



ALL PARTY PARLIAMENTARY GROUP ON DEMOCRACY AND THE CONSTITUTION

VOTER ID – WHAT WENT WRONG AND HOW TO FIX IT

**An Inquiry into the impact of photographic
identification requirements at the 2023 local
elections**

Funded by the Joseph Rowntree Reform Trust

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EXECUTIVE SUMMARY

1. The APPG on Democracy and the Constitution is a cross party group which seeks to improve parliamentary and public understanding of democratic and constitutional issues and to enhance the UK's democratic constitution.
2. The Elections Act 2022 introduced, for the first time (save for in Northern Ireland) a requirement for voters to present photographic identification in order to cast their ballot. The 2023 local elections represent (potentially) the only opportunity to evaluate this new regime before the next general election. This report aims to review the new regime and propose any necessary adjustments, to ensure it is both effective and inclusive in the forthcoming general election.
3. The inquiry was conducted by a cross-party panel. It heard evidence from leading academic experts, independent election observers, and members of the public. It was assisted by counsel and researchers.
4. The Panel makes four key findings:
 - (1) The current voter-ID system is, as it stands, a “poisoned cure” in that it disenfranchises more electors than it protects to the extent that it could affect electoral outcomes.
 - (2) The inherent ambiguity in the regime creates a real risk of injustice and potential discrimination.
 - (3) The regime lacks the flexibility necessary to avoid injustices.
 - (4) The problems identified are systemic but not fundamental. With targeted reforms the voter-ID regime can be an asset to UK democracy.
5. The Panel, therefore, propose three reforms:
 - (1) Permit electors to “cure” a failed ID check by making a statutory declaration.

- (2) Broaden the range of accepted identification documents.
- (3) Provide better training for polling station officers.

INTRODUCTION

6. The right to vote is an essential element of any functioning democracy. It is the means by which the people select their representatives, legislators, and government. It is, therefore, vital that (a) citizens are able to exercise their right to vote without undue hinderance and, (b) the integrity of the vote is preserved.
7. On 4 May 2023 the UK, for the first time in its history (save for in Northern Ireland), required voters to present documents containing photographic identification before they were permitted to vote. This requirement was introduced by the Elections Act 2022. Supporters of the Act argued that it was necessary to prevent electoral fraud. Critics responded that instances of “personation” (the type of fraud targeted by the reforms in question) were vanishingly small and that the requirement for photographic identification would discriminate against marginalised communities (who are less likely to have the required forms of identification).
8. The UK must hold a general election no later than 28 January 2025. The 2023 election offers an opportunity (possibly the only opportunity) to evaluate the performance of the voter ID (“**VID**”) regime in advance of the general election. The APPGDC, accordingly, convened a panel to conduct such an evaluation.
9. In accordance with its non-partisan composition and focus on democratic and constitutional issues which should engage those across the political spectrum, the APPGDC’s inquiry has focused on the impact of the VID regime on the voter. The inquiry, in particular, sought to answer three questions:
 - (1) Did the VID regime prevent people from voting?
 - (2) Did the impacts of VID fall more heavily on one group than others?
 - (3) Can the VID regime be reformed so as to mitigate any negative impacts?
10. The APPGDC constituted a four-person panel to conduct the inquiry. They were John Nicolson MP (Chair), Dawn Butler MP, Sir Robert Buckland KC MP, and Lord Hendy KC. The Panel was assisted by counsel to the inquiry and took independent advice from

senior counsel. The APPGDC Secretariat, provided by the Institute for Constitutional and Democratic Research, provided research assistance.

11. The Inquiry proceeded in four stages:
 - (a) Scoping exercise and desk research;
 - (b) Public call for evidence;
 - (c) Public hearing;
 - (d) Report.
12. The written evidence received by the panel and a summary of the initial desk research is included in Appendices 3 and 4. The Electoral Commission submitted its interim analysis of the 2023 elections to the Panel.
13. The Panel notes that the question of VID has generated substantial political controversy. While partisan debate is an important part of a functioning democracy, it is not the aim of this report. Rather, the Panel has sought to focus on the policy issue and to identify, where appropriate, reforms to the VID regime which enhance its utility while minimising (or, ideally, eliminating) its problematic elements.
14. The 2022 Act contained a number of reforms to the electoral system. This report has focused solely on VID at polling stations. The Panel notes that a number of those who responded to the call for evidence highlighted potential problems with the 2022 Act which go beyond the VID regime. It was noted, in particular, that the increased powers for the Executive to exercise control over the Electoral Commission, and the restrictions placed on the involvement of charities and community groups in elections may be problematic. The Panel takes no position on these points save to note that they were raised in the course of evidence which was cogent, often supported by independent and/or peer-reviewed research and analysis, and often from witnesses who the Panel had no reason to suspect of bias. The Panel, therefore, suggests that further work be considered to examine these issues.

BACKGROUND

15. The debate around VID began in earnest with the decision of the High Court in ***Erlam et al v Rahman et al [2015] EWHC 1215 (Comm)***. The case concerned Lutfur Rahman, the Mayor of Tower Hamlets. A BBC Panorama investigation in 2010 alleged that Mr Rahman was involved in various unlawful practices. The Court held that Mr Rahman’s election in 2014 was void because Mr Rahman was guilty of “corrupt and illegal practices”. These included postal vote fraud, illegal voting, making false statements about candidates, illegal employment of paid canvassers, bribery, and undue influence. They also included one instance of personation. None of these irregularities, save one instance of personation, involved a situation in which the VID currently mandated (had the legislation then been in operation) would have had any application.
16. In response, the Cameron government instructed Eric Pickles to prepare a report examining electoral fraud. Sir Eric’s report¹ drew heavily on evidence from Tower Hamlets. It made 50 recommendations. Recommendation Eight of these was “the Government should consider the options for electors to have to produce personal identification before voting at polling stations....”
17. Trials in 2018 and 2019 reported a degree of increased public confidence in elections where VID was required. It should be noted, however, that public confidence in the conduct of elections is generally high. Before the 2022 Act, more members of the public agreed that it would improve the running of elections than disagreed, but neither group represented a majority. Electoral fraud ranked consistently last in public perception of problems around elections.² The public tends to be far more concerned about political funding and the redrawing of constituency boundaries than about personation.³
18. Introducing the (now) 2022 Act at second reading, the (then) Minister for the Constitution and Devolution, Chloe Smith MP, made clear that the section 1 requirement was intended to combat the problem of “personation”.⁴ Since 2013 there

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/545416/eric_pickles_report_electoral_fraud.pdf

² <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-identification-pilots/may-2019-voter-identification-pilot-schemes/impact-voters-confidence>

³ Toby James, p. 59

⁴ HC Deb. Vol. 700, Col. 198 (7 September 2021)

have been eight convictions or cautions for personation in person (the type of electoral fraud targeted by section 1). There have been 11 convictions or cautions for personation by postal or proxy vote (which is not addressed currently by section 1 but will be addressed by forthcoming regulations which are outside the scope of this inquiry). The most common conviction for electoral fraud concerned providing false information on a nomination paper (16 convictions or cautions).⁵

19. The 2022 Act received Royal Assent on 18 April 2022.

The VID Regime

20. Section 1 of the 2022 Act amends Schedule 1 of the Representation of the People Act 1983:

- (a) Electors are required to produce one of a specified list of identification documents before being permitted to cast their vote. It is, in practice, for polling station workers to determine whether the document presented by an elector is a valid form of ID.
- (b) Electors who lack the requisite document may apply for an dedicated electoral identity document (Voter Authority Certificate – “**VAC**”). Electors who are refused an EID may appeal against the refusal.
- (c) The permitted forms of ID include various identity documents that are available to most or all electors (such as a driver’s licence or a passport) and documents available to certain legally protected classes (such as disabled persons). Certain “concessionary travel passes” may also be used as VID. These, however, include a number of concessionary photocard that are available to older people, but do not include the equivalent photocards available to younger people.

⁵ See Table 1

FINDING I: The current VID system is, as it stands, a “poisoned cure” in that it disenfranchises more electors than it protects

Addressing Personation

21. VID is intended to address the problem of “personation”.⁶ This is a particular species of electoral fraud wherein the fraudster pretends to be someone else in order to exercise that person’s right to vote. Personation (a) deprives the true elector of their vote, and (b) allows the fraudulent elector to (in effect) vote more than once⁷.
22. Personation may occur in person or remotely (in the latter case the fraudulent elector generally submits a fraudulent postal ballot). The VID requirement which operated during the 2023 election related solely to personation at the polling station (as there was no VID requirement for postal ballots). From October 2023, as the law stands, there will be a VID requirement for postal and proxy voting.⁸
23. There have, since 2013, been eight convictions or cautions for personation in person. These are detailed in Table I:

Year	Personation (in person)	Personation (post/proxy)	False information on nomination paper	Ballot tampering	Registration offences
2013	0	0	3	0	0
2014	3	0	1	0	1
2015	0	7	3	0	1
2016	DATA NOT AVAILABLE				
2017	1	3	1	0	6
2018	0	1	4	0	1
2019	2	0	3	1	0
2020	0	0	0	0	0
2021	2	0	0	0	0
2022	0	0	1	0	0

⁶ Per the (then) Minister of State for the Constitution and Devolution, Chloe Smith MP, HC Deb. Vol. 700, Col. 198 (7 September 2021)

⁷ Coppel, p. 5, §17

⁸ Representation of The People (Postal And Proxy Voting Etc.) (Amendment) Regulations 2023

24. There were no recorded instances of polling station personation in 2023.⁹ Whether this was because of or unrelated to the legislation in question cannot be demonstrated.

Electors Disenfranchised

25. If the absence of personation was a consequence of the legislation, it was achieved, at a cost. The effect of the VID requirement was to prevent or discourage certain electors from voting:
- (a) The Electoral Commission recorded that 0.7% of electors attempted to vote but were turned away because they lacked accepted ID. Of those 63% returned with correct ID. 0.25% (approximately 14 000) did not return.¹⁰
 - (b) Independent election observers recorded 1.2% of voters turned away because they lacked the correct ID.¹¹
 - (c) 7% of non-voters gave voter ID as the reason that they did not vote. This raises the question of whether the Section 1 requirements had a chilling effect on voting.
 - (d) There is evidence that people from traditionally marginalised communities were more likely to be turned away for lack of acceptable ID and/or put off voting (see below).¹²
26. The numbers recorded by both the Electoral Commission and by independent observers are likely a significant under-estimate because they do not fully account for the impact of “greeters” at polling stations. The issue of “greeters” was raised in Parliament in advance of the 2023 election by Clive Betts MP.¹³ The Electoral Commission responded that it would “aim to make an assessment of the impact of greeters”.¹⁴

⁹ Electoral Commission, p. 11

¹⁰ Electoral Commission, pp. 1-13;

¹¹ Democracy Volunteers, p. 34

¹² Democracy Volunteers, p. 34

¹³ HC Deb. Vol. 731, Col. 919, (27 April 2023)

¹⁴ <https://committees.parliament.uk/publications/39384/documents/193539/default/>

27. The Electoral Commission’s submission indicates that greeters likely had an impact on the collection of data.¹⁵ Indeed, the figures recorded likely underrepresent the true impact of VID.¹⁶
28. Reports (independently obtained by the APPG’s researchers) from independent election observers indicate that the impact of greeters was substantial:

Throughout our observations, our teams saw a number of voters being turned away from voting by both political party tellers and ‘meeters and greeters’, in some cases incorrectly. Party tellers should not be asking voters about their ID. Questions such as ‘Do you have a passport’ are misleading and can make voters believe they don’t have the correct ID, even if they do have a different suitable form of ID, such as a driving licence. Thus, they may leave the polling station without reaching the Presiding Officers’ desk.¹⁷

29. It is, in the Panel’s view, inappropriate for either party-political tellers or “greeters” from any organisation other than polling station officers and volunteers to purport to give information about VID (or any other voting requirements). Insofar as “greeters” impacted on the recording of data on the impacts of VID, the Panel is of the view that it would be safe to proceed on the basis that the real impact was likely higher than that recorded by the Electoral Commission. This has not, however, been necessary in the instant case. The Panel’s conclusions are, therefore, reached on the basis of the data recorded by the Electoral Commission.

Cost of VID

30. In the name of preventing in person personation (which occurs, on average, 0.88 times per year), the effect of VID was to deny at least 14 000 people the opportunity to cast their ballot. The VID regime, as it currently stands, therefore denies more than 14 000 people the right to vote for every one instance of personation prevented (on average). This is unacceptable and unjustifiable.

¹⁵ Electoral Commission, p. 6

¹⁶ Electoral Commission, p. 7

¹⁷ Summary of Independent Research, p. 2

Impacts of VID on the outcome of elections

31. The Panel has not found evidence that VID requirements impacted on the outcome of the 2023 elections. The Conservative Party, which was responsible for the passage of VID through parliament, did not appear to benefit. Indeed, the party substantially underperformed expectations (based on aggregate polls conducted prior to the 2023 election). The Labour, Liberal Democrat, and Green Parties (which all opposed VID) all performed better than aggregate polling indicated that they could expect to perform.¹⁸
32. While the numbers of electors prevented from casting ballots (which they may otherwise have been entitled to cast) by VID represents only a small proportion of the total number who sought to cast a ballot, it may, nevertheless, be electorally significant. The turnout is likely to be substantially higher in a general election.
33. Even on the basis of the 2023 data, the numbers turned away could potentially impact on a general election result. For example, in Manchester, Sandwell, and Walsall, 1649, 1135, and 797 electors (respectively) were turned away.¹⁹ Based on the national average, it may be assumed that 36% of those turned away did not return (643, 409, and 287 respectively).²⁰ These margins could have changed the result in 16 constituencies in a general election, based on the 2019 results.²¹ These calculations are, of course, somewhat speculative. There is no guarantee that high levels of turn-aways will correlate with particularly close constituency elections. Nor do the geographical areas for which the 2023 election data was collected exactly match the constituency areas for a general election.
34. The Panel was extremely concerned to observe that the data indicates that there is a real possibility that VID requirements could impact on the results of a general election. The introduction of the VID requirement, despite the relative absence of any evidence of a problem which required legislation, was based on a precautionary approach.

¹⁸ Aggregate polling prediction: https://www.electoralcalculus.co.uk/blogs/ec_lepred_20230418.html
2023 election results: <https://www.bbc.co.uk/news/election/2023/england/results>

¹⁹ Summary of Independent Research, p. 2

²⁰ Electoral Commission, p. 6

²¹ <https://commonslibrary.parliament.uk/general-election-2019-marginality/>

Accordingly, a similarly precautionary approach should be taken to the potential negative impacts of the regime, particularly when they are of such a fundamental nature.

FINDING 2: The inherent ambiguity in the regime creates a real risk of injustice and potential discrimination

35. The 2022 Act represented an opportunity to provide some clarity to the UK’s notoriously complex regime of electoral law. In 2016 the Law Commission recommended a simplification and consolidation of electoral law.²² The 2022 Act implemented a small number of the Law Commission’s recommendations but did not take the opportunity for the system-wide consolidation that was suggested.
36. The Panel experienced, first hand, the impenetrable nature of electoral law during the hearing for this inquiry. Despite comprising two Kings Counsel (and benefitting from the advice of both senior and junior counsel), the Panel found navigating the legal scheme exceptionally challenging. The Panel is of the view that impenetrability is rarely the mark of good legislation.
37. Perhaps of greater concern is that the regime itself is, in practice, subject to two significant areas of ambiguity:

The test applied at polling stations is unclear

38. The crucial point in the VID scheme is the presentation of photo ID, by the elector, to the poll clerk/presiding officer. At this point the poll clerk/presiding officer must determine whether the document presented is sufficient to entitle the elector to cast a ballot.
39. In the first instance, this process is relatively simple. The officer need only ask themselves whether the document presented is a “specified document” (i.e., it is included on the list of approved forms of photo ID – see below).²³ But this is not

²² Wilks-Heeg, p. 21

²³ RPA 1983, Sch. 1, para. 37(1A)

conclusive. If the elector presents a document which purports to be a “specified document” the officer must ask themselves whether:

- (a) “the document raises a reasonable doubt as to whether the voter is the elector or proxy that the voter claims to be, or
- (b) “the voter produces a document to a clerk that the clerk reasonably suspects to be a forged document...”²⁴

40. There is an inherent lack of clarity in the first circumstance. First, it is not clear whether it means (a) “the document presented in and of itself raises a reasonable doubt” (i.e., there is something problematic about the document itself)²⁵ or (b) “there is a reasonable doubt as to whether the person who has presented the document is the same person that the document purports to identify”.
41. Second, the test of “reasonable doubt” is most commonly associated with the standard of proof applied to criminal prosecutions (the prosecution must prove its case “beyond all reasonable doubt”). This is generally understood to mean that the prosecution is subject to a particularly high standard of proof. While experienced lawyers may be familiar with the nuances of this position, it is not clear that volunteer polling officers would be so appraised.
42. Third, the common understanding appears to be that the test is, in fact, whether the document exhibits a “reasonable likeness” with the person who has presented it. The “reasonable likeness” standard appears in much of the local authority guidance that the

²⁴ RPA 1983, Sch. 1, para. 37(IC)-(1E)

²⁵ This interpretation is consistent with requirement (b), implying that the whole section is directing the officer’s primary focus is to be on the reliability of the document over the correlation of the photograph in it to the intending voter would be understandable in the light of the evidence of Dr Ritchie and Dr Gray (see below) which confirmed the proposition that humans have a poor ability to match faces to photographs.

Panel has reviewed.²⁶ This was also the test that, in oral evidence, it was suggested was applied at polling stations.²⁷ This is problematic for two reasons:

- (a) “Reasonable likeness” does not mean the same thing as free from “reasonable doubt”. The former implies a balance of probabilities (“can the photograph that has been presented reasonably be said to depict the person who has presented it?”). The latter, by contrast, is a more stringent standard (“is there any reasonable doubt as to whether the person depicted in the photograph is the person who has presented the document?”).
- (b) The “reasonable likeness” standard focuses entirely on the photographic aspect of the document. In fact, the legal test requires the officer to examine the entire document.

43. Given the crucial importance of clarity around the standard that an identification document must meet, these issues should be resolved.

²⁶ See, for example https://www.maldon.gov.uk/info/20067/elections_and_voting/10072/working_at_elections/3; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewj5I_eR2omBAxUdQ0EAHQpIBv8QFnoECA8QAAQ&url=http%3A%2F%2Fwww.moray.gov.uk%2Fdownloads%2Ffile149731.docx&usg=AOvVawISvfQnnjhG5bzVXzfkRZW&opi=89978449; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewj5I_eR2omBAxUdQ0EAHQpIBv8QFnoECBUQAQ&url=https%3A%2F%2Fwww.eastcambs.gov.uk%2Fsites%2Fdefault%2Ffiles%2FWwebsite%2520-%2520Advert%2520for%2520Staff_0.pdf&usg=AOvVaw3A78un255lazcRzGiWlHoQ&opi=89978449; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewj5I_eR2omBAxUdQ0EAHQpIBv8QFnoECBAQAQ&url=https%3A%2F%2Fwww.uttlesford.gov.uk%2Fmedia%2FI1835%2FBriefing-for-candidates-and-agents%2Fpdf%2FBriefing-for-candidates-and-agents-May_2023_locals_FINAL_updated.pdf%3Fm%3D63812757467400000&usg=AOvVawIXI-i9jKwdg-3fyKxeCpuK&opi=89978449; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewj5I_eR2omBAxUdQ0EAHQpIBv8QFnoECBQAQAQ&url=https%3A%2F%2Fwww.southnorfolkandbroadland.gov.uk%2Felections%2Felections-voting&usg=AOvVaw2SH0rT43U9ZF88z7PrIaWU&opi=89978449; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewj5I_eR2omBAxUdQ0EAHQpIBv8QFnoECC0QAQ&url=https%3A%2F%2Fwww.emb.scot%2Fdownloads%2Ffile%2FI017%2Fmember-support-project-proactively-recruiting-polling-station-staff-&usg=AOvVaw04tKgpfqCaVW-fKiUSijee&opi=89978449; https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&cad=rja&uact=8&ved=2ahUKewipsPKZ2omBAxU2REEAHSeXBwl4ChAWegQIBB&url=https%3A%2F%2Fwww.brentwood.gov.uk%2Felections-jobs&usg=AOvVaw0295qU9_8N-SFRyoFPbzKG&opi=89978449

²⁷ Democracy Volunteers, Oral Evidence

The selection of approved ID appears arbitrary

44. The legislative scheme allows the Executive to determine which forms of photo ID are considered “specified documents” and therefore entitle the bearer to cast a ballot.²⁸ There does not, however, appear to be any clear criteria by which the Executive may determine between photo ID that should be a “specified document” and which should not. As Philip Coppel KC identified, in his advice to the Panel:

Rule 37(1H) lists the types of specified document. These include passports, a UK driving licence, various niche ID cards (eg a MoD Form 90 (Defence Identity Card)) and, importantly for present purposes, “a relevant concessionary travel pass.” The “relevant concessionary travel passes” are listed in rule 37(1J). The list can be added to or subtracted from by regulation: rule 37(1Q). Those listed are all travel concessionary passes either for older people (eg a Freedom Pass, an Oyster 60+ Card, an Older Person’s Bus Pass etc) or for disabled people. If a younger person does not have a passport or driving licence, the only specified documents available to him/her are a Post Office “PASS card” or a (recently introduced) electoral identity document issued under s 13BD of the RPA. Without one of these, a younger person will not be given a ballot paper.²⁹

45. In oral evidence, several witnesses (notably Professor Wilks-Heeg, and Dr Ault) noted the apparent discrepancy between the forms of ID that were permitted and those that were not. As Professor Wilks-Heeg put it in his written evidence:

The existing list of permissible forms of ID throws up some obvious anomalies. Why is a Merseytravel 60+ travel pass not accepted when the checks involved in issuing one are essentially identical to an Oyster 60+ pass issued by Transport for London, which is accepted? Does it really make sense that a long-expired South African passport can be used as ID, while a currently valid Zimbabwean one cannot (because Zimbabwe is no longer a Commonwealth country, but South Africa is)? More generally, given the UK’s lack of national identity cards and the incredibly low incidence of personation at polling stations, there is surely a powerful case for accepting a far greater range of forms of photo IDs, such as staff passes issued by public bodies, student passes and a wider range of travel passes. A more liberal approach to photo ID would not only be far more proportionate to the actual risk of electoral fraud at polling stations, it would also greatly reduce the need for electoral administrators to issue large numbers of VACs in the run up to major electoral events.³⁰

²⁸ RPA 1983, sch. 1, para. 37(1E)

²⁹ Coppel Advice, p. 7, §25

³⁰ Wilks-Heeg, p. 29

Potential discriminatory impacts

46. Several witnesses noted a number of discriminatory impacts of VID:
- (a) A disproportionate number of electors who were not permitted to vote appeared to be non-white passing.³¹
 - (b) By contrast, all of those who were observed being permitted to vote without presenting ID were white-passing.
 - (c) There were several reports of voters who presented approved forms of ID but were not permitted to vote (such as passports from Pakistan and Bangladesh). These tended to involve forms of ID (such as passports) from majority non-white countries.
47. These results cohere with the evidence of Dr Kay Ritchie and Dr Katie Gray, who gave evidence that people generally have a relatively low success rate at matching faces to pictures and that this rate drops when attempting to compare faces and pictures of individuals of different ethnicities. According to their evidence, which was supported by a substantial volume of peer-reviewed clinical and non-clinical research (and, accordingly, carries substantial weight), polling clerks are more likely to fail to compare a photo ID to the person presenting that document if the person is of a different ethnicity. This exacerbates the potential for discriminatory impacts.³²
48. The Panel also noted some evidence of failures to make reasonable accommodations for protected classes, such as failures to provide adequate private spaces for women to remove head coverings.
49. The Panel received written and oral evidence from Andrea Barrett, a disabled woman whose disability primarily impacts her immune system. As a result, she wears a mask when in public. The mask is a disability aid which enables her participation in society.

³¹ Democracy Volunteers, p. 34 (Democracy Volunteers gave evidence that it was not possible to obtain personal evidence from each individual they observed and, as such, it was not possible to confirm the race with which they identified. Democracy Volunteers therefore used the coding “white passing” and “non-white passing” to indicate that the racial identity of the subject was determined purely by the perspective of the observer.

³² Ritchie and Gray, pp. 26-28

Andrea Barrett attended the polling station carrying a valid passport and having taken a video which depicted their face without a mask. The polling officers refused to accept the passport as a valid ID unless Andrea Barrett removed her mask. She was offered the option of removing the mask behind a screen (which was obviously inadequate). There were no guidelines as to how the polling station officers should have behaved. Their decision in that instance was, however, clearly discriminatory (and potentially unlawful) because they denied Andrea Barrett the right to cast a ballot purely on the basis of circumstances which arose as a direct result of a disability.

