand in the way of unimpeded access to the media on a non-discriminatory basis for all parties and candidates, although in practice mainstream parties receive far more coverage than their less influential counterparts. The SNP and the Party of Wales argued that under the present arrangement for television news broadcasts²⁴ their activities were covered only in the regional news, while the mainstream parties were covered twice.²⁵

The media is essentially self-regulating. There is little in the election legislation that addresses the conduct of the media during an election period. Broadcasters are required to adopt a code of practice with respect to their election coverage.

Paid political advertising is not permitted. However, those television and radio channels that have public service broadcast obligations are required by law to include “party political broadcasting”²⁶ in their services during election periods. The parties must pay to produce

²¹ UK wide registered political parties that are not presenting a candidate in the election.

²² Currently, this amount is £10,000 in England and £5,000 in Scotland, Wales and Northern Ireland.

²³ The EC has the power to obtain records necessary for criminal prosecution by Crown authorities.

²⁴ A UK wide news broadcast last usually 30 minutes, with an ‘opt-out’ for regional news.

²⁵ During the UK wide news and within the news coverage of their Scottish or Welsh activities.

²⁶ Free air time for political parties contesting the election.

the spots to be broadcast and are fully responsible for their content, but the allocation of time and the transmission of the broadcasts are determined by the broadcasters.

The media are specifically barred from reporting results of exit polls before the end of voting. Involvement in arranging inclusion of material intended to influence voting in a general election through broadcasts from outside the UK is a criminal offence.

VIII. PARTICIPATION OF WOMEN

In the 5 May 2005 general election, 129 women (19.9 percent) out of a total of 646 were elected to the House of Commons. While this result further enhances the historic high reached in the 1997 general election²⁷, women's participation in politics could be further enhanced. Political parties differed in their approaches to promote representation of women in the House of Commons. The Party of Wales and the LDP encouraged women candidates through voter education. The Labour Party had a policy of using all-women short lists in "secure" constituencies. It recognised that in specific areas such a policy might be perceived as controversial,²⁸ but remained committed to it. The Conservative Party noted that its performance in encouraging women's participation is improving, although it appeared not to accept all-women short lists.

IX. POLLING

Polling procedures seem to have changed little over the years. Voters obtain their ballots without presenting proof of identity or signing the voter register.

In order to provide additional safeguards for the integrity of polling, consideration could be given to amending the legal framework to require that a person presents a proof of identity and signs the polling station voter register before being given a ballot.

Polling stations were usually located in public buildings such as schools and community centres, but in some areas parish buildings and pubs were also used for this purpose. The election administration should be commended for their efforts to make polling places accessible for disabled persons. Where suitable accessible venues could not be identified, mobile polling units or 'portacabins' were often supplied.

Voters who have applied for postal voting may hand in the postal ballot pack comprising their marked ballot paper and completed declaration of identity to the staff of a polling station. The presiding officer will ensure its delivery to the counting place.

Polling stations were staffed with a presiding officer and one or two polling clerks per ballot box. Polling stations were open from 7:00 to 22:00 and close promptly at the designated hour. Only a voter who has received a ballot by 22:00 may vote.

Consideration could be given to permit voters, already in line when the polling station closes, to receive and cast their ballot.

²⁷ In the 1997 general election 120 women were elected; while in 2001 this number was 118.

²⁸ In Wales, the Labor Party lost one "safe" seats to an independent candidate, partly over this issue.

If a voter comes to a polling station and finds, according to the voter register, that he or she has already voted, then the voter may be permitted to cast a tendered ballot. This is a special ballot, which is put in a separate envelope marked with the voter's name. Tendered ballots are not processed unless there is an election petition where they may be used as evidence of somebody having impersonated a voter or to investigate other allegations of possible fraud.

It should be considered if a similar mechanism could be used for voters who find that they are marked as having applied for absentee voting without recognizing this as a fact. More consideration should also be given to the active review of tendered ballots.

X. COUNTING

In the UK there is a long-standing and rather unique tradition for counting the ballots of the entire constituency together, after transporting all ballot boxes from the polling stations to constituency counting centres. All UK parties seem to support this procedure, which maintains the broad trust and confidence of electoral competitors. It could also be the only practical way for candidates of less influential parties to secure party agents for monitoring the counting process. This contrasts, however, with the conventional practice elsewhere to count ballots in the polling stations, immediately after the closure of polls, and provide election results by polling stations, subject to further tabulation by constituencies.

The centralised count is conducive for protection of the secrecy of the vote of polling stations with a limited number of voters and of postal votes. The requirement for mixing boxes before the count was therefore probably made to protect the secrecy of the votes from polling stations with few voters, which in smaller communities, might have been an issue earlier in the UK's electoral history. On the other hand, disclosure of results by polling stations is more informative and can enhance transparency.