50. Furthermore, in the light of the discussion above, given that the passport was genuine and valid and that the photograph did not give rise to reasonable doubt that it was consistent with what could be seen as Andrea Barratt's face, there is a question as to whether the refusal to allow her to vote was lawful under the 2022 Act (and, indeed, various provisions of the Equality Act 2010).

FINDING 3: The VID regime lacks the flexibility necessary to avoid injustices

The VID regime relies on unaccountable decision-making

51. The decision as to whether an elector is permitted to cast a ballot is made, first, by the relevant polling clerk. If the clerk decides that the document presented is either not a qualifying ID, raises a reasonable doubt as to the identity of the elector, or else may be forged, then they must refer the matter to the presiding officer. The presiding officer must make a fresh assessment. If the presiding officer also decides that the document presented does not qualify/raises a reasonable doubt/or may be forged, then the elector is denied a ballot.³³
52. There is no immediate right to appeal for an elector who is denied a ballot. Their only recourse is to "review on an election petition".³⁴ This is a form of legal challenge to the election result. An election petition may only be presented by four or more electors only after the election has concluded. Mr Coppel KC's description of this remedy as "of cold comfort to a registered elector whose concern was to exercise his/her democratic

³³ Coppel Advice, p. 8, §26

³⁴ RPA 1983, rule 40ZB

entitlement to vote” is something of an understatement. An individual who is unjustly denied a ballot therefore has, in practice, no real remedy under the current regime.

53. The roles of polling clerk and presiding officer therefore carry enormous power and enormous responsibility. Poll clerks are volunteers and presiding officers generally receive a one-off payment that can amount to less than minimum wage.³⁵ The introduction of the VID regime has made the task facing poll clerks and presiding officers substantially more difficult. As Democracy Volunteers pointed out:

It was feared that this would lead to large numbers of voters being disenfranchised on polling day and the potential for this to lead to anger being shown by voters or, potentially, even the possibility of violence at polling stations, which led to some councils giving staff conflict resolution training prior to polling day. This, along with the need for new procedures and paperwork to be completed by Presiding Officers, led to the view that the changing nature of the role has made it more difficult, particularly as staff are required to reject voters without the correct documentation.³⁶

54. It is surprising, therefore, that polling station workers have been provided with relatively little additional support and training. The Panel saw evidence which suggests that, in around 50% of local authority areas in which elections were held in 2023, polling station workers were provided with less than an hour of additional training.³⁷
55. The Panel certainly does not criticise polling station workers, who generally do an excellent job under difficult conditions. They are, however, required to take decisions which impact on the fundamental rights of electors, in the knowledge that such a decision is (in practice) likely to be final and with minimal support and training. This, in the Panel’s view, puts polling station officers in an unnecessarily invidious position.

Decisions about VID carry a high likelihood of error

56. Dr Kay Ritchie and Dr Katie Gray gave evidence that “face matching” exercises, such as matching a photo-ID to the person who presents it, carry a high likelihood of error.

³⁵ See, for example, <https://www.wyreforestdc.gov.uk/your-council/elections-and-voting/temporary-jobs-in-electoral-services/presiding-officer-job-description/>

³⁶ Democracy Volunteers, p. 33

³⁷ Unlock Democracy, p. 42

They pointed the Panel to research into the effectiveness of passport checks, which indicated an error rate of between 20% and 35%. Moreover, where the document shows the person when they were substantially younger (such as UK passports, which may depict the holder up to ten years ago) the error rate increases to 75%. Different individuals exhibit very different capacities to “face match” effectively. As such, there is likely to be a high error rate in decisions made by polling station officers.³⁸ Dr Ritchie and Dr Gray’s evidence was supported by a substantial volume of peer-reviewed research and the Panel sees no reason not to accord it full weight.

Comparable VID regimes contain greater flexibility

57. Comparable VID regimes mitigate the inherent problems (of which many are set out above) by introducing mechanisms by which electors may “cure” the problem of an ID document which is not accepted at the polling station. These mechanisms allow an elector whose ID document is refused to nevertheless cast their ballot on election day by offering some other form of verification to establish their entitlement to vote.
58. For example, in Canada, one elector may “vouch” for another by providing a “solemn declaration” (in writing) that they meet the criteria which entitles them to vote. The person vouching must be informed of the relevant criteria and of the penalty (which is substantial) for making a false declaration.³⁹

FINDING 4: The problems identified are systemic but not fundamental, the VID regime is therefore redeemable with reform

59. While the evidence considered by the Panel discloses serious problems with the VID regime, and the panel is particularly disturbed at the number of electors who were denied their right to vote, we have decided against recommending that the VID regime be scrapped completely. Indeed, we are of the view that the VID may have benefits in terms of maintaining public confidence in the electoral process and reducing the risk of

³⁸ Ritchie and Gray, pp. 26-28

³⁹ Coppel Advice, p. 14, §52

personation. The Panel has also taken into account evidence that the VID regime brings the UK into line with some (but not all) other comparable democracies.⁴⁰

60. The Panel notes that, in Northern Ireland (where some form of VID has been required since 1985 and photo ID has been required since 2002, the numbers of electors denied the right to vote because they did not have the correct ID has declined since a peak in 2003.⁴¹ The Panel notes, however, that electors in Northern Ireland have taken the opportunity to obtain Electoral Identify Cards (a form of photo ID made available specifically for elections) in large numbers. An (apparently) comparable form of ID was made available in the rest of the UK (Voter Authority Certificate) at the 2023 election but take-up was very low. The reasons for this are not wholly clear but it is likely that the “very low” rates of awareness played a role.⁴² The Panel has concerns about relying on the availability of Voter Authority Certificates to cure the problems inherent in the VID regime. Obtaining a Voter Authority Certificate imposes an additional layer of bureaucracy on the voting process, which must be completed substantially in advance of the election. Given that those without a form of ID that is currently accepted under the regime are likely to be from poorer or more marginalised social groups, adding this extra hurdle may be considered discriminatory.
61. The Panel is of the view, however, that the problems in the VID regime may be remedied. We therefore propose three reforms below.

⁴⁰ Wilks-Heeg and Democracy Volunteers, Oral Evidence.

⁴¹ Wilks-Heeg, pp. 26-28

⁴² Electoral Commission, p.

RECOMENDATIONS

1. Permit electors to “cure” a failed ID check by making a statutory declaration

62. The majority of electors denied their right to vote in 2023 occurred because they failed to produce an approved form of ID at the polling station. Given the extremely low levels of personation at previous elections, it is likely that the vast majority of those denied a ballot paper were, in fact, entitled to cast a vote. A solution is required, therefore, that permits electors to “cure” a failure to produce approved ID at the polling station. Any system of appeals is likely to take too long and be too costly to be helpful. Any “cure” must be achievable on polling day (ideally within a relatively short time period). Yet, at the same time, it must include sufficient safeguards so as not to undermine the utility of the VID regime altogether.
63. Fortunately, the solution already exists in UK law. Section 18 of the Statutory Declarations Act 1835 allows a person to make a written declaration as to the truth of any matter.⁴³ Making a false statement in a statutory declaration is a form of perjury and punishable by an unlimited fine and/or up to two years in prison.
64. The Panel recommends the following amendment to the VID Regime:
- (a) In the event that a presiding officer forms the view that there is reasonable doubt as to the validity of the document presented or that the person presenting in the document is the person to whom the document relates, they must give the elector the option to verify their identity by statutory declaration.
 - (b) If the elector chooses to do so the presiding officer or a polling clerk must inform them of the criteria that they must meet in order to be eligible to vote in the relevant election and of the consequences of making a false declaration that they meet those criteria.
 - (c) If the elector then makes a statutory declaration (likely by affixing their signature to a pro-forma declaration) then they must be given a ballot paper. The law, as it stands, requires a member of a specified profession or a holder of a specified office

⁴³ Statutory Declarations Act 1935, ss. 18 and 20

to witness the declaration. Presiding officers and polling clerks should be so specified for the purposes of statutory declarations made in this context.

- (d) The presiding officer or polling clerk must maintain a record of the (1) names, (2) addresses, (3) the reason that their ID was refused, and (4) a photograph of every individual who makes a statutory declaration. This will facilitate the Electoral Commission and, if necessary, the police to conduct any follow-up investigations should there be any suspicion of fraud.

65. This mechanism will enable an elector who is entitled to vote to “cure” any problem with the ID document that they presented while, at the same time, facilitating the investigation of any potential fraud and providing a sufficient deterrent against misuse. Given the extremely low risk of personation at polling stations, and the fact that many people vote on the way to or from work (and so are often not in the company of family and friends), the Panel felt it was unnecessarily onerous to require a third person to “vouch” for an elector. The safeguards contained in the Statutory Declarations Act and Perjury Act, as well as the additional safeguards set out above, offer sufficient protection against personation.

66. Suggested legislative text is included at Appendix I

2. Broaden the range of accepted ID documents

67. On the basis of the evidence seen by the panel, there appears to be a clear case for broadening the range of documents considered acceptable VID under the regime. Simply expanding the list of permitted documents arbitrarily may, however, have discriminatory impacts. The Panel therefore recommends the following:

- (a) The Executive must publish the criteria by which acceptable forms of VID are identified. These should be subject to public consultation and, in particular, to consultation with the Electoral Commission and the Equality and Human Rights Commission.

- (b) Once the finalised version is published, these criteria will automatically be subject to the safeguards in the Equality Act and Human Rights Act and can be challenged if they have a discriminatory or exclusionary impact.
- (c) The list of acceptable forms of identification must be amended to accord with the published criteria. Any form of ID which meets the published criteria should be included on the list.

68. Suggested legislative text is included at Appendix 2.

3. Provide better training for polling station officers

- 69. Polling clerks and presiding officers should be equipped with the skills necessary to discharge the difficult task of evaluating forms of VID. In the light of the evidence of Dr Ritchie and Dr Gray, this training should focus on methods of evaluating identification documents that go beyond “face-matching”. This might include asking the person who presents the document about written details, such as the date of birth.
- 70. The training should also ensure that polling officers are fully aware of the test that they must apply when considering the documents presented to them.

APPENDIX I
Suggested legislative text in respect of
Recommendation I

Representation of the People Act 1983, Sch. 1, para. 37,

INSERT

(IEA) Where the presiding officer refuses to deliver a ballot paper under paragraph (IE) they must offer the voter the opportunity to obtain a ballot paper according to paragraph (IZB).

...

(IZB) The presiding officer must deliver a ballot paper to a voter to whom they have refused to deliver a ballot paper under paragraph (IE) where:

- (a) The voter states they wish to make a statutory declaration as to their eligibility to vote; and
- (b) The presiding officer informs the voter of the criteria for eligibility to vote which act on the election in question and of the consequences for making a false statement in a statutory declaration; and
- (c) The voter makes a statutory declaration that they are eligible to vote in the election being held on that day and they have not already voted in that election.

The presiding officer must deliver a ballot paper to the voter.

(IZC) A presiding officer shall be an officer by law authorised to administer an oath only insofar as that oath relates to paragraph (IZB) for the purposes of section 18 of the Statutory Declarations Act 1835.

APPENDIX 2
Suggested legislative text in respect of
Recommendation 2

Representation of the People Act 1983, Sch. 1, para. 37,

INSERT

(IQA) No regulation may be made pursuant to paragraph (IQ) unless each of the following steps has been completed:

(a) The Secretary of State must publish draft criteria by which a document is included in paragraphs (IH), (IL), or (IJ);

(b) The Secretary of State must conduct a public consultation on the draft criteria and must take account of the responses to that consultation;

(c) The Secretary of State must obtain the opinion of the Equalities and Human Rights Commission on the draft criteria;

(IQB) No document shall be referred to in paragraphs (IH), (IL), or (IJ) unless it meets the criteria published by the Secretary of State. Every document that meets the criteria published by the Secretary of State must be included in paragraphs (IH), (IL), or (IJ).

(IQC) The Secretary of State shall amend paragraphs (IH), (IL), or (IJ) at least 84 days before any election takes place.

APPENDIX 3
Written Evidence

The Electoral Commission

Voter ID at the May 2023 local elections in England: interim analysis

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At local elections in England on 4 May, voters needed to show [photo identification \(ID\)](#) to vote in polling stations. These were the first elections in Great Britain where this requirement was in place. Elections took place in 230 areas in England and around 27 million people were eligible to vote.

Our interim analysis provides information and evidence currently available about how the new voter ID requirement was implemented and how voters found taking part. We have looked at evidence from large-scale public opinion research carried out before and after the elections, and polling station data collected from the majority of local authorities that held polls this year.

There are several areas where further analysis is necessary to establish a clearer and fuller picture and they are highlighted through the report. We will publish our report on the May 2023 elections in September and that will include this additional analysis.

Our September report will also draw on a wider range of information sources, including feedback from candidates, Returning Officers, polling station staff, election observers, charities and civil society organisations, and the police.

If you would like to find out more about the Electoral Commission's views on our interim research, you can read [our press release](#).

Summary

Awareness of the need to bring ID to vote at a polling station

was high

- Our research found that immediately before polling day, 87% of people in England (excluding London, where there were no elections) were aware that they needed to show photo ID to vote at a polling station. In the research we carried out immediately following the poll, this was 92% of people in areas with elections.
- Awareness varied across the population and was lowest among younger age groups (82% for 18 to 24-year-olds), Black and minority ethnic communities (82%) and those who said they never vote in local elections (84%).
- Awareness was significantly lower among people who said they did not have an accepted form of ID (74%) compared with those who did have ID (94%).
- While overall awareness levels were high, some groups of people were significantly less likely to know about the requirement. This means that some people may not have known that they needed to show ID until they arrived at the polling station. Those people who did not have any of the accepted forms of ID would not have been able to obtain ID (for example the Voter Authority Certificate) on polling day itself.

Awareness and take-up of the Voter Authority Certificate was low

- Approximately 89,500 people applied for a Voter Authority Certificate before the deadline on 25 April. Around 25,000 certificates were used as a form of ID on 4 May.
- In May 2023, awareness of the Voter Authority Certificate was 57% both among the overall population and those who said they did not already have photo ID.
- The overall number of Voter Authority Certificates applied for and used was low compared with estimates of the number of voters who might not have any other accepted ID (250,000 to 300,000).

At least 0.25% of people who tried to vote at a polling station in May 2023 were not able to because of the ID requirement

- Data collected in polling stations shows that at least 0.25% of people who tried to vote at a polling station were not issued with a ballot paper because of the ID requirement. At least 0.7% of people who tried to vote at a polling station were initially turned away but around two-thirds of those people (63%) returned later in the day and were able to vote.
- 0.25% of polling station voters at these elections is approximately 14,000 voters who were not issued with a ballot paper because they could not show an accepted form of ID.
- However, this is an underestimate, partly as a result of data quality issues but also because some people will have been reminded of the ID requirement before they could be recorded in the data.

Around 4% of all non-voters said they didn't vote because of the voter ID requirement

- Some people who would have wanted to vote at a polling station may have decided not to try, because they realised they did not have accepted ID before attempting to vote. To understand the broader impact of the voter ID requirement, we carried out a representative public opinion survey across the areas with elections in May. Our survey asked people if they voted in the elections and, if not, why they had chosen not to do so.
- We found that 4% of people who said they did not vote in these elections gave an unprompted reason related to the ID rules – 3% said they did not have the necessary ID and 1% said they disagreed with the need to show ID. The proportion of non-voters giving an ID-related reason rose from 4% to 7% when survey respondents were selecting from a list of reasons.
- There is evidence that some people found it harder than others to show accepted voter ID, including disabled people and the unemployed. However, further data collection and analysis are needed to establish a clearer picture and we will include additional information in our full report in September.

The UK Government and the wider electoral community should work to improve the collection of data at polling stations

- We recommend that the UK Government should ensure that Returning Officers are able to collect and report monitoring data on the impact of voter ID at future elections, and work is also needed to improve the quality and reliability of data collected at polling stations in future.

Levels of voter confidence and satisfaction were similar to previous elections

- There were high levels of satisfaction with the process of voting, in line with previous comparable elections; 89% of polling station voters said they were very or fairly satisfied.
- Voters were significantly more likely than non-voters to say that voting is safe. 90% of all voters said voting in a polling station is safe compared to 79% of non-voters. These results are also similar to those recorded after previous comparable elections.



Awareness of the voter ID requirement

Parliament approved the legislation for the new voter ID requirement on 22 December 2022. We [delivered a public awareness campaign](#) about the requirement across England which ran from 9 January to polling day.

Awareness of the need to bring ID to vote at a polling station was high

Our research found that immediately before polling day, 87% of people in England (excluding London, where there were no elections) were aware that they needed to show photo ID to vote at a polling station.¹ In the research we carried out immediately following the poll, this was 92% of people in areas with elections.² This was a significant increase on the 23% that were aware in December 2022, before the start of our public awareness campaign.

In our post-election research, awareness was higher among older age groups with 98% of over-65s aware in May 2023 compared to 82% of 18 to 24-year-olds. There was also a difference between white respondents (93%) and those from Black and minority ethnic communities (82%). We will be looking at these results for specific ethnicities in more detail in our September report in order to explore any patterns.

These differences in awareness had become more marked closer to the poll. This may be related to the variable level of turnout among different demographic groups, with some being more engaged with the polls and therefore more likely to be interested in or to recall communications about the election as it approaches.

Our research found that overall awareness of the requirement was significantly lower among

people who said they did not have an accepted form of ID (74%) compared with those who did have ID (94%). We also found that those people who said they always or sometimes vote at local elections had higher levels of awareness (94%) compared with those who do not tend to vote (84%).

While overall awareness levels were high, some groups of people were significantly less likely to know about the requirement. This means that some people would not have known that they needed to show ID until they arrived at the polling station. Those people who did not have any of the accepted forms of ID would not have been able to obtain ID (for example the Voter Authority Certificate) on polling day itself.

Awareness and take-up of the Voter Authority Certificate was low

Voters who did not have one of the accepted forms of ID [could apply for free voter ID](#) (called a Voter Authority Certificate) from 16 January until 5pm on 25 April.

[Research that we carried out in early 2023](#) found that:

- 4% of the population in Great Britain either did not have any photo ID (3%) or did not have ID where they thought the photo would be recognisable (1%)
- 1% said they did not know whether they had any of the forms of photo ID we asked about.

Based on these figures and expected levels of polling station turnout at local elections, we estimated that between 250,000 and 350,000 applications for a Voter Authority Certificate might be expected.

The overall number of certificates applied for before the deadline on 25 April (around 89,500) was low compared with these estimates of the number of people who might not have any other accepted ID.

In May 2023, awareness of the Voter Authority Certificate was relatively low among the overall population and those who said they did not already have photo ID (both at 57%). This means that just under half of people who did not have any other accepted ID did not know that they could have applied for a form of ID to enable them to vote on polling day.

There is limited data available on the demographics of people applying for a Voter Authority Certificate. However, applicants were more likely to come from older age groups.

Our public opinion research found that 84% of those that applied for a Voter Authority Certificate said the application process was easy.³

Approximately 25,000 Voter Authority Certificates were used as a form of ID on 4 May. It is not clear why a significant number of people applied for a certificate but did not use it on polling day. We will continue to analyse the available evidence to identify any patterns that might help to explain this.

Impact of the voter ID requirement on polling day

Polling station staff at the ballot issuing desk collected data on the number of people that could not be issued with a ballot paper because they did not provide accepted ID. They also recorded if any of these people returned later, and whether they were then able to show accepted ID and vote. The figures in this report are based on data received from 226 of the 230 local authorities with elections in May.

At least 0.25% of people who tried to vote at a polling station in May 2023 were not able to because of the ID requirement

The data provided to the Commission indicates that at least 0.7% of people who tried to vote at a polling station in May were initially not issued with a ballot paper because they did not have an accepted form of ID. Just under two-thirds (63%) of these people returned later in the day with an accepted form of ID and were able to vote. By the close of poll, 0.25% of people who tried to vote in person had not been issued with a ballot paper.

The proportion of people who were not issued with a ballot paper varied across local authorities from 0.02% of those who tried to vote at a polling station through to 1.04%. We intend to publish detailed local authority data alongside our September report. We will also be looking at the patterns of higher and lower levels of people turned away across local authorities in order to identify any trends.

0.25% of polling station voters at these elections is approximately 14,000 voters who were not issued with a ballot paper because they could not show an accepted form of ID.

Returning Officers were required to separate out data for polling stations with and without staff acting as greeters. Where that data could be provided it shows that polling stations with greeters recorded that a smaller proportion of people were initially turned away (0.55%) compared to those without greeters (0.8%). Overall, the data shows that 38% of polling stations had a greeter.

Among those recorded as being turned away from a polling station, 68% had not brought any ID and 28% brought a type of ID that was not accepted. The remainder were refused a ballot paper where the photo on their ID was not recognisable, the polling station staff suspected the ID was forged or where the person had failed to answer the statutory questions which can be used to ask a voter to confirm their name and address.

Any voter showing ID could ask to have their identity checked in a private area of the polling station. Approximately 2,250 voters were recorded as having asked to have this check done in private.

Recommendation: Polling station staff should continue to collect data on the impact of voter ID at future elections

Analysing data from the first scheduled elections where this requirement has been in place can help to improve the experience of voters and polling station staff at future polls. There is no legal duty or explicit power for Returning Officers to report data for future elections until the next UK Parliamentary general election, which must be held by January 2025.

It would be a significant missed opportunity to learn and identify further improvements if Returning Officers did not collect and report data at the scheduled May 2024 elections, which will cover all areas of England and Wales.

The UK Government should ensure that Returning Officers are able to collect and report monitoring data on the impact of voter ID at future elections, including specifically at the scheduled May 2024 elections and at any UK Parliament by-elections held during 2023 and 2024.

The data from polling stations underestimates the impact of the new rules on voters for two reasons.

Firstly, not all people who wished to vote in person will have got to the ballot issuing desk and been recorded by staff before realising they did not have accepted ID. For example they may have been put off by polling station staff who greeted voters and gave them information about the requirement before they got to the ballot issuing desk.

Secondly, some of the data returned to the Commission is incomplete or inaccurate. The most common issues we found are:

- data returns being completed incorrectly, for example polling stations with more people returning to vote than were initially turned away
- missing individual pieces of data, for example on the reason why a voter was turned away
- missing returns from polling stations, for example where some stations in a local authority did not submit a data return
- blank returns from polling stations where it is unclear if a blank is equivalent to zero.

This was the first time data on photo ID needed to be captured. Issues with data quality and consistency were inevitable across some 20,000 polling stations and a larger number of staff. It is not possible to quantify the level of inaccuracy in the data but, overall, these types of errors would result in an underestimate of the impact of the ID requirement.

Recommendation: The electoral community should work to improve the collection of data at polling stations for future elections

Accurate data recording and reporting is essential to ensure there is a clear and reliable picture of the impact of the policy. This is needed to support informed debate and help identify areas for improvement.

However, initial feedback from Returning Officers, polling station staff and observers suggests that some polling station staff found it difficult to record this additional data.

We will work with the UK Government, Returning Officers and electoral administrators to review the data collection forms and guidance for polling station staff so they are clear and user-friendly.

We will also work with local authorities and their training providers to make sure the ballot paper issuing procedure and data recording processes are fully explained to polling station staff. This should include guidance for polling station staff on the appropriate role of greeters and tellers.

Around 4% of all non-voters said they didn't vote because of the voter ID requirement

Some people who would have wanted to vote at a polling station may have decided not to try, because they realised they did not have accepted ID before attempting to vote. To understand the broader impact of the voter ID requirement, we carried out a representative public opinion survey across the areas with elections in May. Our survey asked people if they voted in the elections and, if not, why they had chosen not to do so.

We found that 4% of the people who said they did not vote gave an unprompted reason that was related to the ID rules – 3% said they did not have the necessary ID and 1% said they disagreed with the need to show ID. Overall, the most common reasons given for not voting were a lack of time (15%) or a lack of interest (13%).

We also asked all non-voters a further prompted question (where they were given a number of answers to choose from) to understand whether the ID requirements had played a role in their decision not to vote. In response, 7% of non-voters indicated that the ID requirement was the reason they did not vote.

Of those who told us they voted in a polling station, 98% said they were able to vote the first time they went. 2% said they brought either no ID or the wrong type of ID the first time but later returned.

There are challenges in using these estimates to give an accurate, absolute number of people who were unable or chose not to vote in May.

Survey data is an estimate which can be subject to two separate errors. One is sampling error. This is limited by the robust, representative sample we have used particularly for the population as a whole but it can be more of an issue for sub-groups of the population (such as non-voters).

The second issue is non-sampling error. This includes respondents not answering a question and/or not answering it accurately. We can see one of the impacts of this in the difference between the unprompted and prompted question responses, where respondents may be less likely to give an unprompted answer (even if it would be true) and more likely to give a prompted one (where choosing from a list can invite a response which may or may not be true).

The public opinion survey findings are therefore most useful for giving us a more rounded view of the likely impact of the ID requirement than the data from polling stations provides alone. The figures support our assessment that the polling station data underestimated the impact.

Data on overall levels of turnout in May is not yet available and will be included in our full election report in September. This full report will look at how turnout in 2023 compares to previous local elections so we can see if it is possible to attribute any impact to the ID requirement.

There is evidence that some people found it harder to show accepted voter ID

We know from our [previous research](#) that some people were less likely to have photo ID and would therefore have faced more of a barrier to voting than those with accepted ID. However, it was not possible to capture reliable demographic data on people who were not able to vote because of the ID requirement; electoral registers do not record any demographic information, and electoral law did not allow polling station staff to collect demographic information about individuals who were turned away.

The small overall proportion of people who said they did not vote because of the ID requirement also means that it is difficult to say definitively, from our public opinion survey, if the ID rules were more likely to deter specific groups from voting than others.

However, the public opinion research does suggest that disabled people and those who are unemployed were more likely than other groups to give a reason related to ID for not voting. As set out above, our research on levels of awareness of the ID requirement also showed variation across different groups.

Where the relevant data is available, from a few local authorities, there is some correlation between the numbers turned away and specific socio-demographic factors, including ethnicity and unemployment. This evidence is also consistent with the findings from the [2018 and 2019 voter ID pilot schemes](#).

We also know that other organisations, such as the accredited observer organisation [Democracy Volunteers](#), highlighted concerns that there was a disproportionate impact for some groups of voters at the May 2023 elections.

Further data collection and analysis are needed to be able to explore these and other concerns;

we will include additional information in our full report in September. This will include consideration of information and data provided by charities and civil society organisations.

The majority of people were able to use their preferred method of voting

One potential impact of the new ID rules could have been that more people chose to vote by post instead of at a polling station. We do not know if that was the case, as data on levels of postal voting at these elections is not yet available. We will include an assessment of any change in our full election report in September.

However, in our public opinion survey we did ask voters if they had voted using their preferred method. The vast majority (95%) said they had.

Views on the voter ID requirement

After each election we ask people who were eligible to vote for their views on voting and elections. This helps us understand if views have changed since the last comparable set of elections.

Levels of voter confidence and satisfaction were similar to previous elections

Our research with the public found that more than two thirds of people (68%) were confident that the May elections were well run. This is slightly higher than the level recorded after the last set of comparable elections in 2019 (64%) but slightly lower than the most recent elections in 2022 (73%). We asked respondents why they did or did not feel confident and it is clear that the ID requirement had positive and negative impacts:

- among those who said they were not confident, the most common reason selected (by 46%) was that “some people were unable to vote due to the ID requirement”.
- among those who said they were confident, 30% selected the reasons that the requirement to show ID had “reassured me about the safety of the voting system”.

There were high levels of satisfaction with the process of voting, in line with previous comparable elections; 89% of polling station voters said they were very or fairly satisfied.

Satisfaction with the process of voting varied across different demographic groups, with the highest seen among the oldest age groups. We cannot make any link between this variation and the new ID rules, however, because the patterns are in line with the results we have seen after previous polls.

We also asked voters to rate the ease of participation in the poll on a scale from one to five. Nearly nine in ten polling station voters (88%) rated it as easy (four or five). Again, there is clear variation in the level of ease reported by different groups but no indication that this is different to previous polls.

Voters thought the elections were safe and secure

Our survey of the public asked everyone who said they had voted to rate the security of voting in the election on a scale from one to five. 84% of polling station voters rated it as secure (four or five). We also asked polling station voters how safe they felt polling station voting was from fraud – 94% said it was safe.

Voters were significantly more likely than non-voters to say that voting is safe. 90% of all voters said voting in a polling station is safe compared to 79% of non-voters.

These results are similar to those recorded after previous comparable elections and should not be directly linked to the introduction of the voter ID requirement.

In our full report in September we will explore further the demographic differences we see in the data on public attitudes.

No cases of personation in polling stations were reported to police

Early data from 26 of the 37 police forces in England where elections took place in May 2023 shows that no allegations of polling station personation fraud were reported following polling day. Police forces identified one public order incident relating to the voter ID requirement that led to an arrest. This was where a person who could not show accepted ID was arrested after allegedly assaulting a member of polling station staff.

We will provide updated data on allegations in our September report.

Next steps

As highlighted throughout this report, there are areas where we have more work to do in order to understand the impact of the new voter ID requirement, and which will be covered in our September election report. These include how the implementation of voter ID:

- may have differently affected people across society who wanted to vote and what actions can be taken ahead of the next set of elections to address these issues. This includes looking at varying levels of awareness of the ID requirement, patterns in the numbers of people being turned away from polling stations and demographic / socio-economic differences in the data we have collected through our public opinion research
- impacted on the administration of the polls. This will incorporate views from Returning Officers and their teams responsible for planning the elections, as well as the polling station staff responsible for managing the processes on 4 May
- changed how parties and candidates approached their campaigns for these elections

Background

Elections held on 4 May 2023

On 4 May, local elections took place in 230 councils in England, covering almost 5,000 individual wards. The areas holding elections included:

- 152 district councils (out of 164 in total) covering largely rural areas and cities or larger towns in areas that also have county councils
- 46 unitary authorities (out of 62 in total) covering cities or larger towns in areas without county councils
- 32 metropolitan district councils (out of 36) covering predominantly urban areas in Greater Manchester, Merseyside, South Yorkshire, Tyne and Wear, the West Midlands and West Yorkshire
- Local mayoral elections in Bedford, Leicester, Mansfield, and Middlesbrough.

Scheduled elections did not take place in several areas of England in May 2023, including both London and Birmingham.

Timeline for Voter ID in Great Britain

The Elections Act 2022 introduced a new requirement for voters to show [an accepted form of photo ID](#) to vote in person at a polling station for certain types of elections in Great Britain.

The requirement applies at local elections in England, Police and Crime Commissioner elections in England and Wales, UK Parliamentary by-elections and recall petitions. From October 2023, it will also apply to UK Parliamentary general elections.

- May 2018: [pilot schemes](#) trialling a voter ID requirement held at local elections in five areas in England
- May 2019: [further pilot schemes](#) trialling a voter ID requirement held at local elections in 10 areas in England
- July 2021: [Elections Bill](#) introduced in Parliament
- April 2022: [Elections Act](#) received Royal Assent
- 22 December 2022: Parliament approved the detailed [secondary legislation](#) specifying how the new requirement should be delivered
- 9 January 2023: Electoral Commission [public awareness campaign started](#)
- 16 January 2023: [Online Voter Authority Certificate application service](#) available
- 25 April 2023 (5pm): Deadline for Voter Authority Certificate applications
- 4 May 2023: Polling day 7am-10pm

1. Figure from survey carried out by YouGov Plc. Total sample size was 1,714 adults. Fieldwork was undertaken between 26 April – 2 May 2023. [↩](#)
2. Figures on public awareness are from YouGov Plc. Total sample size was 3,705 adults. Fieldwork was undertaken between 5 – 22 May 2023. The survey was carried out online. The figures have been weighted and are representative of all adults within electing areas (aged 18+). [↩](#)
3. All figures on people's experiences of the elections are from YouGov Plc. Total sample size was 3,225 adults (aged 18+) who are eligible to vote. Fieldwork was undertaken between 5 – 24 May 2023. The survey was carried out online. The figures have been weighted and are representative of all adults within electing areas (aged 18+). [↩](#)

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Electoral Reform Society response to the APPG on Democracy and the Constitution inquiry on UK elections in light of the Elections Act 2022.

About the Electoral Reform Society

The Electoral Reform Society is the UK's leading voice for democratic reform. We work with everyone – from political parties, civil society groups and academics to our own members and supporters and the wider public – to campaign for a better democracy in the UK.

Our vision is of a democracy fit for the 21st century, where every voice is heard, every vote is valued equally, and every citizen is empowered to take part. We make the case for lasting political reforms, we seek to embed democracy into the heart of public debate, and we foster the democratic spaces which encourage active citizenship.

- (a) Were you personally impacted by any of the three key features of the 2023 Act (voter ID, increased executive control, limitations on civil society groups)? If so, how?**

- (b) To what extent (if at all) have voter ID requirements impacted (or are likely to impact) on people's right/ability to vote? If so, how?**

Possession of ID is not universal in the UK. Research by the Electoral Commission¹ in 2015 found that around 3.5 million citizens (7.5% of the electorate) do not have access to photo ID. More recent research government-commissioned research in 2021 on possession of photo ID found that two percent of people do not have any form of ID (including expired/unrecognisable) and four percent do not have recognisable ID (whether in-date or expired). Almost one in 10 respondents did not have in-date, recognisable photo ID. This means roughly 2.1 million people risk not being able to vote in a general election due to not having recognisable photo ID.

In its latest winter tracker², the Electoral Commission also asked about possession of photo ID and found that four percent of people currently eligible to vote said they do not have any of the existing forms of ID. Those without recognisable forms of ID were more likely to be from disadvantaged groups such as those who are renting from their local authority (17% of whom did not have the correct ID), those renting from a housing association (10%), those who are unemployed (14%), those from lower

¹ Electoral Commission (2015). *Delivering and costing a proof of identity scheme for polling station voters in Great Britain*. https://www.electoralcommission.org.uk/sites/default/files/pdf_file/Proof-of-identity-scheme-updated-March-2016.pdf

² Electoral Commission (2022). *Public Opinion Tracker 2022*. <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes>

social grade (8% of those who are DE social grade), and those with lower levels of education (7%). It is well documented³ that these groups along with others such as young people, those from ethnic minorities or those with a disability are less likely to register to vote and be more disengaged with politics. Adding another barrier to participation in the democratic process is further disenfranchising these groups to take part in the electoral process.

The same tracker⁴ also found that 17% of people stated that the introduction of voter ID meant they were less likely to vote, whilst 12% said it would make them, more likely to vote.

Voter ID was a requirement for all voters for the first time during this year's local elections in England. Evidence gathered by the Electoral Commission⁵ for the 2023 local elections found that 14,000 voters who tried to vote were not issued with a ballot paper as they could not show an accepted form of ID. This is likely to be an underestimate due to data quality issues and people being turned away prior to their lack of voter ID being recorded for official datasets, e.g., by greeters at the station or by voter ID signage.

Many more voters are likely to have been discouraged from turning out at all because of the voter ID requirement. The Electoral Commission post poll survey⁶ found that 4% of all non-voters did not vote due to voter ID requirements (either as they did not have correct ID (3%), or they disagreed with the necessity to show ID (1%); this response was unprompted. When prompted with a list of reasons for not voting the number of people who reported voter ID requirement deterring them rose to 7%.

(c) Have the impacts or likely impacts (if any) been more serious or substantial for some groups than others? If so, which groups?

As highlighted above, there are groups of voters who are more likely to be impacted by the new voter ID requirement. These include people who are renters, unemployed, DE social grade, have a lower level of education, young, ethnic minorities, or those with a disability.

³ Uberoi and Johnstone, *Political disengagement in the UK: Who is disengaged?*, House of Commons Library, 2022. <https://researchbriefings.files.parliament.uk/documents/CBP-7501/CBP-7501.pdf>

⁴ Electoral Commission (2022). *Public Opinion Tracker 2022*. <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes>

⁵ Electoral Commission (2023). *Voter ID at the May 2023 local elections in England: interim analysis*. <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-id-may-2023-local-elections-england-interim-analysis>

⁶ *Ibid.*

Data on the ethnicity of those turned away from polling stations due to not having the correct voter ID was not collected during the May 2023 local elections. However, findings from official election observers Democracy Volunteers⁷ show that of the 1.2% they observed being turned away due to lack of correct ID or ID not being accepted, 53% were non-white passing.

Research by the ERS looking at the different turn-away rates by ward in Bradford has also found signs of an ethnicity related impact. The two wards with the largest percentage of voters turned away for no-ID, Heaton and Manningham (2.2% and 2.1% respectively) were majority non-white according to the 2021 census (78.3% and 88.1% respectively). In comparison, wards with the lowest turn-away rates, Wharfedale and Idle and Thackley (0.1% and 0.2% respectively), were majority white wards with only 3.5% and 8.8% non-white voters.

The Democracy Volunteers report⁸ also identified that some voters were turned away despite having valid ID and “this was particularly the case for IDs from Commonwealth countries – such as Pakistan and Bangladesh”. This suggests a concerning picture whereby minorities are more likely to have not been able to vote or turned away with valid ID than their white counterparts. Moreover, the team observed people being allowed to vote in various areas without presenting ID, suggesting unequal enforcement of the voter ID requirements.

Further evidence from Democracy Volunteers⁹ highlights the lack of necessary privacy screens for those who need to have their ID checked in a private space. 23% of polling stations appeared to have no such space available or it was so positioned as to lack the required privacy.

(d) How, if at all, has the Act impacted, or is likely to impact, public confidence in the UK electoral system?

The Electoral Commission’s latest tracker of public opinion¹⁰ (2023), found that 73 percent of people are confident that elections are well run. Only 28% of respondents stated that electoral fraud was a problem in elections (this was the lowest response rate of all possible responses), whilst 66% felt that

⁷ Democracy Volunteers. *FINAL REPORT – English Local Elections 2023*. <https://democracyvolunteers.org/final-report-english-local-elections-2023/>

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ Electoral Commission (2023). *Public Opinion Tracker 2023*. <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes-2023>

low turnout was a problem and 34% think barriers to participation for minority groups are a concern. The report also notes that 79% of respondents are satisfied with the process of voting.

The last Electoral Commission tracker¹¹ prior to the introduction of voter ID (2022), found that public confidence that voting at polling stations is safe from fraud and abuse was at 87%. In the most recent 2023 tracker it was at 85%. Moreover, the Electoral Commission found that whilst 84% of respondents to their post poll survey said that the poll was secure, the results “are similar to those recorded after previous comparable elections and should not be directly linked to the introduction of the voter ID requirement.”¹²

Talking up voter fraud can damage public confidence in elections. Recent studies in the US have found that talking up claims of voter fraud reduces confidence in electoral integrity and has a ‘corrosive effect’ on trust in the system¹³. In the first half of 2021, following the attacks on Capitol Hill, 18 US states enacted 30 laws that restrict citizens access to the vote – including imposing stricter voter ID requirements. These changes, described as ‘the most aggressive’¹⁴ restrictions to date, have been motivated by false claims of voter fraud. Far from securing the ballot, these moves serve to undermine electoral integrity, decreasing confidence in elections. Confidence in the electoral system has plummeted in the US since false claims of voter fraud around the presidential election. As the Electoral Commission¹⁵ stated in its evaluation of the 2019 voter ID pilots: “If there were to be a disproportionate impact on particular groups of voters, this could also have a negative impact on public confidence; we know that problems at elections can affect voters’ and non-voters’ overall perceptions of the poll.” The Electoral Commissions post poll survey found that, of those who said

¹¹ Electoral Commission (2023). *2018-2023 Data table Public opinion tracker*.

<https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes-2023>

¹² Electoral Commission (2023). *Voter ID at the May 2023 local elections in England: interim analysis*.

<https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-id-may-2023-local-elections-england-interim-analysis>

¹³ Berlinski, N. et al. (2021). *The Effects of Unsubstantiated Claims of Voter Fraud on Confidence in Elections*. *Journal of Experimental Political Science*, pp. 1-16. <https://www.cambridge.org/core/journals/journal-of-experimental-political-science/article/effects-of-unsubstantiated-claims-of-voter-fraud-on-confidence-in-elections/9B4CE6DF2F573955071948B9F649DF7A>

¹⁴ Brennan Center for Justice. *Voting Laws Roundup: July 2021*. <https://www.brennancenter.org/our-work/research-reports/voting-laws-roundup-july-2021>

¹⁵ Electoral Commission (2019). *Impact on voters: experience. May 2019 voter identification pilot schemes*.

<https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-identification-pilots/may-2019-voter-identification-pilot-schemes/impact-voters-experience>

they weren't confident that the election was well run, 'the most common reason selected (by 46%) was that "some people were unable to vote due to the ID requirement"'.¹⁶

(e) Do you think the Act requires reform? If so, how?

ERS believes that the voter ID scheme needs to be removed from the Elections Act. At the 2023 local elections, far more voters were affected by these proposals than have been accused of personation. We are concerned that the impact is going to be even greater at a General Election and it is clear from the evidence so far that the impact is likely to be unequal across society creating damaging inequalities in our electoral system.

Voting is trusted in Britain, and public confidence in voting is high, but trust in our democratic processes is being slowly eroded by outdated campaign and political finance rules, and the millions missing from our electoral registers. Polling has consistently shown that the public views the need for voter ID as far down its list of priorities for cleaning up politics in the UK.¹⁷

Trust in party funding has been in decline since the Electoral Commission's research began.¹⁸ Only 24% of people believe party funding is transparent, whilst over twice as many people see it as not transparent (58%). This is a marked decrease from as recently as 2019 when more people saw the transparency of funding as transparent (41%) than not transparent (36%). And an estimated 17 percent of eligible voters in Great Britain are missing from the electoral register¹⁹, due to the lack of automatic registration. The groups most likely to be adversely affected by voter ID are also the least likely to be registered to vote. Neither of these issues were addressed in the Elections Act 2022.

¹⁶ Electoral Commission (2023) <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-id-may-2023-local-elections-england-interim-analysis>

¹⁷ Electoral Reform Society. *Poll: 'Need' for voter ID should be least of our worries, say voters*. 2018. <https://www.electoral-reform.org.uk/latest-news-and-research/media-centre/press-releases/poll-need-for-voter-id-should-be-least-of-our-worries-say-voters/>

Electoral Reform Society. *Buried official figures 'demolish' government case for mandatory voter ID*. 2019 <https://www.electoral-reform.org.uk/latest-news-and-research/media-centre/press-releases/buried-official-figures-demolish-government-case-for-mandatory-voter-id/>

¹⁸ Electoral Commission (2023). *Public Attitudes 2023*. <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes-2023>

¹⁹ Electoral Commission (2019b). *2019 report: Accuracy and completeness of the 2018 electoral registers in Great Britain*. <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/accuracy-and-completeness-electoral-registers/2019-report-accuracy-and-completeness-2018-electoral-registers-great-britain>

All-Party Parliamentary Group (APPG) on Democracy and the Constitution: Inquiry into UK Elections in the Light of the Elections Act 2022.

Written evidence submitted by Stuart Wilks-Heeg, Professor of Politics, University of Liverpool.

Executive Summary

- The Elections Act 2022 makes significant changes to UK electoral law. It does so without any genuine attempt to generate cross-party consensus for these reforms and without regard for the widely recognised need to urgently simplify and consolidate electoral law.
- Voter ID is only one component of the 2022 Act and it is vital that the Act as a whole receives serious scrutiny, particularly with respect to its extensive provisions that will apply from late 2023 onwards.
- Voter ID preparations for the 2023 local elections were relatively successful but significant questions remain about the take up of Voter Authority Certificates (VACs), which will be vital to filling the ‘voter ID gap’ ahead of a general election.
- Evidence from Northern Ireland suggests the negative impacts of voter ID on electoral participation can be minimised but doing so it likely to require a very large increase in the take up of free voter ID (i.e. VACs) in Great Britain.
- Neither the impact of voter ID on different social groups nor the effects of the Elections Act 2022 on public confidence can be easily assessed at this stage. However, the risks in both cases are very evident and steps should be taken to mitigate those risks.
- These mitigations include broadening the range of permissible forms of ID and working closely with the electoral community to ensure it has the capacity to deliver yet another set of extensive changes to the way elections are run.

Introduction

1. I submit this evidence as an academic political scientist with longstanding interests in electoral integrity in the UK. My submission primarily draws on my involvement in this field as an academic specialist. In addition to my academic work, I am an accredited election observer. I observed the voter ID pilots in local elections in Woking and Swindon (2018) and in Pendle (2019), as well as the 2023 local elections in Sefton, at which Voter ID first became a legal requirement. From 2019-20, I was also a specialist adviser to the House of Lords Select Committee on the Electoral Registration and Administration Act 2013

Question (a): Were you personally impacted by any of the three key features of the 2022 Act (voter ID, increased executive control, limitations on civil society groups)? If so, how?

2. Beyond acting as an election observer, the full extent of my personal involvement in the 2023 local elections was as a voter and a media commentator. I was not personally impacted by the 2022 Act, other than with respect to taking ID to the polling station. However, as an academic who specialises in the mechanics of UK elections, I have several observations about the genesis of the 2022 Act, its content and implementation, and the way it has been debated, particularly in the media.

3. First, as has become commonplace with legislation on elections in recent decades, the Elections Act 2022 is something of a ‘mopping up’ exercise. It enacts a wide range of changes to electoral law, some of which were first proposed 20 years ago. Some of its provisions can be seen as minor pieces of ‘tidying up’, while others are quite radical departures. In addition to introducing Voter ID, the Act: provides for new postal and proxy voting safeguards; makes changes to the franchise; extends longstanding requirements for imprints on election materials to the digital sphere; introduces a new electoral offence of intimidation and revises an existing one (undue influence); makes revisions to election spending rules; enhances the support available for disabled voters; changes the electoral system for mayoral and PCC elections from the Supplementary Vote to First-Past-The-Post and gives the government new powers in setting the framework in which the Electoral Commission operates. In the recent past, such a far-reaching set of changes to the legal framework for elections would only have been introduced on the back of mechanisms designed to maximise cross-party consensus for

reform. It is regrettable that this Act has not been underpinned by such an approach and that it is, consequently, seen by many as a set of partisan measures designed to benefit the governing party.

4. Second, given the lack of attempt to generate cross-party consensus, it is important to note that these reforms originate from a diverse set of imperatives. Measures designed to bolster ballot security (whether votes are cast in-person, by post or by proxy) were 2019 Conservative Party manifesto commitments that, in turn, date back to the recommendations contained in the Pickles Review in 2016 – although voter ID has already been recommended by the Electoral Commission in 2015. The definition of an electoral offence relating to the intimidation of those engaged in election campaigns was proposed by the Committee on Standards in Public Life in 2017. Some of the Act's provisions implement specific recommendations made by the Law Commissions' (2016) review of Electoral Law, although the 2022 Act swerves, yet again, the urgent need to enact the Law Commission's full blueprint for the simplification and consolidation of electoral law. Instead, the Elections Act 2022 adds over 100 further amendments to the already heavily-amended Representation of the People Act 1983, the product of the last consolidation of electoral law, 40 years ago.

5. Third, the various changes initiated by the Act are phased with respect to their introduction. Several of the most significant measures are not yet in force. These include: the requirement to renew postal voting rights every 3 years, new restrictions on postal vote handling by election campaigners and a reduction in the number of electors a proxy can represent (from October 2023); the simplification and clarification of the offence of undue influence and the introduction of digital imprints (from November 2023); the ending of time limits on the right to vote of British citizens living abroad (from January 2024); and changes to the voting rights of EU citizens (from May 2024). Given that a general election must be called before December 2024, it is therefore evident that it will be fought within a much-amended legal framework. It will be imperative that electoral administrators are given sufficient time and resource to implement the necessary changes ahead of a general election. Likewise, there must be sufficient time for the Electoral Commission to draft new legal guidance and for political parties, election campaigners and police forces to absorb and act on it. Unfortunately, the

recent experience of the implementation of major changes to electoral law suggests that all of this is unlikely to come to pass.

6. Finally, given the observations made above, it is telling that the focus of most of the debate about the Act, whether in the media or in parliament, has so far been on the voter ID provisions. To some extent, this tendency is understandable. Of all the provisions in the Act, voter ID has the most universal impact. Inevitably, voter ID has also been viewed through the prism of partisanship, with opposition parties alleging voter suppression and the government accusing opposition parties of being soft on electoral fraud. Yet, the Elections Act amounts to a far-reaching set of changes to electoral law that go significantly beyond voter ID. It is imperative that the entire Act is subject to the same level of scrutiny and debate as the voter ID provisions, which only account for the first of its 12 schedules.

Question (b): To what extent (if at all) have voter ID requirements impacted (or are likely to impact) on people's right/ability to vote? If so, how?

7. Almost any change to electoral registration or voting procedures that is motivated by concerns to enhance the security of the ballot is likely to have some negative impact on electoral participation. Voter ID will clearly prevent some registered electors from casting a vote, particularly in the early stages of its implementation, when the requirements are new. There will inevitably be electors who either do not know about the need for Voter ID, who bring inadmissible photo ID to polling stations or, if they have no form of admissible ID, fail to apply for a Voter Authority Certificate (VAC) on time. The key challenge for the 2023 local elections, the first to be conducted using the Voter ID requirements in the Elections Act 2022, was to minimise the incidence of all of these scenarios. The data we have access to suggests that efforts to do so were relatively successful, but that there is still much to do, especially given the challenges of replicating these measures for a general election.