XI. COMPLAINTS AND APPEALS

Election results may be challenged by candidates or voters, only through a complaint alleging "undue election" or "undue" return, for reasons such as corruption or disqualification of a candidate. Such complaints are called "election petitions" and must be filed with an election court. Election petitions must be presented within 21 days after the results were declared, or within 28 days of the occurrence of an illegal action. The cases are heard in open court, without a jury. Witnesses may be summoned and required to testify. The costs of the proceedings are allocated according to court order.

Formal election petitions are rare. According to the Department for Constitutional Affairs, in the last six elections²⁹ only 21 petitions have been filed.³⁰ Two petitions were raised against the 2005 general elections, one in a Birmingham constituency over postal voting and one in a London constituency over a number of alleged violations.

One factor that may affect the filing of election petitions is the potential cost involved. A fee of £180 is payable on the filing of the petition and security for costs must be tendered.

²⁹ One UK general election, four local elections, and one election for the European Parliament.

³⁰ *Briefing Information* prepared by the DCA Electoral Policy Division, Constitution Directorate, (April 2005), page 37.

Although the amount required as security cannot exceed £5,000, the total costs will certainly exceed £5,000. While this could be a significant amount for a losing petitioner, the system appears to prevent frivolous complaints.

If the election court finds that a corrupt or illegal election practice occurred, it communicates its findings to the prosecutors. It is the duty of the public prosecutor to make inquiries and institute proceedings against violators, subject to a one-year statute of limitations. Upon conviction, a violator is subject to imprisonment of up to two years and a fine, and may be rendered ineligible to hold public office, including elective office, for a period of 3-5 years. Election results may be invalidated as a consequence of certain types of offence by candidates.

ANNEX: ELECTION RESULTS

The reported turnout was 61.3 percent. A total of 26.2 million voters, out of 44.2 million of registered voters, cast their ballots.

UK GENERAL ELECTIONS 5 May 2005 DISTRIBUTION OF SEATS	
Party	Number of Seats
LABOUR	356
CONSERVATIVE	198
LIBERAL DEMOCRATS	62
DEMOCRATIC UNIONIST PARTY	9
SCOTTISH NATIONAL PARTY	6
SINN FEIN	5
PLAID CYMRU	3
SOCIAL DEMOCRATIC & LABOUR PARTY	3
OTHERS	4
TOTAL	646

ABOUT THE OSCE/ODIHR

The Office for Democratic Institutions and Human Rights (ODIHR) is the OSCE's principal institution to assist participating States "to ensure full respect for human rights and fundamental freedoms, to abide by the rule of law, to promote principles of democracy and (...) to build, strengthen and protect democratic institutions, as well as promote tolerance throughout society" (1992 Helsinki Document).

The ODIHR, based in Warsaw, Poland, was created as the Office for Free Elections at the 1990 Paris Summit and started operating in May 1991. One year later, the name of the Office was changed to reflect an expanded mandate to include human rights and democratization. Today it employs over 100 staff.

The ODIHR is the lead agency in Europe in the field of **election observation**. It coordinates and organizes the deployment of thousands of observers every year to assess whether elections in the OSCE area are in line with national legislation and international standards. Its unique methodology provides an in-depth insight into all elements of an electoral process. Through assistance projects, the ODIHR helps participating States to improve their electoral framework.

The Office's **democratization** activities include the following thematic areas: rule of law, civil society, freedom of movement, and gender equality. The ODIHR implements a number of targeted assistance programmes annually, seeking both to facilitate and enhance State compliance with OSCE commitments and to develop democratic structures.

The ODIHR monitors participating States' compliance with OSCE human dimension commitments, and assists with improving the protection of **human rights**. It also organizes several meetings every year to review the implementation of OSCE human dimension commitments by participating States.

Within the field of **tolerance and non-discrimination**, the ODIHR provides support to the participating States in implementing their OSCE commitments and in strengthening their response to hate crimes and incidents of racism, xenophobia, anti-Semitism and other forms of intolerance. The ODIHR's activities related to tolerance and non-discrimination are focused on the following areas: legislation; law enforcement training; monitoring, reporting on, and following up on responses to hate-motivated crimes and incidents; as well as educational activities to promote tolerance, respect, and mutual understanding.

The ODIHR provides advice to participating States on their policies on **Roma and Sinti**. It promotes capacity-building and networking among Roma and Sinti communities, and encourages the participation of Roma and Sinti representatives in policy-making bodies. The Office also acts as a clearing-house for the exchange of information on Roma and Sinti issues among national and international actors.

All ODIHR activities are carried out in close co-ordination and co-operation with OSCE participating States, OSCE institutions and field operations, as well as with other international organizations.

More information is available on the ODIHR website (www.osce.org/odihr).