8. The voter ID pilots in 2018 and 2019 were accompanied by very extensive local publicity campaigns to raise awareness, supported by generous Cabinet Office funding. Visiting the pilot areas on election day, it was impossible not to notice the prominent public advertising of the voter ID requirements – and this was only part of the local publicity campaigns. Scaling

such measures up to the national level was always going to be challenging and the task was largely left to the Electoral Commission. Inevitably, the significance of the change and the controversies associated with it meant that the new ID requirements were also widely covered by the national and local media. Regular surveys conducted by the Electoral Commission suggest that its public awareness campaign, magnified by media reporting, was highly successful. Knowledge of voter ID requirements rose from 23% of the public in December 2022 to 87% in April 2023 (just ahead of the elections) and to 92% in May 2023 (just after the elections).¹ However, the same survey findings underline notable variations in awareness, with younger voters, BAME voters, those without photo ID and those who do not vote regularly all exhibiting lower levels of knowledge about the requirements.

9. For voters without any form of accepted photo ID, the provision of VACs is essential. There are real causes for concern about this aspect of voter ID provision. Given the evidence on possession of photo ID, around 2 million registered electors in Great Britain will only be able to vote at a polling station if they apply for, and receive, a VAC on time. The scale of likely demand for VACs in local elections was always going to be hard to estimate but the Electoral Commission had worked on the basis that 250-300,000 VACs would be issued ahead of the May 2023 elections. In the final event, only 89,500 VACs were dispatched to electors and only about 25,000 were actually used as ID on polling day.² In part, the lack of take-up can be explained by relatively low levels of awareness about the provision. An estimated 43% of people were unaware that VACs could be obtained as a form of free ID. The lower salience of local elections, the likelihood that regular voters at local elections will already have photo ID and the relatively high proportion of votes cast by post at local elections are also obvious factors for the low take-up. However, a general election will present an entirely different scenario, requiring a huge increase in the number of applications for VACs to prevent large scale disenfranchisement of voters.

¹ The Electoral Commission (2023) Voter ID at the May 2023 local elections in England: interim analysis, <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-id-may-2023-local-elections-england-interim-analysis>

² Electoral Commission (2023), *ibid*.

10. To understand the scale of the challenge, it is instructive to consider the uptake of Electoral Identify Cards (EICs) in Northern Ireland, where photo ID has been a requirement at polling stations since 2002. EICs are issued free of charge by the Electoral Office for Northern Ireland (EONI) to electors without photo ID. Within the first two years of photo ID being introduced, 97,000 EICs were issued in Northern Ireland which, at the time, had just over 1m registered electors. Table 1 lists the number of EICs issued annually in Northern Ireland and the number of EICs as a proportion of the total electorate. The peak year for issuing EICs, 57,000 in 2003/04, is easily explained. This was the first year after photo ID requirements were introduced in which a major electoral event took place: the Northern Ireland Assembly elections on 26 November 2003.

11. If we use the 2003-04 figures for Northern Ireland as a baseline to calculate the likely need for VACs in Great Britain in a general election year, the scale of the challenge becomes immediately evident. In 2003/04, 5.3% of the Northern Irish electorate were issued with an EIC. The equivalent proportion of the current electorate of Great Britain would amount to a need for 2.6m VACs, 29 times the number issued ahead of the 2023 English local elections. Even if the required quantity of VACs were reduced by the higher prevalence of postal voting in Great Britain, compared to Northern Ireland, it seems implausible that such large quantities could be produced and delivered in the run up to a general election, particularly one called at short notice.

Table 1: Electoral Identity Cards issued in Northern Ireland: Total Number and as % of Total Electorate

Year	EICs Issued	Local Government Electors, Northern Ireland	% of Electorate issued EIC
2002-03	40,000	1,072,404	3.7
2003-04	57,000	1,069,136	5.3
2004-05	8,000	1,047,601	0.8
2005-06	8,571	1,156,991	0.7
2006-07	6,902	1,075,078	0.6
2007-08	4,528	1,125,935	0.4
2008-09	4,548	1,142,513	0.4
2009-10	10,281	1,170,296	0.9
2010-11	23,903	1,202,145	2.0
2011-12	25,583	1,227,086	2.1
2012-13	25,146	1,247,293	2.0
2013-14	19,452	1,241,048	1.6
2014-15	27,181	1,257,034	2.2
2015-16	24,232	1,270,696	1.9
2016-17	27,021	1,233,926	2.2
2017-18	13,789	1,273,434	1.1
2018-19	11,417	1,281,576	0.9
2019-20	9,961	1,326,013	0.8
2020-21	1,804	1,367,778	0.1

Sources: Annual Reports of the Chief Electoral Officer for Northern Ireland; ONS Electoral Statistics.

12. The Northern Ireland experience is also instructive with respect to the question of whether voter ID is likely to impact on the right to vote in future. Because voters in Northern Irish elections have been required to show some form of specified ID since 1985, and photo ID since 2002, it is possible to assess what the longer-term impact on electoral participation may be. The most effective means of judging this impact is not by examining turnout over time, since there are so many variables which affect turnout. Instead, we can usefully turn to evidence from post-election surveys in Northern Ireland, which have regularly asked non-voters why they did not vote, usually distinguishing between cases where people opted not to vote and cases where they were prevented from voting.

13. A survey of 1000 participants conducted after the 2003 Northern Ireland Assembly elections, the first at which photo ID applied, included 234 non-voters (23.4% of the sample). Among these 234 non-voters, 93 said they had been unable to vote, as opposed to actively deciding not to. Drilling down further into this group, 13 cited voter ID problems as the reason they could not vote, with this constituting the 3rd most common reason for being prevented from voting, after health problems (n=20) and work commitments (n=15).³ Taken at face value, these findings suggest that the new voter ID requirements explained about 5% of all non-voting in Northern Ireland in 2003. This figure is entirely consistent with the Electoral Commission's estimate that around 4% of non-voters at the 2023 local elections in England cited ID as the primary reasons for not turning out.⁴

14. More recent surveys suggest that voter ID has diminished as a cause of non-voting in Northern Ireland as the voter ID requirements have become more embedded. A post-poll survey of 1000 Northern Irish electors after the 2017 Assembly elections identified only 5 respondents who cited lack of ID as a reason for not voting, representing 0.5% of the electorate and 2% of the 199 non-voters in the sample.⁵ Other reasons for not voting were far more common, notably being too busy (cited by 30% of non-voters) and not being

³ Dowds, L., Hayes, B. C., Mitchell, P., Evans, G. (2006). *Northern Ireland Assembly Election Survey, 2003*. [data collection]. UK Data Service. SN: 5394, DOI: <http://doi.org/10.5255/UKDA-SN-5394-1>

⁴ The Electoral Commission (2023), *op cit*.

⁵ The Electoral Commission/Kantar TNS (2017) Northern Ireland Assembly Post Election Public Opinion Survey, March.

registered to vote (16%). In 2019, after local elections in Northern Ireland, 4 out of 167 non-voters gave lack of ID as the reasons for not voting, the 10th most common reason, again amounting to 2% of non-voters.⁶ The same proportion of non-voters cited lack of ID as the reason for not turning out in the 2022 Northern Ireland Assembly elections, with ID not ranking in the top 10 reasons for failing to vote.⁷ In sum, the evidence from Northern Ireland suggests that voter ID acts as a bar to electoral participation for only a very small part of the electorate and is a minor factor in explaining non-voting. It is, of course, likely that voter ID would constitute a much greater barrier to electoral participation in Northern Ireland without the level of uptake of EICs noted in Table 1.

Question (c) Have the impacts or likely impacts (if any) been more serious or substantial for some groups than others? If so, which groups?

15. At this stage, it is difficult to evaluate the impact of voter ID by social group. It is clear that certain groups are less likely to have existing photo ID than others, although the choice of which forms of ID to include or exclude for the purposes of elections can make a significant difference to this calculus. There is some survey evidence to suggest that disabled and unemployed voters were disproportionately affected by voter ID requirements in the 2023 local elections, but more data is clearly needed to assess such impacts.⁸ Evaluating the full impact of the 2022 Act on electoral participation will also need to consider the impact of changes to postal and proxy voting once these are in force. It is entirely possible that the new safeguards for postal and proxy voting will present challenges for some of the same groups as those impacted by voter ID, notably elderly and disabled voters and some BAME voters. What is clear, however, is that the current provisions are very likely to have a greater impact on the ability of some people to cast their vote than others and that such impacts can be mitigated by expanding the list of permissible forms of ID and through concerted efforts to maximise the uptake of VACs.

⁶ The Electoral Commission/YouGov (2022) Post-Poll Public Opinion Northern Ireland, May.

⁷ The Electoral Commission (2019) Post-Poll Public Opinion Research, Northern Ireland.

⁸ The Electoral Commission (2023), *op cit*.

Question (d): How, if at all, has the Act impacted, or is likely to impact, public confidence in the UK electoral system?

16. It is too early to judge the impact of the Act on public confidence in elections, which is influenced by many factors. Voter ID is unlikely to have a straightforward overall effect on public confidence. Among voters who are concerned about electoral fraud, the introduction of voter ID is likely to increase their confidence in elections. Conversely, those who feel that voter ID is primarily designed to discourage certain groups from casting their votes will likely see the change in negative terms. Meanwhile, most of the changes initiated by the 2022 Act have not yet been introduced. Perhaps the biggest immediate risk they pose for public confidence in elections relates to the substantial additional pressures they will place on electoral administrators. These concerns are clearly set out in the Association of Electoral Administrator's (AEA) report on the 2023 elections, and they should be taken very seriously.⁹ Systemic failure in the running of a general election is a genuine risk and large-scale administrative problems arising from the cumulative impact of changes to electoral law, including the 2022 Act, could have profound implications for public confidence.

17. In the longer term, the manner in which the 2022 Act seeks to recast the Electoral Commission's relationship to government and parliament could also have serious consequences for public confidence in elections. At this stage, the practical consequences of the provisions in the Act relating to the Electoral Commission remain difficult to assess, not least because parts of the legislation add to the responsibilities and powers of the Commission. However, the scope for the Act to be used by government to constrain the Electoral Commission's operational independence is clearly present and this should be seen as a major concern.

Question (e): Do you think the Act requires reform? If so, how?

18. Any discussion of reforming the 2022 Act must be prefaced by an insistence that electoral law as a whole requires reform. The need to simplify, update and consolidate electoral law

⁹ Association of Electoral Administrators (2023) AEA 2023 Post Polls Review. Under pressure: increased demand on the UK electoral system. <https://www.aea-elections.co.uk/wp-content/uploads/2023/06/AEA-2023-Post-Polls-Report-27-June-2023.pdf>

has been evident for two decades and should have priority over any attempt to revise or reform individual Acts of Parliament relating to elections. Legislative proliferation has rendered electoral law over-complex and unwieldy. In an appendix to a 2015 report, the Electoral Commission listed 55 Act of Parliament and 172 items of secondary legislation containing provisions pertaining to contemporary elections. This list was provided for illustrative purposes only and it was noted that “a comprehensive list would be much longer”.¹⁰ It would be a serious error to engage in further piecemeal reform.

19. Moreover, at this point in time, so little of the 2022 Act has come fully into force that it is premature to discuss whether the Act as a whole requires reform. With respect to the voter ID requirements, there is a very strong case for reviewing and expanding the range of acceptable forms of ID. The existing list of permissible forms of ID throws up some obvious anomalies. Why is a Merseytravel 60+ travel pass not accepted when the checks involved in issuing one are essentially identical to an Oyster 60+ pass issued by Transport for London, which is accepted? Does it really make sense that a long-expired South African passport can be used as ID, while a currently valid Zimbabwean one cannot (because Zimbabwe is no longer a Commonwealth country, but South Africa is)? More generally, given the UK’s lack of national identity cards and the incredibly low incidence of personation at polling stations, there is surely a powerful case for accepting a far greater range of forms of photo IDs, such as staff passes issued by public bodies, student passes and a wider range of travel passes. A more liberal approach to photo ID would not only be far more proportionate to the actual risk of electoral fraud at polling stations, it would also greatly reduce the need for electoral administrators to issue large numbers of VACs in the run up to major electoral events.

20. Finally, and relatedly, there needs to be a much clearer recognition that if the provisions in the 2022 Act are to be delivered successfully, electoral administrators will need to be given sufficient timeframe and resources to do so. As the AEA puts it:

“(The) ability to successfully deliver polls is being compromised by continual and unsystematic changes to the democratic process (...) Progress in addressing issues

¹⁰ The Electoral Commission (2015) *The Hidden Costs of Electoral Law*, London: The Electoral Commission, page 40.

from previous polls is painfully slow. We believe the impact of aggregated risk is insufficiently recognised, and inadequately mitigated. We are concerned that only a major electoral failure will focus attention on the vulnerabilities of the system.”¹¹

¹¹ Association of Electoral Administrators (2023), *op cit.*

Democracy Volunteers Evidence for APPGDC Inquiry into UK Elections in light of the Elections Act 2022

About Democracy Volunteers

Democracy Volunteers is a non-partisan, domestic election observation organisation committed to improving the security and accessibility of elections in the UK and abroad. Our mission is to improve the quality of democratic elections by advising those who legislate for, administer, and oversee elections to enhance them for the benefit of voters.

We aim to do this by attending elections, empirically reporting our findings in an accessible way through statistical analysis and undertaking of interlocutor meetings to support this objective. We do this through a strong methodology, based on the international standards for election observation as set out by OSCE/ODIHR¹ and others. We are a member of the Global Network of Domestic Election Monitors (GNDEM) and abide by GNDEM's Declaration of Global Principles for Non-partisan Election Observation and Monitoring by Citizen Organisations and the accompanying Code of Conduct.² Our observers sign this code of conduct and Democracy Volunteers also signs the Code of Conduct required by the UK's Electoral Commission to observe elections.

We maintain strict impartiality and require our observers to abide by UK and international standards, as well as the relevant local legal framework, when acting as our observers. All of our observers, who observe in the UK, are officially accredited with the UK's Electoral Commission and undergo a thorough interview and training process to ensure they are able to accurately and impartially record and report data from polling stations and counting venues. None of our observers are members of political parties and are not politically active.

We aim to report on our observations in a constructive and encouraging way to benefit the delivery of democracy and the electorate as a whole. Since we were formed in 2016, we have observed dozens of elections across the UK and internationally, including general elections, referenda, by-elections, council elections and devolved parliamentary/assembly elections.

Our reports have been used as the basis for trials of various methodologies and equipment at various elections. Our data is regularly cited in the Houses of Parliament and used in debates nationally, as well as informing local council training for election officials and the public on the conduct of electoral events. Lord Robert Hayward recently said that the data that Democracy Volunteers collects 'has been painstakingly researched over a number of years [and] has proved the case to parliament that it needed to legislate' in reference to his Ballot Secrecy Bill, intended to deal with 'family voting'. The Electoral Commission also used our data which identified a broader impact on those from ethnic minorities in their preliminary report into the 2023 English Local Elections.

¹ OSCE (2003) Handbook for Domestic Election Observers

² GNDEM (2022) Declaration of Global Principles for Non-partisan Election Observation & Monitoring by Citizen Organisations Available at: <https://gndem.org/declaration-of-global-principles/>

Overview

On May 4th, Democracy Volunteers deployed more than 150 observers, and support team, of the 376 Democracy Volunteers observers accredited with the UK's Electoral Commission.

The organisation deployed across 118 of the 230 councils holding elections in England.

These observers generally formed teams of two (sometimes three), and attended 879 polling stations, across all the regions of England. Observers spent between 30 and 45 minutes at each polling venue observing the process and then completed one survey for each polling station.

In general, teams attended between 10 and 15 polling stations in their day.

Response

Regarding the APPG, Democracy Volunteers believe we can provide additional data to the debate concerning the enactment of the Elections Act 2022. This is particularly the case of so-called 'turnaways' at polling stations, specifically the demographics of those being denied a ballot paper due to not having an acceptable form of ID on their person. Our full report on the election can be found at <https://democracyvolunteers.org/final-report-english-local-elections-2023/>.

In response to: 'To what extent (if at all) have voter ID requirements impacted (or are likely to impact) on people's right/ability to vote? If so, how?'

Our core team met with several expert, practitioner, and legislative interlocutors to inform us of the competing arguments and challenges concerning the introduction of the requirement to show ID before being allowed to vote. We hold these meetings under so-called Chatham House Rules, where we inform the interlocutor that we will not quote them but will report that we met them as part of our work.

There was a wide degree of concern and disapproval of the requirement to show ID amongst our interlocutors, primarily based around two aspects of its introduction: the pace of its implementation and the concern that many voters who were young or from ethnic minorities might be excluded. Other interlocutors were more positive about the introduction of photographic ID to vote, arguing that this change brings the UK into line with international standards and responds to previous calls from the OSCE/ODIHR³, the Electoral Commission⁴, and the Pickles report 2016⁵, aiming to strengthen the integrity of the vote in polling stations.

The most commonly raised concern surrounding the new policy was the possibility that some voters would be disenfranchised from the voting process, either through a lack of acceptable ID or through forgetting to bring their ID with them. It was widely noted that this potential new barrier to voting in person could harm the voter experience. Many

³ OSCE/ODIHR, 2015. 174081.pdf (osce.org)

⁴ The Electoral Commission, 2015. 'Delivering and costing a proof of identity scheme for polling station voters in Great Britain'. Voter ID report untracked (electoralcommission.org.uk)

⁵ Sir Eric Pickles, 2016. 'Securing the ballot: Report of Sir Eric Pickles' review into electoral fraud'.

interlocutors noted that the form of voter ID being introduced was particularly 'hard', with no options for attestation or curing of ballot papers for those who didn't have ID with them on the day to ensure they were still able to vote. Some interlocutors argued that the list of acceptable IDs was overly restrictive and that other documents, such as a wider range of photographic and non-photographic IDs, should be permissible. Of particular concern was accessibility to the voting process for young people, due to documents such as student cards and young people's travel cards not being permissible. There were also apprehensions relating to those who need to wear face coverings for religious or Covid reasons being uneasy with the changes, and that not all polling stations would be able to provide an appropriate private space and staff member to undertake these identification checks.

The creation of the Voter Authority Certificate (VAC) for those without valid ID was generally welcomed and the process for voters to obtain this document received little criticism. However, the low uptake of this document raised concerns about the level of public awareness about the VAC and worries that the deadline for application being six days before the election would exclude voters who became aware of the form closer to election day. It was also seen to be worrying that the true number of VACs issued was not data that was being collected, and that many of the applications shown on the government dashboard represented duplicate and rejected applications. This data has not been made readily available, but it has been suggested that rejection rates have been significant.

Furthermore, interlocutors warned that the piecemeal implementation of the Elections Act 2022 may lead to more voters applying for postal votes, an unsupervised form of voting where ID requirements are not yet in place. Although new ID requirements will also be enacted for postal voters in due course, many see this as a loophole that undermines the policy and may even reduce electoral integrity at these polls.

Concern also remained due to the speed of implementation of the policy in terms of allowing administrators to fully prepare for the changes and for voters to become informed about the new requirements. Some interlocutors noted that the timing of the change in ID requirements did not comply with the Gould Principle, that electoral law should not be altered within six months of an election. It was feared that this would lead to large numbers of voters being disenfranchised on polling day and the potential for this to lead to anger being shown by voters or, potentially, even the possibility of violence at polling stations, which led to some councils giving staff conflict resolution training prior to polling day. This, along with the need for new procedures and paperwork to be completed by Presiding Officers, led to the view that the changing nature of the role has made it more difficult, particularly as staff are required to reject voters without the correct documentation.

As our observation culminated, there was also concern about the methodology of assessing its impacts and whether the official data being collected would be credible. It was widely agreed that collecting data on the total number of voters who were unable to vote was impossible, as voters can be disenfranchised at many different stages of the voting process, not just at the Presiding Officer's desk, where official statistics were collected. For example, many voters will have stayed at home, knowing they did not have the correct documentation

to vote, whereas others may be turned away informally by signage outside polling stations, party tellers, or even official 'meeters and greeters' in place at polling stations.

Of those voters that the Democracy Volunteers observers saw, 110 voters were turned away because they lacked ID. These were generally, but not exclusively across urban areas. This constituted almost 1.2% of all the voters observed.

However, we also asked our observers to assess different aspects of those voters being excluded. As we evaluated, even with a large-scale observation of over half of the councils' conducting elections on 4th May, the capacity to see large-scale exclusions was relatively low.

In response to: 'Have the impacts or likely impacts (if any) been more serious or substantial for some groups than others? If so, which groups?'

As part of our pre-deployment discussions with external interlocutors, we discussed other ways of seeing if this policy was affecting some groups within society more than others.

As such, we asked our observers to report broad ethnicity descriptions for those turned away. To classify, we used the phrases 'white passing' and 'non-white passing' to see if there was evidence of this policy being more impactful on voters from ethnic minorities.

Our observers discovered that 20% of those excluded were 'white passing' males, 30% were 'non-white' passing males, 27% were 'white passing females' and 23% were 'non-white' passing females. Whilst the totals of male and female being excluded were equal, the majority of those excluded were from ethnic minorities, disproportionate for their number in the wider demographic. 53% of all those excluded were 'non-white passing'.

We also observed that 5 voters were not asked for ID before being allowed to vote during our observation; all of them were white passing.

In response to: 'Do you think the Act requires reform? If so, how?'

The requirement to show ID at a polling station before being issued with a vote was not without challenges, both to those being required to implement it, and those required to provide it at polling stations.

Generally, in more rural areas of England, the policy seemed to be acceptable to most of the voters attending polling stations.

However, there needs to be greater clarity and potentially diversity in the forms of ID that are acceptable. On several occasions, our observers identified voters who were actually turned away despite having valid ID – this was particularly the case for IDs from Commonwealth countries – such as Pakistan and Bangladesh. Some polling staff's lack of awareness of this was concerning.

As part of our interlocutor discussions there was considerable concern about the validity of young persons versus old persons Oyster cards, not that many of these were observed with these elections outside London. It was noted by some that the officially issued accreditation given to election observers allows them to remain in a polling station throughout polling

hours, with access to the voting process, but is not valid ID to vote. In our observations in other countries, the requirement to show ID is commonplace, but for those that either do not have it with them or do not own it, there are other methodologies for them to 'cure' their ballot later, or to attest/swear to their identity. It seems especially peculiar that a 'tendered ballot' requires ID to vote, or that emergency proxy votes were not offered to those without ID.

Photo Identification could be extended to include a wider range of acceptable documents. Valid forms of ID should also be extended to include equality between those IDs issued to older and younger people – such as the 18+ student Oyster photocard. Finally, a mechanism should be put in place to allow those without valid identification to either remedy their ballot, or have another elector attest on their behalf, as is common practice, in many other democracies in the OSCE/ODIHR.

Dr John Ault and Harry Busz

30th June 2023

ALL PARTY PARLIAMENTARY GROUP

INQUIRY INTO UK ELECTIONS IN THE LIGHT OF THE ELECTIONS ACT 2022

WRITTEN SUBMISSION FROM DR KAY L. RITCHIE, UNIVERSITY OF LINCOLN AND DR KATIE L. H. GRAY

3RD JULY 2023

Dr Kay Ritchie is a Senior Lecturer in the School of Psychology at the University of Lincoln. Kay is an expert in human face perception and face recognition and has published extensively on the task of comparing a person to a photo ID image.

Dr Katie Gray is an Associate Professor in the School of Psychology and Clinical Language Sciences at the University of Reading. Her current work is focused on human face recognition and individual differences.

The Elections Act 2022 and voter ID requirements

Section 1. The impact of voter ID requirements on people's rights/ability to vote

1. The Elections Act 2022 requires voters to present photo ID at their polling station in order to vote. This requires someone at the polling station to compare the person to the photo ID image. Although humans are very good at recognising people with whom they are familiar, this task of matching a person to a photo (known in the research literature as 'face matching') is very difficult when we are unfamiliar with the person pictured [1]. Error rates of 20%-35% are typically found in experimental tasks [2, 3].

2. UK police officers [4], Australian passport officers [5], and Australian supermarket cashiers [6], all of whom have jobs that involve checking photo ID, have been shown to be no better at unfamiliar face matching than the general population.

3. In addition, years of employment in such a job does not correlate with face matching performance, meaning that people do not get better at this task over time [5, 6].

4. A recent investigation of professional facial image comparison training courses showed that those lasting for less than one day do not improve performance, and that a three-day course provided only small, inconsistent improvements [7].

5. There are large individual differences in face matching ability, with some individuals being very poor ('developmental prosopagnosics') and some very good ('super recognisers') [8]. People do not always have insight into their face recognition abilities [8]. Therefore there is likely to be a lack of consistency in ability and performance across polling stations. Unless people at polling stations are screened and selected for face matching ability, we will not have evidence that they will be able to accurately carry out the task of matching a person to their photo ID, and there will be a lack of consistency in ability and performance across polling stations.

6. UK adult passports, a common form of photo ID and one listed in voter ID guidance [9] are valid for 10 years [10]. Recognising unfamiliar people in photographs taken at different ages is an extremely difficult task with error rates of around 75% [11].

7. UK passports do not allow glasses to be worn in the image [12], meaning that people in polling stations may be comparing people wearing glasses to images without glasses. Face matching accuracy is reduced when comparing an image with glasses to an image without glasses [13].

8. We submit the following as evidence to the APPG with regard to the impact of the voter ID requirement on people's rights/ability to vote:

A. It is likely that people at polling stations **will not be able to detect someone carrying fraudulent photo ID** which does not depict the person carrying it [1-8].

B. It is likely that people at polling stations will **incorrectly suspect someone carrying their own photo ID of voter fraud** [1-8, 11, 13], impacting on people's rights and ability to vote.

C. **Training is unlikely to improve people's face matching ability** [7].

D. People whose role it is to check photo ID should be **pre-screened to select those who naturally perform more accurately at the task** [5, 6, 8].

Section 2. The impact of voter ID requirements could be more serious or substantial for some groups than others

9. Face recognition accuracy is worse for faces from groups that we are not a part of, leading to an 'Other-Group' effect [14]. The Other-Group effect is not driven by some faces being objectively more difficult to recognise than others, as the very same set of faces can be recognised poorly by one group and well by another, depending on the groups' characteristics [14].

10. Ethnicity is one characteristic that drives the Other-Group effect in face processing. It is the tendency to recognise faces of the same ethnicity as ourselves with higher accuracy than those who are not [15,16].

11. Age also drives the Other-Group effect in face processing. We tend to be better at recognising faces of a similar age to ourselves compared to faces of other ages [17].

12. Gender also drives the Other-Group effect in face processing. Women have been shown to recognise female faces better than male faces [18].

13. We submit the following as evidence to the APPG with regard to the seriousness of the impact of the voter ID requirement on different groups:

E. **Biases should be expected** when face matching is employed in a community setting. The groups to which the person checking ID belongs will influence their accuracy with other groups.

F. Attempts to counteract this bias might be sought by having **people of different ethnicities, ages, and genders, check the photo ID.**

Section 3. The Act requires reform in regard to voter ID

14. We submit the following as evidence to the APPG:

G. It is our opinion that, based on the academic evidence cited within this document, **the necessity for photo ID to be presented in order to vote in the UK should be dropped from the Elections Act 2022.**

We are happy to provide further information on any of the points mentioned in this submission.

Dr Kay Ritchie, University of Lincoln, UK; Dr Katie Gray, University of Reading, UK

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Subject: Re: Call for Evidence

Dear Daniella,

Here below is my initial response. I'm really struggling with low energy levels at moment and wish it could be more comprehensive.

I am immunocompromised due to having to take immunosuppressant meds lifelong to keep my transplanted heart functional. Without them I would die. With them, I am high risk of complications from infections. I also have multiple energy limiting conditions including ones which are post viral (Long Covid and chronic EBV). On the 4th May 2023 I went to vote with valid ID- my passport, but was denied my vote due to staff determining that I needed to abstain from using an accessibility aid I was using & not providing an alternate way of evidencing my identity. The accessibility aid in question is a face mask. When worn correctly, and of FFP2 grade and above, which I was wearing, they filter out viral particles in the air. The alternate methods of ascertaining identity are plentiful, but were not provided, in part due to an omission of guidelines by Electoral Commission for voting staff to effectively provide disability accommodations to allow those of us with disabilities to participate in democracy in a way that enables us to have equitable risks to our wellbeing and existence. Likewise there is high dependence on staff at voting stations being properly trained on both guidelines, discretionary accommodations and also disability more broadly.

The impact of being denied my right to vote even whilst presenting valid ID and having images on my phone with me unmasked to corroborate my identity was profound. I feel that I have to risk my wellbeing and life to be included in society. More than hurt feelings and institutional ableism, it was an example of the Disability Act not being followed. I would like the option to reduce my risks of airborne infection when engaging in my civic right to vote, having been hospitalised on multiple occasions in recent months and years due to infections. I would like all immunocompromised and disabled people to have the option to reduce their risks when voting. We need to learn lessons of the past few years and that includes making participating in person in society more accessible. Voting is emblematic of being a citizen, a member of society, and thus the right to cast one's vote needs to remain as accessible as possible. Currently the new voter ID laws are disproportionately disadvantaging those of us with disabilities and immunocompromisation. It is unacceptable that myself and others were denied our right to vote even whilst bringing valid ID, and were refused disability accommodations. This must never happen again.

Would love to help more in some capacity.
I hope this statement above can be used and is a valuable start.

Many thanks
Andrea

[Redacted]

[Redacted]

[Redacted]

Response from Unlock Democracy to the Elections Inquiry Call for Evidence on the Elections Act 2022

- (a) Were you personally impacted by any of the three key features of the 2022 Act (voter ID, increased executive control, limitations on civil society groups)? If so, how?

No, there were no elections in London

- (b) To what extent (if at all) have voter ID requirements impacted (or are likely to impact) on people's right/ability to vote? If so, how?

The impact has been well documented by Democracy Volunteers (DV) in their report <https://democracyvolunteers.org/final-report-english-local-elections-2023/>

and more recently in the Electoral Commission's (EC) interim analysis.

<https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-id-may-2023-local-elections-england-interim-analysis>

The DV report stated that Democracy Volunteers observed that over half (53%) of those turned away from polling stations were non-white. The elections on May 4th were in England only, and excluded London and Birmingham. With these areas of high ethnic minority population excluded, the ethnic minority population in the voting population would have been expected to be around 15%. So for 53% of those turned away to be non white suggests a level at least three times higher than expected. Yet according to the government's Equalities Impact Assessment, members of ethnic minority communities were more likely to hold photo voter ID than the white community.

Paragraph 31, page 8

<https://publications.parliament.uk/pa/bills/cbill/58-02/0138/2021-07-01ElectoralIntegrityBillEqualityImpactAssessment.pdf>

Response from Unlock Democracy to the Elections Inquiry Call for Evidence on the Elections Act 2022

Even allowing for a lower turnout amongst ethnic minority voters, this disproportionate turn away figure suggests a degree of discrimination against non white voters, part of which could be linked to a lack of (or minimal) training of polling station staff. This lack of training was revealed in the responses to a series of FOIs submitted to local authorities by Tendo Consulting on behalf of Unlock Democracy, ERS, Open Britain and Fair Vote. Of the local authorities that responded, 1 in 2 had set aside less than 1 hour's worth of extra time for training for the new Elections Act requirements. This meant for instance that some polling staff were not aware that a Commonwealth passport or some forms of ID for students were valid photo voter ID.

The EC report confirmed over 14,000 people were turned away from polling stations. This figure is a significant underestimate. It does not take into account people who were turned away by greeters at some polling stations. Nor does it take into account those who knew they needed photo voter ID, but didn't have any so didn't go to polling stations, or those who objected to the requirement to present ID at a polling station.

In the responses we received from our members and supporters, and the democracy sector more widely, we were aware of people who were turned away, or didn't go to the polls, for a variety of reasons, including because they:

- didn't know they needed photo voter ID
- brought the wrong photo voter ID,
- brought a picture of their valid photo voter ID
- had ID in their maiden name and were on the electoral roll in their married name (and vice versa)
- had valid ID but polling clerks didn't recognise it was valid (holders of Commonwealth passports)
- were refused access because they didn't want to remove their face mask because they were immuno-compromised
- lost their ID a few days before the election

(c) Have the impacts or likely impacts (if any) been more serious or substantial for some groups than others? If so, which groups?

The final EC report and the government-commissioned report expected in November will provide greater clarity on which other groups were badly affected.

Response from Unlock Democracy to the Elections Inquiry Call for Evidence on the Elections Act 2022

- (d) How, if at all, has the Act impacted, or is likely to impact, public confidence in the UK electoral system?

One eligible person being barred from voting damages public confidence. The recorded figure was 14,000 (the actual number would have been significantly larger).

In the next General Election, there will be a higher turnout, in a UK-wide electorate some of whom are less motivated to vote than those who vote in Council elections, and therefore less likely to be aware of the need for photo voter ID or the government's free voter authority certificate. This means the number turned away could easily top 50,000 and could be closer to 100,000, particularly if polling stations experience any difficulties with crowding at peak times.

Turn aways on that scale could severely damage public confidence in the UK's electoral system, and at the very least in the results declared in marginal seats.

- (e) Do you think the Act requires reform? If so, how?

Unlock Democracy, with an alliance of organisations we are convening, wants photo voter ID scrapped.

Pending the repeal of the legislation, we also want the UK Government to:

- improve awareness of the need for photo voter ID
- increase the number of valid forms of ID
- and maintain the requirement for collecting data on those turned away from polling stations (by law this data now only needs to be collected for the next 2 General Elections) for all elections until further notice.

We want local authorities to:

- improve awareness of the need for photo voter ID
- improve the training for polling staff

- (f) Please feel free to add anything else you consider relevant.

Nothing further to note.

Response from Unlock Democracy to the Elections Inquiry Call for Evidence on the Elections Act 2022

We should be able to provide a representative of Unlock Democracy should this be required.

Tom Brake, Director, tom.brake@unlockdemocracy.org.uk
3/7/2023

Written evidence for enquiry on the Elections Act 2022, voter ID and the May 2023 local elections conducted by the AAPPG on Democracy and the Constitution.

My name is Ana Alonso Curbelo and I am a PhD Researcher in the School of Social and Political Sciences at the University of Glasgow. My research, which is funded by the Economic and Social Research Council, examines how the news media and politicians frame voter ID requirements in the United States and Great Britain through computerised content analysis techniques.

In this submission, I draw on research I conducted in 2021, which focused on the way in which the Elections Act, and specifically the introduction of a new voter ID requirement, was debated in the UK Parliament, i.e., the kinds of arguments that were made for and against the policy, and their implications. More detail about this issue is provided in the article I published in *Parliamentary Affairs*, which is available open access¹. These findings were also published in *The Conversation*² and an LSE Politics and Policy blog³.

While examining parliamentary speeches on voter ID is not the focus of any of the questions raised by the committee, I believe it is an important topic to address in the enquiry, since recent evidence is undermining key arguments made during legislative debates, specifically arguments focusing on the need to pass a voter ID requirement to increase public confidence in the electoral system. My research has also involved conducting an extensive literature review on the issue of voter ID. While academic literature in the UK is limited, I point the committee to existing research from the US insofar as it enables a better understanding of the issue in the British context, and since most scholarly studies on voter ID have a US focus. In the US, voter ID laws have been passed in predominantly Republican led states following similar concerns around electoral integrity. Like Great Britain, the US also lacks a free or low-cost ID option, and therefore voter ID requirements share similar complexities in the voting system.

My submission mainly addresses Questions 4 (b), (c) and (d).

For Questions (b) and (c), I point the committee to existing data on the impact of voter ID, drawing on Electoral Commissions evidence from the voter ID pilots and this year's May local elections. For Question (d), I point the committee to evidence around the impact of voter ID on public confidence in the electoral system in the UK. I cite evidence from the voter ID pilots and international academic literature exploring the impact of voter ID on public confidence for further insights. Finally, I discuss the implications of legislating policy based on public perceptions of electoral fraud, instead of actual numbers of voter fraud

¹ <https://academic.oup.com/pa/article/76/1/62/6549976?login=false>

² <https://theconversation.com/voter-id-analysis-shows-conservative-mps-offering-weak-justification-for-law-which-is-now-in-force-198950>

³ <https://blogs.lse.ac.uk/politicsandpolicy/voter-id-parliament-debates/>

cases, and of using the umbrella term “electoral fraud” to refer to the specific and rare form of voter fraud by in-person impersonation that a voter ID requirement is able to address.

Questions addressed in this submission:

- To what extent (if at all) have voter ID requirements impacted (or are likely to impact) on people’s right/ability to vote? If so, how?
- Have the impacts or likely impacts (if any) been more serious or substantial for some groups than others? If so, which groups?
- How, if at all, has the Act impacted, or is likely to impact, public confidence in the UK electoral system?

(b) To what extent (if at all) have voter ID requirements impacted (or are likely to impact) on people’s right/ability to vote? If so, how?

(c) Have the impacts or likely impacts (if any) been more serious or substantial for some groups than others? If so, which groups?

Studying how voter ID affects voter turnout is important to understand what it means for future elections. Government-commissioned research found that 2% of people don’t have any form of photo ID, including expired or unrecognizable IDs, and 4% don’t have IDs that are recognizable (which is roughly around 2.1 million people).⁴ Concerns have therefore been raised around the potential for this policy to reduce voter turnout, especially for certain groups like people from BAME backgrounds, the elderly, young people, women, trans people, people with disabilities and those who are economically disadvantaged. These groups are statistically less likely to have the necessary photo ID to vote.⁵

The reports from the Electoral Commission on the voter ID pilot schemes in 2018 and 2019 provided mixed evidence about the impact of voter ID on voter turnout.⁶ They advised caution when drawing conclusions about implementing voter ID nationwide based on these pilot programs. In the pilots, approximately 2,000 people were initially denied voting at the polling station because they didn’t have ID, and about 750 of them didn’t return to vote. A study conducted by James and Clark in 2020 found that across both pilots, voter ID requirements had minimal impact on the security of the electoral process.⁷

4

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/984918/Photographic_ID_research-_headline_findings_report.pdf

⁵ <https://www.ons.gov.uk/census/2011census>

⁶ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-identification-pilots>

⁷ <https://www.tandfonline.com/doi/abs/10.1080/01442872.2019.1694656>

In the May 2023 local elections, Electoral Commission data⁸ suggests that approximately 14,000 voters who went to a polling station were not able to vote as a result of not being able to show ID. Of those who didn't vote, 4% mentioned voluntarily that they lacked the necessary ID, while 1% disagreed with the ID requirement. This increased from 4% to 7% when respondents were provided with a list of reasons to select from.

Demographic data could not be collected on those unable to vote due to the voter ID requirement because electoral registers don't include demographic information, and polling station staff couldn't collect it. Therefore, we do not know how the new voter ID requirement impacted turnout from specific groups.

While we don't have demographic information on those turned away, the Electoral Commission shows that awareness of the new voter ID requirement varied across the population and was lowest among younger age groups, Black and minority ethnic communities and those who said they never vote in local elections. The uptake of free Voter Authority Certificates, which serve as ID cards, was also extremely low. Less than 5% of the estimated two million people without photo ID applied for one. 57% of the overall population and of those without photo ID were aware of the availability of the Voter Authority Certificate.⁹

Other than a lack of awareness, the Electoral Reform Society has highlighted challenges faced by prospective voters in obtaining free ID cards¹⁰. This process often requires taking time off work and arranging for care responsibilities to visit council offices during limited opening hours. Although people could apply for a Voter Authority Certificate online, concerns were also raised regarding individuals without internet access. In general, those who can most easily apply for a free voting ID, either online or in person, are usually the most likely to have the right form of ID to vote already.

Based on the available data from the pilot schemes and the May local elections, it is difficult to reach definite conclusions about the impact of voter ID on turnout. In the US, where the relationship between voter ID and turnout has been extensively studied, there are mixed findings. While many studies indicate that voter ID laws reduce turnout for Black, Asian, and minority ethnic (BAME) groups¹¹, a few studies find little or no evidence of this effect. Some argue that mobilisation campaigns can counter the negative impact of ID laws and even increase turnout.¹² However, others suggest that the influence of campaigns on turnout may

⁸ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-id-may-2023-local-elections-england-interim-analysis>

⁹ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-id-may-2023-local-elections-england-interim-analysis#awareness-of-the-voter-id-requirement>

¹⁰ <https://www.electoral-reform.org.uk/campaigns/voter-id/>

¹¹ Barreto, M. A., Nuño, S., Sanchez, G. R., & Walker, H. L. (2019). The racial implications of voter identification laws in America. *American Politics Research*, 47(2), 238-249.

¹² Neiheisel, J. R., & Horner, R. (2019). Voter Identification Requirements and Aggregate Turnout in the US: How Campaigns Offset the Costs of Turning Out When Voting Is Made More Difficult. *Election Law Journal: Rules, Politics, and Policy*, 18(3), 227-242.

be short-lived.¹³ Others deny such an effect by arguing that while campaigns can change public opinion on the matter, they may not necessarily affect actual voting behaviour.¹⁴

To better understand the impact of voter ID on turnout in the UK, several factors should be considered:

- Campaigning, awareness of voter ID and the possibility of applying for a free voter authority certificate: The effectiveness of campaigns and mobilization efforts in encouraging voter turnout.
- Indirect effects of voter ID: Studies in the US have found voter ID requirements not only directly affect those who lack qualifying IDs but can also create confusion among voters about their compliance with the law.¹⁵ These indirect effects could also impact turnout in the UK.
- The specific context of each election: The demographic profile of potential voters differs in various types of elections and therefore the effect of voter ID on turnout will likely vary in local and general elections.¹⁶

Studying the relationship between a voter ID requirement and turnout is and will continue to be challenging as turnout is influenced by multiple factors, beyond those outlined here.

While it is crucial to examine the impact of voter ID on turnout, it is also important to recognise that during policy debates, the available evidence on the potential negative effects of voter ID on turnout was not adequately taken into account. For example, the reports from the Electoral Commission on the pilot schemes in 2018 and 2019 did not assess the impact on minority ethnic communities' votes, yet I found some Conservative MPs used these reports to support the success of the ID pilots¹⁷, despite the mixed evidence.

Toby James, Professor of Politics and Public Policy at the University of East Anglia specialising in topics such as electoral integrity, voter behaviour, and the impact of voter ID requirements in the UK, highlights that policymakers may not always prioritize research-based recommendations, citing the legislation of voter ID as an example where significant policy progress was achieved despite existing research on the topic.¹⁸

¹³ Valentino, N. A., & Neuner, F. G. (2017). Why the sky didn't fall: mobilizing anger in reaction to voter ID laws. *Political Psychology*, 38(2), 331-350.

¹⁴ Biggers, D. R. (2021). Can the backlash against voter ID laws activate minority voters? Experimental evidence examining voter mobilization through psychological reactance. *Political Behavior*, 43(3), 1161-1179.

¹⁵ DeCrescenzo, M. G., & Mayer, K. R. (2019). Voter identification and nonvoting in Wisconsin—evidence from the 2016 election. *Election Law Journal: Rules, Politics, and Policy*, 18(4), 342-359.

¹⁶ <https://lgiu.org/blog-article/the-impact-of-voter-id-faqs/#section-1>

¹⁷ <https://academic.oup.com/pa/article/76/1/62/6549976?login=false>

¹⁸ James, T. S. (2018). The higher education impact agenda, scientific realism and policy change: the case of electoral integrity in Britain. *British Politics*, 13(3), 312-331.

(d) How, if at all, has the Act impacted, or is likely to impact, public confidence in the UK electoral system?

Evidence from the pilot scheme indicates that there was an increase in voter confidence and in perceptions of the safety of voting in the pilots. However, like patterns in turnout, the Electoral Commission also warned against drawing conclusions about what the impact on confidence of a Great Britain-wide scheme would be based on the voter ID pilots' data. The pilot areas were not representative of Great Britain as a whole, and the changes in voter confidence were not consistent across all pilot models.

In my analysis of parliamentary debates, I found Conservative MPs justified voter ID to enhance public confidence in the electoral process. While the debates were happening from 2018, there was a worrying increase in people's belief in electoral fraud as a problem, but in 2021, this trend reversed and perceptions of electoral fraud almost halved.

Research conducted after the May 2023 local elections revealed levels of satisfaction with the process of voting are high and in line with previous elections. Most people (68%) expressed confidence in the running of elections, slightly lower than the previous elections in 2022 (73%). In fact, more people in the UK view barriers to democratic participation for minority ethnic groups as a greater concern than electoral fraud.¹⁹

The voter ID requirement however had both positive and negative impacts on public confidence: among those who lacked confidence, 46% cited people being unable to vote due to the ID requirement as the main reason, while others who were confident (30%) mentioned that the ID requirement reassured them about the safety of the voting system."²⁰ These mixed effects highlight the challenges in assessing the overall impact of voter ID on public confidence.

In the US, studies²¹ have found that people who live in states with voter ID laws do not experience increased confidence in elections. Furthermore, these laws have shown to have polarizing effects on confidence levels, with Republican voters expressing higher levels of confidence and Democrats displaying lower levels. The forthcoming full report from the Electoral Commission in September will delve into the demographic differences in public attitudes, which is crucial for understanding variations in public confidence related to voter ID among different groups, given the absence of a consensus.

Moreover, since electoral fraud is often not directly experienced by individuals, the news media can hold significant influence in shaping public confidence in the electoral system and

¹⁹ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/public-attitudes>

²⁰ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/voter-id-may-2023-local-elections-england-interim-analysis>

²¹ Stewart III, C., Ansolabehere, S., & Persily, N. (2016). Revisiting public opinion on voter identification and voter fraud in an era of increasing partisan polarization. *Stan. L. Rev.*, 68, 1455.

perceptions of fraud. Studies conducted in the US using surveys and experiments have demonstrated the media's crucial role in shaping confidence in the electoral system and perceptions of voter fraud.²² This may also provide an explanation for the sudden increase in confidence observed in 2021. The Electoral Commission suggests two possible reasons for this phenomenon: the limited media coverage on election fraud in 2020 and the widely discredited claims of widespread voter fraud made by Donald Trump during the 2020 US presidential election.

This further underscores the significant limitations of justifying policies as a means of shifting public opinion/views, without disaggregating them and considering factors that may contribute to forming these, such as party preferences, and the influence of policy changes, media, and politicians.

Despite public confidence in the electoral system being high and electoral fraud not being a major concern, a majority of the British public view voter ID requirements as the most effective means of preventing electoral fraud, despite the fact that voter fraud by impersonation is the least common form of fraud in the UK with the majority (64%) of reported cases of electoral fraud related to campaigning offenses. This raises questions about the justification of voter ID and the conflation of different types of fraud under the term "electoral fraud."

In my analysis of parliamentary debates, I found that Conservative MPs categorised voter fraud by impersonation under the broader umbrella of electoral fraud. This allowed them to reference fraud cases unrelated to the fraud that the proposed law aimed to prevent, such as the Tower Hamlets electoral fraud scandal. Voter fraud by impersonation is a very specific and uncommon type of fraud, distinct from the broader category of electoral fraud that encompasses various forms of misconduct. By justifying voter ID as a solution to "electoral fraud," it creates the misconception that implementing an ID law can effectively address all issues related to the electoral process. This narrative may explain why the public perceives voter ID as the most effective measure to counter fraud, even though its impact on addressing the broader issue of electoral fraud is minimal.²³

While research on public attitudes towards voter ID in the UK is still needed, studies in the US indicate that support for voter ID is partly influenced by party cues transmitted through the media. Surprisingly, there is cross-party support for voter ID among the American public, even among Democrats who are less likely to believe in widespread voter fraud. Examining news coverage in the US revealed that Donald Trump's false claims of voter fraud

²² Udani, A., Kimball, D. C., & Fogarty, B. (2018). How local media coverage of voter fraud influences partisan perceptions in the United States. *State Politics & Policy Quarterly*, 18(2), 193-210.

²³ <https://www.eupublishing.com/doi/abs/10.3366/elr.2021.0720>

dominated discussions on voter ID in left-leaning media, leading to confusion among some Democrats about their party's stance.²⁴

In political debates, Conservative MPs not only cite low public confidence in the system but also public support for voter ID to justify its implementation, claiming 'most voters regard this [measure] as a reasonable and sensible step' (Chloe Smith, Conservative MP, 27 June 2018). However, relying on public opinion and support alone, rather than factual evidence of voter impersonation (the only type of fraud that voter ID can prevent), raises questions about whether policy congruence justifies the requirement. The influence of news coverage and politicians' discourse on public opinion and perceptions of electoral fraud remains unexplored in the British context, highlighting the need for further investigation.

²⁴ Conover, P. J., & Miller, P. R. (2018). How Republicans Won on VIdentification Laws: The Roles of Strategic Reasoning and Moral Conviction. *Social Science Quarterly*, 99(2), 490-511

Re: APPGDC Inquiry into UK Elections in the Light of the Elections Act 2022

Q: To what extent (if at all) have voter ID requirements impacted (or are likely to impact) on people's right/ability to vote? If so, how?

- [1] The theoretical starting point is that international evidence suggests that over the long term, requirements for identification may have little impact on turnout.¹ Such evidence also suggests that where turnout is depressed, voter identification requirements *per se* may account for only part of the blame; some discouragement of voting occurs by confusion created by the new rules, with voters possessing eligible ID avoiding voting due to being unsure of the requirements.²
- [2] However, there are reasons to worry that these confusion effects may be more persistent than a generic set of identification rules. This is because the list of acceptable identifications is difficult to summarise or explain clearly and concisely. This means that at polling time—the only time when an ordinary elector is ever likely to research legal requirements for voting, a voter reading up on the requirements will face such a high degree of confusion that she may not consider it worth the effort to resolve the confusion (and her friends and neighbours cannot help her either, as they too are confused).
- [3] This is as much a matter of presentation and communication as it is of the substantive requirements. HM Government's website for voters simply lists 20 forms of voter identification, a long list of documents which is not organised or easily remembered.³ Canada, by contrast, provides in clear graphic format (including downloadable posters in numerous languages spoken by Canadians), dividing

¹ See, eg, B Highton, 'Voter Identification Laws and Turnout in the United States' (2017) 20 Ann Rev Pol Sci 149

² See, eg, G Orr & T Arklay, 'Rethinking voter identification: its rationale and impact' (2016) 51 Aus J Pol Sci 386, 396; M G DeCrescenzo & K R Mayer, 'Voter Identification and Nonvoting in Wisconsin—Evidence from the 2016 Election' (2019) 18 Election LJ 342, 355–6

³ HM Government, 'How to Vote' (undated) <https://www.gov.uk/how-to-vote/photo-id-youll-need> (accessed 2 July 2023)

information into three clear steps. The full long list of identification is there as with the UK example, but it's put below the clear graphic to explain and organise that information.⁴

- [4] The absence of such a clear guide is, in one part, an easily solvable failure of resources. HM Government are plainly capable of using either an in-house or external publicity specialist to create educational materials to inform electors. However, there is a structural difficulty with this. Canada's list can be reduced into a series of three discrete categories because Canada's list of acceptable identification can be expressed as categories. Canada's category 2 accepts any two official documents with the voter's name or address and then gives a wide construction to 'official documents' (producing a very long list of potential ways to identify oneself). By contrast, the UK list of acceptable documents to vote is nearly impossible to express without actually literally listing every single acceptable one. It reads as arbitrary in what is included and what is not included, and thus is likely to exacerbate confusion and be difficult to remember.
- [5] This absence of a principled organising scheme for the list of documents is indicative of a general problem with the electoral law, which reads more like a varied palimpsest of different amendments and historical quirks rather than a clear framework for elections. The choice of what principles should underly the selection of types of voter identification is one for Parliament to make, but it should make *a* choice rather than simply allow a mess of identification types to become electors' problem. The spectrum of possible organising principles ranges includes between two possible extremes of strictness and laxity (passports or driving licences only and no ID, respectively) a number of reasonable compromises on acceptable forms of identification. Any one of these would be better than having to try to explain why

⁴ Elections Canada, 'ID to Vote' (undated)
<https://www.elections.ca/content.aspx?section=vot&dir=ids&document=index&lang=e> (accessed 2 July 2023)

only some transit photocards count, but not others, let alone trying to remember *which* particular transit photocards of those matter.

[6] This is worsened by the fact that the ‘Voter Authority Certificate’ name chosen for the fallback identity document in Great Britain is misleading, since ‘Certificate’ does not sound, to lay ears, like an identity document (which brings to mind driving licences, passports, photocards, and so on). Indeed, the word ‘Identification’ does not appear in the document’s name; instead, the word ‘Authority’ (which sounds like a local council rather than an individual) is used. The actual statutory language of ‘Electoral Identity Document’ was clearer. Furthermore, the fact that the legal name for the category of document used in the relevant regulations is distinct to the name used on the application is liable to make any elector trying to research this matter even more confused.

[7] Thus, by reducing confusion effects, HM Government can reduce any turnout effects we might expect from voter ID to merely the (in the long term) relatively modest ‘direct effects’,⁵ that is, people turned away because they actually do not have the required identification.

Q: How, if at all, has the Act impacted, or is likely to impact, public confidence In the UK electoral system?

[8] The UK electoral system attracts confidence of its perceived longevity, simplicity, and clarity. These are perceived qualities—much of the electoral system is new, complex, and confusing—but have some truth behind them. There was confidence to be derived from the simple fact that all an elector needed to do to cast her vote was to show up to the indicated polling station. The policy premise of the Act (and

⁵ See DeCrescenzo & Mayer (n 2) for discussion of this terminology

previous legislation with regards to Northern Ireland)⁶ was that this aspect of the system was a barrier to confidence, by creating a perceived risk of electoral fraud.

[9] The Act's goal of reducing this negative perception may or may not be successful, but, in any case, risks being overshadowed by confusion and decreased understanding resulting from the lack of organisation around voter identification. It is worth recalling that voting is already considered by scholars of politics to be irrational *per se*, in the literal sense that the cost of voting in time and effort outweighs the likelihood any single vote will have any influence on an election. Instead, voters are incentivised to vote by social factors.⁷ If the cost of voting, as measured by the cost in time of having to learn the new electoral rules, is perceived to be high, it could tip the delicate balance that drives voting. Since voting behaviour is a social phenomenon, social annoyance at new voting rules could rapidly spread in informal networks of electors,⁸ and result in diminished confidence in the social impact and utility of collective voting.

[10] The arbitrary nature (or apparent nature) of the list of documents may also give rise to diminished confidence in the electoral system by the impression (true or false) that the list of documents favours a particular demographic (such as the elderly). As no one can offer a clear rationale for the inclusion or exclusion of types of documents from the seemingly random list, these suspicions—regardless of whether they are actually based in any reality—become difficult to refute. A clearer reason for why certain documents are required would assuage these perceived concerns.

Do you think the Act requires reform? If so, how?

⁶ Electoral Fraud (Northern Ireland Act) 2002

⁷ See, eg, S Abrams, T Iversen & D Soskice, 'Informal Social Networks and Rational Voting' (2011) 41 Brit J Pol Sci 229

⁸ See *ibid*

[11] Assuming that Parliament continues to desire that voter identification be required in Great Britain, then the amendments to Rule 37 of the Representation of the People Act 1983 ought to be looked at from scratch. Rather than a seemingly arbitrary list of documents, the starting point should be *categories* of documents, like the Canadian example, which can be easily and clearly explained. The shape of these criteria is a matter for the judgment of Parliament as it decides how strict verification should be, but, whichever direction Parliament chooses, the starting point must be to imagine the requirements as a simple poster that can be easily translated to everything from Polish to Punjabi. Sloganeering is not a matter to be reserved simply to candidates. Election law which directly effects electors should be able to be communicated by the Electoral Commission and electoral officers in clear, easy terms to ordinary people. With that in mind, finding a better, clearer name for the Voter Authority Certificate is helpful. The actual name in the Act and in the Regulations (Electoral Identity Document) is clearer, and it is obscurantist and misleading to have two names for the document. If the name Electoral Identity Document is unsuitable, then some other clear name with 'Identity' or 'Identification' in it would be more helpful.

[12] This is not a matter of nitpicking about nomenclature and messaging. If electors are to have confidence in the electoral system, it is necessary that the State can demonstrate it runs elections in a neutral manner according to the desires of Parliament and ultimately the electors. When the Act and Regulations (themselves amending the already very confusing 1983 Act and associated instruments) are drafted so as to seem like a disorganised, unconnected list, voters may become cynical and infer (justly or not) that the list of documents is a political game being played with democracy. When a voter looks to find where the statutory authority for the Voter Authority Certificate is, she may well become confused by the fact that this does not appear in the Regulations or the Act. Given, as noted above, that voting behaviour is a social phenomenon, even small ripples of distrust across informal

networks of voters can have larger societal consequences. The watchwords in reform must be: clarity and simplicity.

ELIJAH GRANET
City, University of London
Contributing Writer,
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3 July 2023
[All responses in a strictly personal capacity and do not reflect the views of the Society or anyone other than the author]

**Written Evidence to the
APPGDC Inquiry into UK Elections in Light of the Elections Act 2022.**

Professor Toby S. James

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31 July 2023

1. I am the co-Director of the Electoral Integrity Project. The Electoral Integrity Project is a world leading project which produces innovative and policy-relevant research comparing elections worldwide. My individual research expertise focusses democratic quality, electoral integrity and policy. I am giving evidence in a personal capacity in response to the committee's call for evidence.
2. This is a welcome and timely inquiry on one of the most significant set of reforms to elections since the UK became a democracy. At the same time, the inquiry can also only record a provisional assessment about the impact of the Elections Act for two reasons. Firstly, the main focus of the inquiry is on the impact of voter identification requirements. It is important to assess the impact that they have had on the May 2023 local elections since this was the first time that the requirements were enforce across all relevant elections. That said, the impact will be much more significant at a UK general election. Secondly, the Elections Act 2022 covers a huge range of changes to elections. The introduction of compulsory photographic requirements are the most visual media-grabbing change that has been made. But there are also changes to areas including the eligibility for postal voting and the electoral franchise. These have not yet come into full effect but will place significant pressure on electoral administrators in the coming months. The committee should therefore revisit the impact of the Act again in the future.

The overall evaluation of UK elections

3. It is important to put the quality of UK elections into perspective. The Electoral Integrity Project collects and publishes data on the quality of national elections held around the world. The Perceptions of Electoral Integrity Index dataset is based on a survey of academic experts and provides a useful overview of the areas of the electoral cycle where there are strengths and weaknesses.¹ Figure 1 provides a radar of the comparative strengths and weaknesses of UK elections across different parts of the electoral process. Data is based on the 2019 general election.
4. The data presented in Figure 1 suggests that the most significant problems with electoral laws: the electoral system and drawing of boundaries are unfair to smaller parties. Problems with

¹ For data, please see: <https://www.electoralintegrityproject.com/data-1>

eligible citizens not appearing on the electoral register are also a weak spot. Problems the role of money in elections is also problematic – as it is around the world.

- By contrast the PEI suggests that the electoral authorities perform very well in the UK. Responses suggest the counting process, the announcement of results and security of ballot boxes, and the professionalisation of electoral officials are all areas of strength.

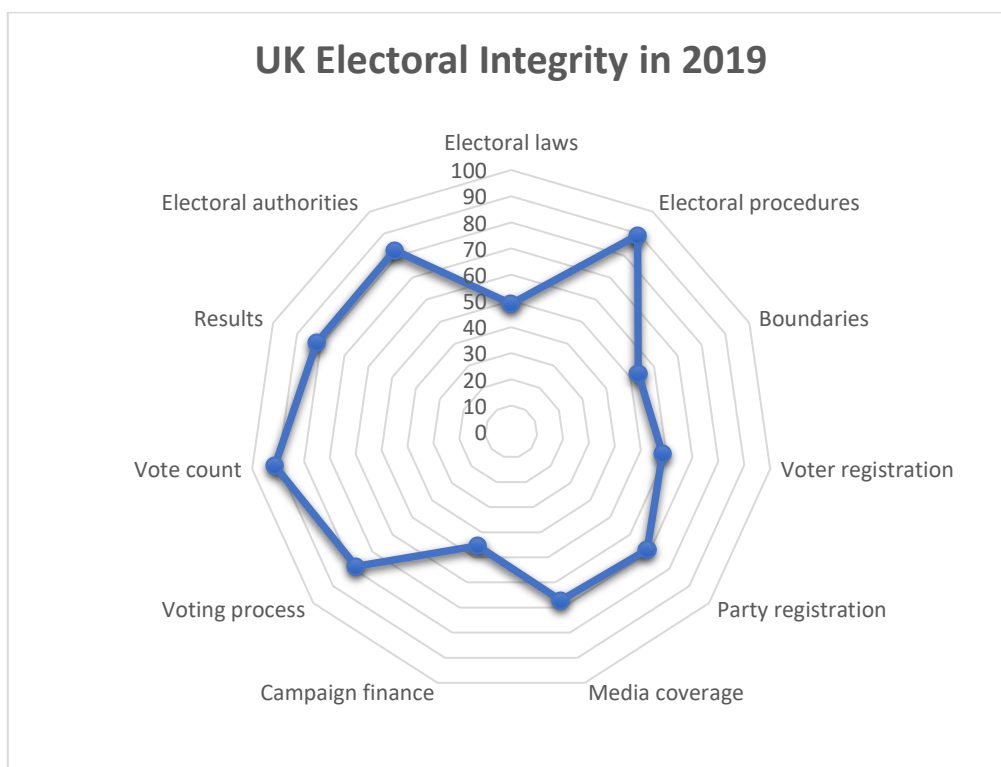


Figure 1: UK Electoral Integrity in 2019. Source: author, based on data in Garnett, James, MacGregor and Caal-Laam 2023.²

The impact of voter ID requirements on participation

- The Elections Act introduced compulsory photographic identification requirements for many elections across the UK. Prior to the Elections Act, voter identification requirements had already been piloted in the UK. We assessed the voter-id related problems that occurred in polling stations at the 2018 and 2019 local elections in England, based on a survey of poll workers.³ We also ran a survey of poll workers at the 2023 local elections.⁴ In both cases, the survey was distributed by the Electoral Commission. The sample was therefore self-selective. Table 1 summarises the results relating to the effects of voter identification on participation.

² Holly Ann Garnett, Toby S. James, Madison MacGregor, & Sofia Caal-Lam. 2023. [Electoral Integrity Global Report 2023](#).

³ Toby S. James & Alistair Clark (2020) 'Electoral integrity, voter fraud and voter ID in polling stations: lessons from English local elections', *Policy Studies*, 41:2-3, 190-209.

⁴ Toby S. James & Alistair Clark (2023) 'The effects of Voter ID on electoral participation and integrity: lessons from Britain', Electoral Integrity Project Annual Conference, July 3-7 2023. <https://www.electoralintegrityproject.com/ieip2023>.

It also includes data on the number of occasions that poll workers encountered a case of suspected personation.

7. Column A shows that the suspected cases of personation were exceptionally low. This is also in line with previous studies that we have undertaken.⁵ In fact, by comparing our poll worker studies undertaken between 2015-2023, it seems that introducing voter identification did reduce not the number of suspected cases of personation. This is probably because there were so few cases in the first instance. This provides some evidence that voter identification is not necessary at all.
8. Column B shows that introducing voter identification requirements leads to some electors not voting, who otherwise would have done so. The proportion of poll workers encountering electors who could not vote because of voter identification issues increased between the pilots and 2023 elections. In 2023, over 70% of poll workers turned away at least one elector because they did not have the appropriate form of identification. In most cases, only a few electors seem to be affected. However, 1.9 percent of poll workers reported turning away between 11-100 electors in the polling station.
9. Column C show that some electors did not vote because they did not want to comply with the ID verification requirement. These electors may have had the necessary form of identification. However, they refused to present this, perhaps for ideological reasons. The proportions involved seems very consistent across the pilots and May 2023 elections.

	<i>Column A</i>		<i>Column B</i>		<i>Column C</i>	
	Suspected cases of personation⁶		People being turned away because they did not have the appropriate identification		People coming to the polling station but deciding not to vote as they did not want to comply with the ID verification requirement	
%	<i>Pilots</i>	<i>2023</i>	<i>Pilots</i>	<i>2023</i>	<i>Pilots</i>	<i>2023</i>
None	99.3	99.2	47.6	29.5	76.7	84.6
1	0.6	0.7	22.2	29.5	18.6	11.3
2-5	0.1	0.1	24.5	35.4	3.7	3.6
6-10	0.0	0.0	4.3	3.6	0.8	0.4
10+	0.0	0.0	1.3	1.9	0.2	0.2

Table 1: Frequencies of personation and cases of citizens not being able to vote because of voter ID. Percentage of all responses shown.

Vouching as the solution

10. The voter identification requirements should be changed ahead of the general election otherwise many people will not vote because of the over-burdensome requirements. One way to achieve this is to extend the range of forms of voter identification which are accepted.

⁵ Alistair Clark and Toby S. James (2017) '[Poll Workers](#)' in Pippa Norris and Alesandro Nai (eds), *Watchdog Elections: Transparency, Accountability, Compliance and Integrity*. Oxford and New York: Oxford University Press.

⁶ The question wording in 2018 and 2019 was 'suspected cases of electoral fraud'.

The UK has taken a rather extreme approach in requiring *photographic* identification, when many other countries simply require non-photographic identification.

11. An alternative approach is to allow ‘vouching’. Elections in Canada have commonly used a ‘vouching system.’ Voter identification is required, but if a citizen does not have their identification available then they can still vote if they declare their identity and address in writing and have someone who knows them (and who is assigned to their polling station) vouch for them. The person who vouches for the citizen is required to provide their identity and address and can only vouch for one other person.⁷ This was previously repealed in Canada but reinstated. This would be a simple and effective way of preventing citizens who do not have voter identification on the day still being able to vote but retains security the measures.⁸

Voter registration issues persist

12. The main focus of the media attention around the 2023 elections was voter identification. However, voter registration is a greater problem. The latest estimates from the Electoral Commission were that there was between 8.3 and 9.4 million people in Great Britain who were eligible to be on the local government registers but who were not correctly registered on the December 2018 registers.⁹ A similar number will be missing from the parliamentary register. A recent report commissioned by the Joseph Rowntree Reform Trust on automatic voter registration set out measures that could introduce this long-term accuracy.¹⁰ These include:

- The automatic registration of citizens when they receive their National Insurance Number ahead of their 16th birthday
- Providing citizens opportunities to register to vote when they access other government service – such as the DVLA, Universal Credit or the Student Loan Company.

13. More recent research shows that automatic voter registration increases the completeness of electoral registers and also improves accuracy.¹¹

14. We also included questions in our 2023 poll worker study on the frequency by which citizens are turned away from polling stations because their name is not on the electoral register. Over half of poll worker encountered people wanting to vote but who could not because their name was not on the electoral register (Table 2).

⁷ <https://www.elections.ca/content2.aspx?section=id&document=index&lang=e>. Also See: Toby S. James (2020) *Comparative Electoral Management* (London and New York: Routledge).

⁸ Toby S. James ‘A Bipartisan Compromise On Voter Identification Is Needed In The Uk. Canada Has A Blueprint’, Political Studies Association Blog, <https://www.psa.ac.uk/psa/news/bipartisan-compromise-voter-identification-needed-uk-canada-has-blueprint>, 13 October 2021.

⁹ <https://www.electoralcommission.org.uk/who-we-are-and-what-we-do/our-views-and-research/our-research/accuracy-and-completeness-electoral-registers/2019-report-2018-electoral-registers-great-britain/completeness-great-britain>

¹⁰ https://www.jrrt.org.uk/wp-content/uploads/2020/04/Is_it_time_for_AVR_in_the_UK.pdf

¹¹ Toby S. James and Holly Ann Garnett (2023) (2023) ‘[The determinants of electoral register quality: a cross-national analysis](#)’ Representation,

%	People asking to vote, who were not on the electoral register
None	47.7
1	25.9
2-5	23.5
6-10	1.8
11-100	1.0
More than 100	0.0

Table 2: Responses from the 2023 poll worker study. Percentage of all responses shown.

The Role of the Electoral Commission

15. Independent electoral authorities are essential components of democracy and this is widely established in international best practices and by academic research. Independence from the government of the day is important because it prevents an incumbent changing laws or practices to suit their political interests. It can also strengthen public trust in the political process. Just as the judiciary should be independent, electoral officials should be non-partisan.¹²
16. The Elections Act 2023 weakened the Electoral Commission's independence. It gives the government greater power by allowing it to designate a Strategy and Policy Statement. It gives Parliament (but in practice government, assuming that it has a majority) the power to examine the Electoral Commission's compliance with this.
17. This is therefore a direct violation of international best practices because it is giving the government and future governments greater control over the conduct of elections - the process through which citizens are enabled to hold government to account. This part of the Act should be repealed at the next opportunity.

Overseas voting

18. The Act abolished the 15-year limitation on eligible British citizens living overseas to be registered to vote in relevant elections in the UK. The existing practice for overseas electors casting their vote is already problematic. This relies on overseas electors being sent their vote via the international post, and the elector being able to return it in time for the count. An evaluation of the EU Referendum showed that this was not possible within the narrow electoral timetable. Electoral officials reported many instances of voters receiving their ballot too late to be returned.¹³ The Act will substantially increase the number of electors living overseas who are eligible. The case for a mix of telephone/internet voting should therefore be considered in the long term.

Consolidating electoral law

¹² Toby S. James (2020) *Comparative Electoral Management* (London and New York: Routledge)

¹³ Alistair Clark and Toby S. James (2016) 'An Evaluation of Electoral Administration at the EU Referendum,' Electoral Commission, September 2016.

19. Complex electoral law makes elections difficult to administer and adds to the risk that errors might be made.¹⁴ Parliamentary Committee have recognised and stressed the importance of legal consolidation.¹⁵ The Elections Act has added another layer of legislation which has added to the complexity of electoral law. The government should therefore pursue the long-overdue consolidation of electoral law.

20. It is therefore recommended that the Committee proposes:

- Changing voter identification laws to enable vouching
- Introducing elements of automatic voter registration
- Abolishing the ability of a government to set a Policy Statement for the Electoral Commission
- Consider ways that would enable overseas electors to cast their vote in time
- Press the case for further financial support for electoral officials
- Promote the case for the consolidation of electoral law
- Promote the case for a wider review of electoral practices – such as the electoral system and campaign finance.

¹⁴ Toby S. James (2014) 'Electoral Management in Britain' in Pippa Norris, Richard Frank and Ferran Martinez I Coma (eds) *Advancing Electoral Integrity* (New York: Oxford University Press).

¹⁵ House of Commons Public Administration and Constitutional Affairs Committee *Electoral law: The Urgent Need for Review: Government Response to the Committee's First Report of Session 2019*.

APPENDIX 4
Summary of desk research

Voter ID and Local Elections 2023 Research

Before the elections

- [1 in 4 voters reportedly believed](#) that they did not need ID to vote in the month before the election.
- There were [reports of misinformation](#) about ID requirements. For example, Lara Parizotto from Migrant Democracy Project, an voter ID “added a layer of change and complexity in understanding who can vote and how to vote”.
- The government’s own [research suggested that](#) around 2 million voters in the UK may have lacked the photographic ID needed to cast a vote under these rules – many of whom are already among society’s most marginalised. Fewer than 90,000 of the up to 2 million people without appropriate ID applied for a voter authority certificate.
- A public awareness and campaign [was launched](#) by the Electoral Commission in January 2023. It ran through to local elections in May 2023 (in England) and informed voters of the need to bring photo ID to polling stations and the availability of a new free type of voter ID for those without any other photo ID. The Government allocated £4.75 million of additional funding to all local authorities with local elections in May 2023 to support communications about voter ID. (NB – so the Electoral Commission is essentially marking its own homework in determining how successful Voter ID was in last elections!)

Election results

- Council elections were held in 230 of England’s 317 councils.
- See [table of results](#) compared to 2019.
- House of Commons [general analysis](#) of the local elections results (there was a specific H of C report on Voter ID during the elections listed below).

Evidence of people being turned away during Local Elections

- The [BBC reported](#) that Information **from 160 of 230 councils** where polls were held this year shows 26,165 voters were initially denied ballot papers at polling stations. Of these, 16,588 people came back with valid ID, whilst 9,577 did not return.
- On the basis of [preliminary data](#) of **31 councils** for which BBC political research lead, David Cowling collated - an average of 0.6% of voters at the locals were turned away, with 37% not returning, equating to 0.27% overall.

- In relation to the same data collected by Cowling, a total of 16,201 voters **across 53 council areas** were turned away, and 6,036 voters didn't return.
 - Applied to [#GE2019](#) that'd be 64,000 voters plus those put off from trying at all.
 - Manchester, Sandwell and Walsall reported the highest figures being turned away - 1649, 1135 and 797 respectively - due to issues with ID. Sandwell had the highest no of voters turned away for lack of ID - 2.1% of voters.
 - 84% of the 232 voters did not return in Dudley

Other data reports

- Democracy Volunteers discussed a problem of greeters being misleading with voters about ID requirements - *Throughout our observations, our teams saw a number of voters being turned away from voting by both political party tellers and 'meeters and greeters', in some cases incorrectly. Party tellers should not be asking voters about their ID. Questions such as 'Do you have a passport' are misleading and can make voters believe they don't have the correct ID, even if they do have a different suitable form of ID, such as a driving licence. Thus, they may leave the polling station without reaching the Presiding Officers' desk.* The [Democracy Volunteer's report](#) stated that 3% of voters they observed were turned away before properly entering the station by meeters and greeters (see page 20 of report at the bottom of the webpage).
- [Omnisis polling for Byline Times](#) suggested the recent rules may have put off up to two million people from voting
- [BBC "snapshot"](#) on impact of Voter ID Requirements in East England (21/05/23)
- [Byline Times found 6 out of 150 people](#) they surveyed had been turned away due to new ID requirements
- Over three hours at two polling stations in an area of Nottingham, [Sky News spoke to 10](#) people who were turned away (includes video interviews with people turned away).
- [Nearly 1,000 Tyne and Wear voters](#) were turned away from polling stations for having no photo ID.

Potential discriminatory impact of the ID requirements

- Some voters who are transgender or have transgender partners [reported not being able to vote](#) because their documents did not match their new name, having had difficulty applying for the government-issued voter ID certificate.
- [Clinically vulnerable people reported difficulties](#) due to rules that say voters must remove any face coverings so staff can check their identity, with at least one voter being turned away - ['I was denied my right': voter ID rules a barrier for some in England | Local elections 2023 | The Guardian](#)

- More than 1% of voters, half of whom appeared to be from minority ethnic backgrounds, were turned away from polling stations because of ID requirements at the local elections, [according to Democracy Volunteers](#).
- [Democracy Volunteers also reported that on several occasions](#), their observers identified voters who were actually turned away despite having valid ID – this was particularly the case for IDs from Commonwealth countries – such as Pakistan and Bangladesh (see page 28 of report).
- [Democracy Volunteers reported inadequacy](#) of areas provided to voters who needed to remove face/head coverings to have their identity checked - “these were often not fully private, and individuals could be seen by other voters and observers. Even where infrastructure did seem suitable, it was sometimes placed in inappropriate areas, such as next to an external window or large mirror” (see page 26 of the report).

Commentary and Reaction to Local Elections 2023:

- Jess Garland wrote [this opinion](#) for the Guardian on 08/05/2023 entitled ‘The hidden story of England’s local elections was voter ID - a new threat to democracy
- Electoral Commission [statement on evening of election](#):

“These were the first set of polls to take place since the voter ID requirement came into force. Our initial assessment is that overall, the elections were well run. Across the country, votes were cast throughout the day and in line with the law. This is in large part thanks to the dedication of electoral administrators, who have worked hard to prepare for today and for the implementation of this new measure.

“Confidence in the overall picture, however, should not overlook other impacts which can only be revealed through detailed data collection and analysis over the coming weeks. We already know from our research that the ID requirement posed a greater challenge for some groups in society, and that some people were regrettably unable to vote today as a result. It will be essential to understand the extent of this impact, and the reasons behind it, before a final view can be taken on how the policy has worked in practice and what can be learnt for future elections.

“The Commission has already started this work. We are collecting data from polling stations about the numbers turned away and returning, and carrying out national public opinion research to collect data about voters’ experiences. Given the fundamental role played by electoral administrators, it will also be vital that we hear from them about their experiences of the day, as well as other participants in the elections, including candidates.”

- **Parliamentary Report on the Local Elections and Voter ID** - House of Commons [briefing on voter ID](#) in the local elections

Headline points:

- The Electoral Commission will be publishing numbers on turnout initially in June then full report in September.
 - While there have been concerns expressed regarding the completeness of the Commission numbers, the Commission has stated it will take into account the feedback from a range of organisations (official response below).
 - The Government is expected to publish an analysis in November.
- [Welsh First Minister comments that voter ID will not be used](#) in Senedd and Welsh council elections after evidence of people being turned away reported 9 May 2023.
 - On 15 May 2023, [Jacob Rees-Mogg tells the audience](#) at the national conservatism conference that "Parties that try and gerrymander end up finding their clever scheme comes back to bite them, as dare I say we found by insisting on voter ID for elections...We found the people who didn't have ID were elderly and they by and large voted Conservative, so we made it hard for our own voters and we upset a system that worked perfectly well."
 - In response to these comments, on 16 May 2023, Dawn Butler MP [called for a parliamentary inquiry in the House of Commons](#) and wrote to the Parliamentary Standards Commissioner - apparently there was a problem with Dawn Butler bringing it up in the house at the same time as reporting it to the Parliamentary Standards Commissioner
 - On 23 May 2023, [the Byline Times reported](#) that the Parliamentary Standards Commissioner will not be looking into this
 - On 20 May 2024, [Rishi Sunak reported to have confirmed](#) he is comfortable with the election rules after being asked about Rees-Mogg's comments
 - On 23 May 2023, a [Ministerial Statement](#) introduces the new draft SI, ["The Representation of the People \(Postal and Proxy Voting etc.\) \(Amendment\) Regulations 2023"](#), which introduces ID requirements in relation to postal and proxy voting and will make people reapply every three years (obviously before there is any firm data on the impact of the requirements in the 2023 elections). On 24 May 2023, the Guardian [reported](#) that Age UK has spoken out against the SI.

NB: Good Law Project is currently [fundraising](#) to challenge the rules introduced under the Elections Act 2022

Concerns raised regarding the Electoral Commission numbers:

- On 27 April 2023, Clive Betts MP (Labour) [raised the following concerns](#) regarding the numbers being collected by the Electoral Commission:

“The problem is that this week the Electoral Commission said something very different. It said that when meeter-greeters turn someone away who does not have the voter ID that they should have, those numbers will not be counted. I have a simple question for the Minister: is it the Government’s intention that that information will be collected, so the total number of people who attend a polling station but are denied a vote because they do not have the requisite ID will be counted?”

- On 2 May 2023, the Electoral Commission [published a response](#), which included the following:

How can the Electoral Commission be confident in their assessment of the roll-out of voter ID, if an accurate number of people turned away will not be known?

*Data collected at polling stations will be a significant part of the evidence needed to understand the impact of the policy – including the specific reasons why people have not been given a ballot paper, where this is the case. **We will also aim to make an assessment of the impact of greeters by collecting this data separately from polling stations with and without greeters.** This may allow us to take a view on the impact of greeters on the data captured at the desk. **However, it would not be possible to accurately quantify the wider impact of the policy from a single source of data: greeters are only one factor which may deter an elector on polling day from getting to the polling station itself.** Our post-election public opinion survey is an effective method for assessing this wider impact. For example, in our evaluation of the UK Government’s 2019 pilots the data collected from polling stations indicated that, across the different pilot areas, between 0.03-0.7% of those who tried to vote in a polling station were unable to do so. Our public opinion survey following the pilots suggested a larger impact, with 2% of those who did not vote telling us it was related to the ID requirement (either because they didn’t have the right ID or disagreed with the requirement).*

- On 11 May 2023, the [Byline Times reported that Julian Harrow voting in Southampton reflected concern](#) that people turned away by greeters outside the polling station would not be counted – as indeed the Electoral Commission confirmed. “There appeared to be no method of counting people who were turned away by the greeter and never returned.

Democracy Volunteers Report on the Local Elections

Democracy Volunteers deployed more than 150 observers, and support team, of the 376 Democracy Volunteers observers accredited with the UK’s Electoral Commission. The organisation deployed across 118 of the 230 councils holding elections in England. These observers generally formed teams

of two (sometimes three), and attended 879 polling stations, across all the regions of England. No elections were being held in Northern Ireland, Scotland, or Wales on May 4th. These observers spent between 30 and 45 minutes at each polling venue observing the process and then completed one survey for each polling station. The report can be read [here](#).



	<p>[REDACTED]</p>	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	<p>[REDACTED]</p>	
<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	<p>[REDACTED]</p>	
	<p>[REDACTED]</p>	<p>[REDACTED]</p>	
<p>[REDACTED]</p>	<p>[REDACTED]</p>	<p>[REDACTED]</p>	

[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]

[REDACTED]

Academic analysis of what counts as a “free and fair” election

Jorgen Elklit and Palle Svensson, “What Makes Elections Free and Fair?” (1997) *Journal of Democracy* 8 (3). [https://pure.au.dk/ws/files/104117297/Elklit Svensson 8 3 1997 32 46.pdf](https://pure.au.dk/ws/files/104117297/Elklit_Svensson_8_3_1997_32_46.pdf)

Sylvia Bishop and Anke Hoeffler, “Free and fair elections: A new database” (2016) *Journal of Peace Research* <https://journals.sagepub.com/doi/10.1177/0022343316642508>

[Who benefits from voter identification laws? \(2023\)](#)

The paper examines how voter ID impacts the parties' electoral fortunes in races at the state level (state legislatures and governorships) and federal level (United States Congress and president) during 2003 to 2020. The results suggest negligible average effects but with some heterogeneity over time. The first laws implemented produced a Democratic advantage, which weakened to near zero after 2012. We conclude that voter ID requirements motivate and mobilize supporters of both parties, ultimately mitigating their anticipated effects on election results.

[“An Assault on Democracy”: The Effect of Voter ID Laws on Immigrant-Serving Organisations \(2022\)](#)

Yazdiha and Blanca Ramirez examine how immigrant-serving organizations in five Southern states recalibrated their resources to help immigrants vote. Focusing on Alabama, they investigate five shifts these immigrant-serving organizations have made to address the impact of voter ID laws, which, the authors argue, shows how these restrictive laws can lead to new forms of organizing and resistance

[A disproportionate burden: strict voter identification laws and minority turnout \(2020\)](#)

This paper offers a more rigorous test of these laws by focusing on more recent elections, by relying on official turnout data rather than surveys, and by employing a more sophisticated research design that assesses change over time using a difference-in-difference approach. The analysis uses aggregate county turnout data from 2012 to 2016 and finds that the gap in turnout between more racially diverse and less racially diverse counties grew more in states enacting new strict photo ID laws than it did elsewhere. This analysis provides additional empirical evidence that strict voter ID laws appear to discriminate.

[Jennifer Darrah-Okike, Nathalie Rita and John R Logan, “The Suppressive Impacts of Voter Identification Requirements” \(2021\) Sociological Perspectives Volume 64](#)

*Analysing nationally representative data from the Current Population Survey across nine election years, the authors show that voter ID policies, and especially “strict photo ID policies,” have a suppressive effect on participation. **Voter ID requirements can reduce the probability of self-reported voting by as much as four percentage points**, enough to swing a national election. While we found suppressive effects of ID policies for all racial groups, we show that Latino citizens face disproportionately negative suppressive effects of strict ID policies.*

[How Voter ID Laws Threaten Transgender Voters \(2020\)– Short Analysis by the Brennan Centre for Justice](#)

[The Potential Impact of Voter Identification Laws on Transgender Votes in the 2020 General Election \(2020\)](#)

The Williams Institute, an LGBTQ research hub at the University of California Los Angeles, has estimated that 260,000 transgender people who live in the 35 states with voter ID laws did not have a form of ID that accurately reflected their name and/or gender identity to use in the 2020 general election. This number represents more than one quarter of the transgender adult population eligible to vote in the 2020 general election.

[The Politics of Race and Voter ID Laws in the States: The Return of Jim Crow? \(2014\)](#)

Does partisan and racial context have an effect on the likelihood that states will adopt stringent requirements for voting? Our duration analysis shows that Republican governments increase the likelihood that a new law requiring citizens to have a photo ID to vote will be passed. This effect is weakened by minority group size. We then examine whether the adoption of voter ID regulations affects turnout across racial groups. Our analysis, using state-level data and the Current Population Survey (CPS) November Supplement File (NSF) for 1980 to 2010, offers little evidence for the belief that minority turnout is uniquely affected by voter ID regulations.

APPENDIX 5
Advice provided by Philip Coppel KC

OVERVIEW

Introduction

1. The All Party Parliamentary Group on Democracy and the Constitution (“APPGDC”) is conducting an inquiry into the impact of the *Elections Act 2022* — specifically the voter ID requirements that it introduced. These have now been extended to local elections: see the [Voter Identification \(Principal Area, Parish and Greater London Authority Elections\) \(Amendment\) Rules 2022/1397](#). I am asked to give an overview on comparative practice as regards voter ID in order to inform the APPGDC’s discussions.
2. By way of background, I am a barrister who has practised extensively in election law for over 20 years. I have appeared in a number of the more significant election trials over that period, including the two Birmingham postal ballot trials.¹ I have written the elections law volume for the last three editions *Atkins Court Forms*. I have a considerable knowledge of and a long-standing interest in the law governing the conduct of elections in the UK.
3. In this Overview:
 - (1) I summarise the background to the introduction of voter ID in England and Wales.
 - (2) I give a short description of the new provisions in the electoral system of England so far as they related to voter ID.
 - (3) I identify the principal vulnerabilities to the integrity of the UK electoral system as regards each registered elector having his or her right to vote curtailed or weakened.
 - (4) I provide an overview as to how other comparable jurisdictions (ie English-speaking democracies with a Westminster system of government with the Crown at its head) have dealt with the issue of voter ID.
4. I have referenced below the relevant provisions as they relate to Parliamentary elections. As a result of the [Voter Identification \(Principal Area, Parish and Greater London Authority Elections\) \(Amendment\) Rules 2022/1397](#), substantially the same principles apply to the rules governing local elections. There are, in fact, multiple sets of rules governing local elections according to whether those elections are combined with other elections or a referendum. It would not have been fruitful for me to cite all the provisions from all the sets of rules. It is sufficient for me to observe that for present purposes those rules have substantially the same outcome as the rules governing Parliamentary elections.

¹ [Afzal v Election Court](#) [2005] EWCA Civ 647; [Khan v Election Commissioner](#) [2005] EWHC 2365 (Admin); [Ahmed v Afzal & Anor](#) [2008] EWHC B5 (QB).

Abbreviations

“Parliamentary Election Rules” means the rules in [Sch 1 to the RPA](#);

“RPA 1983” means the *Representation of the People Act 1983*;

“RPA 2000” means the *Representation of the People Act 2000*.

The background

5. The Explanatory Memorandum to the *Elections Act 2022* proclaimed:

“The Act allows the Government to meet some of its 2019 manifesto commitments, including to ‘protect the integrity of our democracy, by introducing identification to vote at polling stations, stopping postal vote harvesting and measures to prevent any foreign interference in elections’” (§2).
6. Voter ID was introduced through Part 1 of the *Elections Act 2022*. The Explanatory Memorandum stated:

“Part 1 introduces new measures to strengthen the integrity of the electoral process, including: a requirement for voters to show an approved form of photographic identification before collecting their ballot paper to vote at a polling station in a UK parliamentary election in Great Britain; provisions enabling online applications for absent votes, along with identification checks; new safeguards for postal and proxy voting; and an extension of the secrecy provisions which currently apply in the polling booth to postal and proxy voting. It also clarifies and updates the law on the undue influence of electors, and on the accessibility of elections for voters with a disability.”
7. The groundwork for voter ID was laid in a report by Sir Eric Pickles [Securing the Ballot](#), August 2016. It made 50 recommendations. Number 8 was:

“The Government should consider the options for electors to have to produce personal identification before voting at polling stations. There is no need to be over elaborate; measures should enhance public confidence and be proportional. A driving licence, passport or utility bills would not seem unreasonable to establish identity. The Government may wish to pilot different methods. But the present system is unsatisfactory; perfection must not get in the way of a practical solution.”
8. The report dealt with this over the course of four pages, opening thus:

“The most significant issue in relation to polling stations though is whether electors should be required to provide identification before being allowed to vote. Trust has been an enduring factor in British elections for many decades. But a number of commentators now point to the potential for significant abuse if people can commit personation at polling stations with little risk of detection. It is harder to take out a municipal library book than it is to vote in a polling station administered by the same council.” (§22)
9. It is not clear on what basis Sir Eric maintained that voter ID was “the most significant issue in relation to polling stations.” The Pickles report produced no statistical evidence suggesting that it has been a problem at elections in England and Wales. Indeed, the only passage in the report touching on the problem suggested insignificance:

“There was much argument about whether the existing guidelines were sufficient. Research undertaken at the May 2015 polls reported very few polling station staff had suspected that any personation had taken place where they had worked (11 out of 1289 poll workers surveyed); the researchers argued that people being turned away because they were not actually registered

was a much more significant issue.” (§27)

10. This appears not to have caused the author of *Securing the Ballot* to question his assumption:

“Despite the low numbers of allegations and rare cases of personation being prosecuted, there is a concern that the absence of evidence does not mean this practice is not taking place. And even if it is not, there is a precautionary principle that comes into play in terms of the potential for it to happen. As noted above, the absence of some form of verification at the polling station has been identified by a number of expert organisations as a significant vulnerability. Given that over 80% of the registered electorate are essentially registered to vote at polling stations (under 20% have a ‘remote’ vote – i.e. a postal or proxy vote), this presents a risk that needs to be addressed in the short term.” (§29)

11. Sir Eric stated:

“Both the Organisation for Security and Co-operation in Europe’s (OSCE) Office of Democratic Institutions and Human Rights (ODIHR) and the Electoral Commission have recommended the introduction of use of ID in polling stations in the UK in recent years. They see the lack of verification as too trusting and open to abuse. Both organisations point to the system in Northern Ireland where a list of acceptable documents is supported by the availability of a specific (voluntary) elector ID card for people, who may not have something on the list of documents.” (§25)

12. Reference to the three footnoted documents in §25 presents a slightly different picture:

(1) The [OSCE/ODIHR Needs Assessment Mission Report](#) assessed the pre-election environment and preparations for the general election held on 7 May 2015. Its conclusions and recommendations were:

“OSCE/ODIHR NAM interlocutors expressed a high level of confidence in the electoral process and stressed the country’s long-standing tradition of democratic elections. Notwithstanding, OSCE/ODIHR NAM interlocutors welcomed a possible observation activity. Authorities have addressed some previous OSCE/ODIHR recommendations such as the right to vote for voters standing in line at the close of the poll, harmonization of different elections timetables and introduction of additional safeguards for postal voting. Other recommendations, such as prisoners voting rights, introduction of safeguard mechanism for voter identification and broadening the rights of observers to monitor all stages of the process have not been addressed. Considering the ongoing efforts by the authorities to modernize and simplify the legislation and the transformation of the voter registration system as well as the introduction of new legislation for third-party campaigners, OSCE/ODIHR NAM sees benefit in undertaking more scrutinized assessment of these aspects. Based on this, the OSCE/ODIHR NAM recommends the deployment of an Election Expert Team for the 7 May general election. The OSCE/ODIHR EET could focus on the effects of implementation of new legislation and application of election procedures, voter registration, and aspects related to campaign financing.”

(2) The previous OSCE/ODIHR recommendations referred to in (1) had been made in its report into the general election of 6 May 2010. The [Election Assessment Mission Report](#), which is one of the footnoted documents. As they saw it, the issue of identification in the electoral process was more diffuse than identification in order to receive a ballot paper. The executive summary stated:

“In the conduct of elections, a strong emphasis is placed on enfranchisement and voter participation, as well as on trust in the conduct of the process. While the system

functions overall well under these conditions, concerns are regularly expressed with regard to the lack of safeguards against possible fraud resultant from a weak system of voter registration and postal voting, compounded by the absence of a requirement to produce identification at any stage of the process. Interlocutors of the OSCE/ODIHR EAM concurred that urgent measures were necessary with regard to the above concerns in order to maintain the trust of the electorate and the integrity of the process.” (similarly pp 4, 11)

The opportunity for postal ballot fraud through lack of identification was especially noted (p 13). The closest that the OSCE/ODIHR got to recommending voter ID was:

“In Great Britain, voters are not required to show any form of identification to be allowed to vote. In Northern Ireland, voters are obliged to present one of the forms of identification listed in the law as acceptable. Voters, who upon arrival in a polling station discover that their name is marked on the voters’ list as having already voted, are allowed to cast a tendered ballot. When tendered ballot papers are issued, the name of a voter and his/her elector’s number are entered in the list of tendered votes. Tendered ballots are not placed into the ballot box, but are kept separately by the Presiding Officer. These ballots are not counted, but might eventually be used by ROs’ to establish whether there were any patterns of personation across their area. OSCE/ODIHR reiterates its recommendation that serious consideration should be given to introducing a more robust mechanism for identification of voters. Existing national and local government-issued cards could be considered for this purpose and voters could be obligated to sign the voters’ list before being issued a ballot paper.” (p 20)

The OSCE/ODIHR’s [Needs Assessment Mission Report](#), which formed part of the footnoted document, recorded:

“As previously, voters do not need to present any forms of identification to be able to vote. The OSCE/ODIHR NAM was informed that this is linked to the controversy on the introduction of ID cards currently not in use in the United Kingdom. Some interlocutors feared the requirement to present an ID with a photograph would result in disenfranchisement of a considerable proportion of voters. The MoJ argued there were too few proven cases of ‘personation’, i.e. voting in place of other voters, in the last elections to introduce such a measure.” (p 8)

- (3) The Pickles report footnote to the Electoral Commission now leads to a [webpage](#) on how to report electoral fraud. The Electoral Commission had in January 2014 produced its *Electoral fraud in the UK Final report and recommendations*. This document, like others from the Electoral Commission, did propose that voters at a polling station be required to produce ID. The report itself is no longer accessible on the Electoral Commission website, although there is a summary [here](#). The Commission was, however, clear that as regards personation at a polling station “proven cases of electoral fraud are rare.”

13. As regards evidence following the Pickles report pointing to a need for voter ID at polling stations, this was somewhat thin on the ground:

- (1) In January 2017 the House of Commons library produced a briefing paper, [Electoral Fraud since 2010](#). Despite covering numerous elections (Parliamentary and local) and two referendums, only two of the examples of fraud that it gave concerned personation at a polling station (pp 12, 46).
- (2) The Electoral Reform Society, in an article entitled [Voter ID: An Expensive Distraction](#),

produced statistics for UK elections in the period 2015-2019, which showed:

Year	Votes cast	Allegations of in person fraud
2015	51,400,000	26
2017	44,400,000	28
2018	8,000,000	0
2019	58,000,000	34

- (3) An analysis of personation at polling stations based on the evidence of polling station staff was carried out by Professor Toby James and Dr Alistair Clark. Their [*Electoral integrity, voter fraud and voter ID in polling stations: lessons from English local elections*](#) recorded:

“The extent and nature of these irregularities are commonly subject to speculation. Evidence about the frequency of them is less common, however. This study provides a detailed analysis of the nature and frequency of electoral irregularities that are reported in English local elections using original surveys of poll workers in 2018 and 2019. It also identifies the implications of recent attempts to improve electoral integrity through the introduction of voter identification requirements on a pilot basis in a selection of local government areas. This was the first time that voter identification requirements had been used in Britain and allows broader lessons to be learnt about the consequences of the reform.

Elections are found to be broadly well run but problems are reported with names missing from the electoral register, polling station accessibility requirements and ballot secrecy problems. Attempted impersonation was exceptionally rare, however, and provided no evidence to support the introduction of voter identification requirements.”

14. Pilot voter ID schemes were run and evaluated by the Electoral Commission. These did not faithfully reproduce the ID requirements of the *Elections Act 2022*: the ID that could be used in these pilots included debit cards and poll cards: [May 2018 pilot scheme report](#); [May 2019 pilot scheme report](#).
15. The 2021 census revealed that the percentage of [people holding a UK passport](#) varied across the country, from 56% in Boston to 87% in Ribble Valley. The Government’s [National Travel Survey](#) revealed that the percentage of people aged 17 with a full driving licence was 74%, ranging from 60% for those of black ethnicity to 76% for those of white ethnicity. The National Travel Survey also revealed that the take-up of pensionable age concessionary travel schemes in England was 67%: [NTS0619](#).
16. Such, then, was the basis on which voter ID was introduced.

The new regime

17. It may be accepted that in any functional democracy:
- (a) a registered elector should be free to cast his/her vote in any election, without cost and without material impediment;
 - (b) a registered elector should not be able to cast his/her vote more than once at any election; and

- (c) a registered elector should, when casting his/her vote, be free, and be seen to be free, of external pressure or oversight.

Deviation from (a), (b) or (c) impairs the democratic process, not least by calling into question the validity of the outcome of that electoral process.

18. Since 2000, the two principal methods by which a registered elector may cast his or her vote in an election in the United Kingdom (whether Parliamentary, local or mayoral) have been:
 - (a) by postal ballot (technically speaking “absent voting”); or
 - (b) in person at a polling station.

A registered elector must apply for and be accepted for absent voting in order to vote by postal ballot: see para 2 of [Sch 4 to RPA 2000](#). A registered elector may vote in person at the polling station allotted to him/her, but not if that elector is entitled to an absent vote: see para 2(2) of [Sch 4 to RPA 2000](#).

19. In giving notice of a poll, the returning officer of each constituency is required to give public notice of the situation of each polling station within that constituency: [RPA 1983 Sch 1 para 23\(1\)](#) in respect of Parliamentary elections - similar provisions apply to local and mayoral elections. The returning officer is under a duty to provide a sufficient number of polling stations and to allot the electors to the polling stations in such manner as the returning officer thinks is most convenient: [RPA 1983 Sch 1 para 25\(1\)](#). The returning office must appoint a presiding officer to attend each polling station, as well as such clerks as may be necessary for the purposes of the election: [RPA 1983 Sch 1 para 26\(1\)](#). Apart from registered electors, only certain sorts of people are allowed into a polling station on the day of the poll: [RPA 1983 Sch 1 para 32](#).

20. As soon as practicable after the publication of the notice of the election, the returning officer must send to the qualifying address of each elector an official poll card: [RPA 1983 Sch 1 para 28\(1\)](#). The poll card must set out each of the following:
 - (a) the name of the constituency;
 - (b) the elector’s name, qualifying address and number on the register;
 - (c) the date and hours of the poll and the situation of the elector’s polling station.
 - (d) details of the documents that the voter needs to bring to the polling station, namely (other than in the case of an anonymous voter) any of the forms of identification referred to in rule 37(1H) (as to which, see later); and
 - (e) such other information as the returning officer thinks appropriate:

[RPA 1983 Sch 1 para 28\(3\)-\(3ZA\)](#). The requirement in (d) was introduced by the *Elections Act 2022* [Sch 1 para 14](#).

21. The returning officer is required to provide each polling station with a copy of the register of electors (ie under s 9 of the RPA 1983) or such part of it as contains the names of electors allotted to that polling station: [RPA 1983 Sch 1 para 29\(3\)\(c\)](#). If an elector is entitled to vote by post, the elector’s name in the copy of the register so supplied with the letter “A” signifying that the presiding officer and his/her clerks must not provide that voter with a ballot paper: *Representation of the People (England and Wales) Regulations 2001* [reg 62](#). A voter may vote only

at the polling station allotted to him/her under the relevant election rules: see para 2(2) of [Sch 4 to RPA 2000](#). Accordingly, a presiding officer and his/her clerks at a polling station will be acting in breach of their official duty if they issue a ballot paper to a registered elector knowing that the elector's qualifying address was outside the area served by that particular polling station.

22. Up until the changes effected by the *Elections Act 2022*, a registered elector who was not entitled to absent voting (including a postal ballot) who presented at the polling station allotted to him/her, would be asked by the presiding officer:

- (1) Whether he or she was the person registered in the relevant register for the particular register, and the whole entry would be read out, before taking the answer.
- (2) Whether the person had already voted, whether at the polling station or another polling station, for the election (other than as a proxy), and the answer would be taken.

[RPA 1983 Sch 1 para 35\(1\)](#). There were more detailed rules applying those voting as a proxy, but I need not concern myself with that detail. Importantly, there was no requirement for the individual who presented to the presenting officer to prove that he or she was the person he or she purported to be. Similar questions must still be asked of the individual, with it being spelled out that the presenting officer must the individual "What is your name and what is your address" (previously that was thought obvious). Upon giving the elector a ballot paper, the presiding officer would put a mark on the register of electors to signify that a ballot papers had been given to that elector: RPA 1983 Sch 1 para 37(1)(c). In this way, the presiding officer at the allotted polling station maintained a record of which of the electors entitled to vote at that polling station had already voted.

23. Up until the changes effected by the *Elections Act 2022*, a registered elector who satisfactorily answered the above questions would be given a ballot papers, with no further inquiry being permitted: RPA 1983 Sch 1 para 35(3)-(4), 37(1).

24. The *Elections Act 2022* changed that.

25. In addition to the above questions, the rules were changed so that a ballot paper was not to be delivered to a registered voter who had satisfactorily answered all the questions unless that elector also produced a "specified document" to the presiding officer or a clerk: [RPA 1983 Sch 1 para 37\(1A\)](#). Rule 37(1H) lists the types of specified document. These include passports, a UK driving licence, various niche ID cards (eg a MoD Form 90 (Defence Identity Card)) and, importantly for present purposes, "a relevant concessionary travel pass." The "relevant concessionary travel passes" are listed in rule 37(1J). The list can be added to or subtracted from by regulation: rule 37(1Q). Those listed are all travel concessionary passes either for older people (eg a [Freedom Pass](#), an Oyster 60+ Card, an [Older Person's Bus Pass](#) etc) or for disabled people. If a younger person does not have a passport or driving licence, the only specified documents available to him/her are a Post Office "[PASS card](#)" or a (recently introduced) electoral identity document issued under s 13BD of the RPA. Without one of these, a younger

person will not be given a ballot paper. This is summarised by the Electoral Commission on their [website](#).

26. Further, a document answering the description having been produced by the voter, the clerk must then undertake an evaluative exercise. Under [RPA 1983 Sch 1 para 37\(1C\)-\(1D\)](#), where the clerk decides that the document raises a reasonable doubt as to whether the voter is the elector or proxy that the voter claims to be, or the voter produces a document to a clerk that the clerk reasonably suspects to be a forged document (within the meaning of para 37(1P)), the clerk must refer the matter and produce the document to the presiding officer, who must proceed as if the voter had produced the document to the presiding officer in the first place. At this point, the presiding officer must refuse to deliver a ballot paper to a voter where—
- (a) the voter produces a specified document to the officer and the officer decides that the document raises a reasonable doubt as to whether the voter is the elector that the voter claims to be, or
 - (b) the voter produces a document to the officer that the officer reasonably suspects to be a forged document

[RPA 1983 Sch 1 para 37\(1E\)](#). In this situation, [rule 40ZB](#) applies, with notes being made and so forth. It is enough to observe that the appeal mechanism – review on an election petition (rule 40ZB(10)) is likely to be of cold comfort to a registered elector whose concern was to exercise his/her democratic entitlement to vote.

Vulnerabilities to the integrity of the UK electoral system

27. As noted at the outset, in any functional democracy:
- (a) a registered elector should be free to cast his/her vote in any election, without cost and without material impediment; and
 - (b) a registered elector should not be able to cast his/her vote more than once at any election.

To refuse a ballot paper to an individual who is a registered elector, who has been given a polling card at a particular election and who presents at his/her allotted polling station, is to impair (a). To give a ballot paper to an individual who claims to be a particular registered elector, but who is not that registered elector, impairs (b): it does so both because that individual should not be able to cast a vote (either at all or more than once) and, should it result in the person who in fact holds that name finding that a ballot has already been cast by someone claiming to be him/her, precluding a person who is entitled to vote from voting.

28. In any functional democracy, it is essential that the voting system be designed so that:
- (a) a registered elector should be free to cast his/her vote in any election, without cost and without material impediment; and
 - (b) a registered elector should not be able to cast his/her vote more than once at any election.

As with most things in life, perfection is impossible to attain. But one may, and should, strive, being always careful that the means used to achieve one of (a) or (b) does not impair the other.

29. [Interim analysis](#) by the Electoral Commission of the May 2023 local elections in England and Wales records:

The data provided to the Commission indicates that at least 0.7% of people who tried to vote at a polling station in May were initially not issued with a ballot paper because they did not have an accepted form of ID. Just under two-thirds (63%) of these people returned later in the day with an accepted form of ID and were able to vote. By the close of poll, 0.25% of people who tried to vote in person had not been issued with a ballot paper.

....

0.25% of polling station voters at these elections is approximately 14,000 voters who were not issued with a ballot paper because they could not show an accepted form of ID.

The figures in Electoral Commission's analysis were based on data received from 226 of the 230 local authorities with elections in May 2023. Polling station staff at the ballot issuing desk collected data on the number of people that could not be issued with a ballot paper because they did not provide accepted ID. They also recorded if any of these people returned later, and whether they were then able to show accepted ID and vote.

30. Based on the material I have seen:

- (1) There was no evidential basis to suggest that the polling station procedure that existed prior to the coming into force of the *Elections Act 2022* and described above resulted in an electorally significant number of individuals presenting themselves at a polling station and representing themselves to be someone other than themselves.
- (2) The effect of the changes effected to rule 37 of the Parliamentary Election Rules (and like changes to the rules applicable to local elections) is that an electorally-significant number of individuals who are registered electors for a particular election, having received a polling card from the returning officer, and who present themselves at their allotted polling station, may be refused a ballot paper on the basis of not producing a specified document.

31. The net effect is that a legislative measure that was introduced to counteract an impairment to the democratic electoral system – but an impairment of no measured or measurable significance – has achieved that (it is to be assumed) at the price of introducing impairment to the democratic electoral system of significantly greater magnitude.

32. It is for Parliament to reflect on this wisdom of this.

Comparative jurisdictions

33. The comparative jurisdictions I have selected are the three jurisdictions having a system of government and a democratic tradition that resemble most closely that of England and Wales – namely, Australia, New Zealand and Canada.

Australia

34. The main piece of federal electoral legislation in Australia is the [Commonwealth Electoral Act 1918](#). I have not considered electoral legislation of any of the six states, nor of any of the territories having electoral legislation.

35. Australia has an independent federal [Electoral Commission](#) established by s 6 of the *Commonwealth Electoral Act 1918*. Its functions include reporting to the Minister on election and ballot matters referred to it by the Minister and such other election and ballot matter as it thinks fit: see [s7](#). “Election and ballot matters” is defined to include matters relating to Parliamentary elections.
36. In the *Commonwealth Electoral Act 1918* the polling procedure (which, in the RPA 1983, is contained in Schedule 1) is in the body of the legislation: see ss 162-282.
37. Upon attending at a polling station, the presiding officer (or a polling official) put specified questions to the person and, if the person answers them correctly, that person must be given a ballot paper. There is no requirement for the person to show any form of ID.
38. So far as relevant, the provisions of the *Commonwealth Electoral Act 1918* read as follows:
 “235 (1) The presiding officer or a polling official must put to each person attending before the officer or official, and claiming to vote in an election or elections (as the case requires), questions in order to ascertain:
 (a) the person's full name; and
 (b) the person's place of living; and
 (c) whether the person has voted before in the election or elections (as the case requires).
 (2)-(3)
 (4) If the answers a person (the claimant) claiming to vote gives to the questions under subsection (1) do not satisfy the officer or official that the claimant is a particular person on the certified list of voters or an approved list of voters for the relevant Division, the officer or official may ask the claimant one or more other questions about matters shown on the list for the particular person, to establish whether the claimant is that particular person.
 (5) A person's claim to vote must (subject to section 235) be rejected if:
 (a) questions are put to the person under subsection (1) and the person:
 (i) refuses to answer fully any of the questions; or
 (ii) answers a question so as to indicate that the person has voted before in the relevant election or elections (as the case requires); and
 (b) the presiding officer is satisfied that subparagraph (a)(i) or (ii) applies in relation to the person.”
39. Provided that these questions are properly answered, the person must be given a ballot paper: [s 231](#).
40. Personation at a polling station is called “multiple voting” and is a serious criminal offence: [s 339](#). The Electoral Commissioner may, in writing, declare an elector is a “designated elector” if the Commissioner reasonably suspects the elector has voted more than once in the same election: [s 202AH\(1\)](#). This declaration can be made whether or not the elector has been convicted of a multiple voting offence under subsection 339(1A) or (1C) of the Electoral Act. Designated electors are required to make a declaration vote the next time they vote at a federal election. Polling place staff will not know an elector is a “designated elector” when they attend

a polling place. A designated electors name will continue to appear on the certified list. However, their address will be suppressed. The suppression of an elector's address can occur in multiple circumstances, including for silent electors. The suppression of an address alerts voting centre staff that an elector is required to vote by declaration vote (and not the type of elector an individual may be). A declaration will only be made where the Commissioner has detected a possible instance of multiple voting, and investigated it. This includes providing the elector with an opportunity to explain an apparent case of multiple voting.

41. The Electoral Commission takes steps after each election to check for multiple voting. In very simple terms (and the process is more complicated than this), the lists of voters from each polling station are cross-checked to see whether names have been crossed out more than once, signifying multiple voting.
42. On 28 October 2021, the Federal Government introduced the [Electoral Legislation Amendment \(Voter Integrity\) Bill 2021](#) in the House of Representatives. The Bill sought to introduce provisions that would require voting officers to request proof of identity from anyone seeking to vote in an election: see [Sch 1](#). Civil liberties groups such as the Human Rights Law Centre criticised the proposed voter ID laws, saying they would create further obstacles to voting for groups that are already marginalised such as young people, Aboriginal people in remote communities and people experiencing homelessness. There was wider opposition, with the proposals being dismissed with comments such as "[a solution in search of a problem](#)" or "[an imported solution to a problem Australia doesn't have](#)" and the like. The Bill had its [second reading speech](#) on 28 October 2021 and its [second reading debate](#) on 24 November 2021 (pp 104-138), but lapsed at dissolution of the Federal Parliament on 11 April 2022.

New Zealand

43. The main piece of parliamentary electoral legislation in New Zealand is the [Electoral Act 1993](#).
44. New Zealand has an independent [Electoral Commission](#) established by s 4B of the *Electoral Act 1993*. Its functions include considering and reporting to the Minister or to the House of Representatives on electoral matters referred to the Electoral Commission by the Minister or the House of Representatives: s 5.
45. As with the *Commonwealth Electoral Act 1918*, the polling procedure is in the body of the legislation: ss 125-184.
46. Upon attending at a polling station, the presiding officer (or a polling official) must put specified questions to the person and, if the person answers them correctly, that person must be given a ballot paper. There is no requirement for the person to show any form of ID.
47. So far as relevant, the provisions in the *Electoral Act 1993* are as follows:
"165(1A) An electoral official (with an interpreter if necessary) may ask only the questions the electoral official is authorised to put..

- 166(1) The issuing officer may, and if so required by any scrutineer shall, before allowing any person to vote, put to that person the following questions:
- (a) are you the person whose name appears as AB in the electoral roll now in force for the [name of district] Electoral District?
 - (b) have you already voted at this election in this or any other electoral district?
- (2) In every such case the issuing officer shall require the questions to be answered in writing signed by the person to whom they are put.
- (3) Every person to whom those questions are put who does not answer them, or does not answer the first in the affirmative and the second in the negative, shall be liable on conviction to a fine not exceeding \$1,000, and shall be prohibited from voting then or afterwards at that election.
- (4) Every person who wilfully and knowingly makes a false answer to either of the questions that the issuing officer may put to that person under this section shall be liable on conviction to a fine not exceeding \$1,000.
- 167(1) Every issuing officer must, in accordance with this section, issue ballot papers to every elector who applies to vote.
- (2) An elector who applies to vote must—
- (a) verbally give or verbally confirm his or her name; and
 - (b) give or confirm any other particulars that may be necessary to find the elector’s name on the rolls.
- (2A)
- (3) If the name of the elector is on the rolls, the issuing officer must—
- (a) mark the rolls (either manually or by electronic means) to indicate that the elector has applied to vote:
 - (b) if the consecutive number printed on the ballot paper can be read without the aid of technology, ensure that a piece of gummed paper is firmly fixed over the consecutive number on the ballot paper to conceal it effectively:
 - (c) write on the counterfoil of the ballot paper—
 - (i) the issuing officer’s initials; and
 - (ii) the number of the page, and the number of the line, on which the elector’s name appears on the roll:
 - (d) ensure that the official mark of the issuing officer is placed on the ballot paper to indicate that it was issued by an authorised person.
 - (e) issue the ballot paper to the elector.”

48. As regards personation, in respect of the 2020 General Election, following preliminary inquiries by the Commissioner into cases of apparent dual voting at that election, the Commission referred 48 individuals to the New Zealand Police. The New Zealand Police are responsible for investigating and prosecuting cases of dual voting. New Zealand Police charged 4 of those 48 persons for dual voting: [source](#). There was a total turnout of 2,894,486 voters at the 2020 General Election: [source](#). Voting is not compulsory in New Zealand, but it enjoys an 81% turnout.

49. There are no legislative proposals to introduce mandatory voter identification for New Zealand elections. The Electoral Commissioner *Interim Report* June 2023 with draft recommendations for a fairer, clearer and more accessible electoral system, reported at §9.62:

“Few issues with administering the vote were raised through engagement or in previous reports. Of the submitters who talked about potential improvements, most suggested that some form of identity verification should be introduced at the point of voting to manage the risks of

fraud. We have not recommended this option based on the negative impacts that voter identification requirements can have on participation, as has been seen in other countries.”

Canada

50. The main piece of federal electoral legislation in Canada is the [Canada Elections Act 2000](#) as as. I have not considered electoral legislation of any of the ten provinces, nor of any of the territories having electoral legislation.

51. Canada’s federal electoral process is supervised by an independent body called [Elections Canada](#).

52. Part 9 (ss 127-167) of the *Canada Elections Act 2000* deals with the casting of votes. The relevant provisions are as follows:

“142 An election officer who is assigned to the polling station shall ensure that every elector is admitted into the polling station and that the electors are not disturbed when they are in or near the polling station.

143(1) Each elector, in order to receive a ballot, shall give his or her name and address to an election officer who is assigned to the polling station, and, on request, to a candidate or a candidate’s representative.

(2) If the election officer determines that the elector’s name and address appear on the list of electors or that the elector is allowed to vote under section 146, 147, 148 or 149, then, subject to subsection (3), the elector shall provide the election officer with the following proof of his or her identity and residence:

- (a) one piece of identification issued by a Canadian government, whether federal, provincial or local, or an agency of such a government, that contains a photograph of the elector and his or her name and address; or
- (b) two pieces of identification of a type authorized under subsection (2.1), each of which establishes the elector’s name and at least one of which establishes the elector’s address.

(2.1) The Chief Electoral Officer may authorize types of identification for the purposes of paragraph (2)(b). For greater certainty, any document may be authorized, regardless of who issued it.

(2.2) For the purposes of paragraph (2)(b), a document issued by the Government of Canada that certifies that a person is registered as an Indian under the Indian Act constitutes an authorized piece of identification.

(3) An elector may instead prove his or her identity and residence by making the solemn declaration referred to in subsection 549.1(1) in writing if he or she is accompanied by another elector whose name appears on the list of electors for the same polling station and who

- (a) provides the election officer referred to in subsection (1) with the piece or pieces of identification referred to in paragraph (2)(a) or (b), respectively; and
- (b) vouches for the elector by making the solemn declaration referred to in subsection 549.1(2) in writing.

....

(3.1) If the address contained in the piece or pieces of identification provided under subsection (2) or paragraph (3)(a) does not prove the elector’s residence but is consistent with information related to the elector that appears on the list of electors, the elector’s residence is deemed to have been proven.

(3.2) Despite subsection (3.1), if the election officer referred to in subsection (1), a candidate or a candidate’s representative has reasonable doubts concerning the residence of an elector

referred to in subsection (3.1), the officer, candidate or representative may request that the elector make the solemn declaration referred to in subsection 549.1(1) in writing, in which case the elector's residence is deemed to have been proven only if he or she makes that solemn declaration.

(3.3) A candidate or their representative may examine but not handle any piece of identification presented under this section.

(4) If the election officer is satisfied that an elector's identity and residence have been proven in accordance with subsection (2), (3), (3.1) or (3.2), the elector's name shall be crossed off the list and, subject to section 144, the elector shall be immediately allowed to vote.

...

(7) The Chief Electoral Officer shall publish each year, and within three days after the issue of a writ, in a manner that he or she considers appropriate, a notice setting out the types of identification that are authorized for the purpose of paragraph (2)(b). The first annual notice shall be published no later than six months after the coming into force of this subsection.

143.1(1) If a person decides to prove his or her identity and residence by making the solemn declaration referred to in subsection 549.1(1) in writing, an election officer shall, before the person makes the solemn declaration, advise him or her in writing of the qualifications for electors and the penalty that may be imposed under this Act on a person who is found guilty of voting or attempting to vote at an election knowing that he or she is not qualified as an elector or who contravenes subsection 549(3).

(2) If a person decides to vouch for an elector by making the solemn declaration referred to in subsection 549.1(2) in writing, an election officer shall, before the person makes the solemn declaration, advise him or her in writing of the penalty that may be imposed under this Act on a person who contravenes any of subsections 282.1(1) to (3) or 549(3).

144 If the election officer referred to in subsection 143(1), a candidate or a candidate's representative has reasonable doubts concerning whether a person intending to vote is qualified as an elector, the officer, candidate or representative may request that the person make the solemn declaration referred to in subsection 549.1(1) in writing, in which case the person shall not be allowed to vote unless he or she makes that solemn declaration.

....

147(1) If a person asks for a ballot at a polling station after someone else has voted under that person's name, the person shall not be allowed to vote unless he or she makes the solemn declaration referred to in subsection 549.1(1) in writing.

(2) An election officer shall, before the person makes the solemn declaration, advise the person in writing of the penalty that may be imposed under this Act on a person who is found guilty of voting or attempting to vote more than once contrary to section 281.5 or of requesting or applying for a ballot or special ballot in a name that is not his or her own contrary to paragraph 281.7(1)(a).

....

148.1(1) An elector who fails to prove his or her identity and residence in accordance with section 143 or to make a solemn declaration otherwise required by this Act shall not receive a ballot or be allowed to vote.

(2) If an elector refuses to make a solemn declaration on the ground that he or she is not required to do so under this Act, the elector may appeal to the returning officer. If, after consultation with the election officer in whose opinion the elector is required to make the solemn declaration, the returning officer decides that the elector is not required to make it, and if the elector is entitled to vote in the polling division, the returning officer shall direct that he or she be allowed to do so."

53. The [list of accepted ID](#) for the purposes of section 143(3)(b) is extensive and includes many types of non-photographic ID.

54. Despite its breadth, this was challenged as unconstitutional, but the challenge was unsuccessful: [Henry v Canada](#) (2010) 211 CRR (2d) 53. This is a long, but thorough and careful judgment, based on evidence that rigorously considers the countervailing issues. Although the challenge to the legislation is founded on the Charter, the provision in the Charter does little more than give legislative expression to a principle that is shared by all functioning democracies.
55. The judgment starts with a useful history of the introduction of s 143(2)-(7) in 2006. Prior to the legislative amendments at issue, registered electors did not have to produce identification in order to vote. A registered elector needed only to state his or her name and address to the clerk at the polling station. In the course of its judgment, the Supreme Court of British Columbia held:
- 139 While the constitutional guarantee of electoral rights in s. 3 of the Charter is a fundamentally important provision, not subject to constitutional override, and must be given the most liberal and generous interpretation consistent with its purpose, some limitations on the right to vote are inherent in the language of s. 3 itself. As was stated in *Figueroa*, the electoral rights guarantee meaningful participation, not unlimited participation. Section 3 provides that citizens have the right to vote “in an election of members of the House of Commons or of a legislative assembly” (emphasis added). The right to vote in an “election” means that citizens have the right to vote when elections are called. The right to vote in the election of “members of the House of Commons” reflects Canada’s constitutional character as a Parliamentary democracy. It means that Canadian citizens do not have the right to vote at large or to vote anywhere in the country; rather, they have the right to vote in a specific electoral district, choosing among various candidates who wish to be the Member of Parliament for that district. Section 3 thus defines certain parameters on the exercise of the rights it protects.
- 140 Section 3 rights are “participatory in nature” (*Figueroa* at para. 26) and the Charter creates a positive obligation on the state to put in place appropriate arrangements for the effective exercise of the right to vote: *Haig; Weremchuk*. In *Hoogbruin v. Attorney General of British Columbia* (1985), 1985 CanLII 335 (BC CA), 24 D.L.R. (4th) 718, 70 B.C.L.R. 1 (C.A.) [*Hoogbruin*], for instance, the British Columbia Election Act, R.S.B.C. 1979, c. 103, entitled absentee voters to vote but failed to provide a mechanism for the exercise of this particular right, namely, an absentee ballot. Mr. Justice Nemetz (as he then was), for the Court, held that by depriving absentee voters of the substance of their right, the Election Act infringed s. 3 of the Charter.
- 141 To give substance to the right to vote, the government must create an apparatus to permit its exercise, which includes rules and procedures for the conduct of fair elections. This point is reflected in the passage from J. Patrick Boyer, *Election Law in Canada: The Law and Procedure of Federal, Provincial and Territorial Elections*, vol. 1 (Toronto: Butterworths, 1987) at 383, cited with approval by Cory J. in *Haig* at para. 105:
The right to cast a vote for those seeking public office is encircled by procedures and laws designed not to make the exercise of this right difficult (although someone frustrated at not being able to vote for a technical reason may feel this is the case), but rather to ensure that it cannot be easily swept away.
- 142 The electoral process is necessarily a heavily regulated one, reflected in the fact that the present Act governing federal elections runs to 558 sections. Some aspects of regulation may have restrictive implications for the ease with which certain citizens are able to vote, such as the location and hours of polling stations or the requirement that an elector be on the list of electors for the polling division in which he or she is ordinarily resident.
- 143 In creating the election apparatus, Elections Canada must ensure that the process of voting

is as easy and straightforward as possible for all voters. The Charter value of equality (set out in s. 15 of the Charter and recognized in a number of cases...No group or category of voters should be disproportionately burdened by the requirements imposed for voting, even if the requirements are, on their face, neutral. The government would not be meeting its obligations to conduct fair elections if it failed to take steps to ensure equal access to polling stations and to accommodate Canadian citizens, in all of their diversity, in becoming registered electors and exercising their right to vote.

144 By analogy, the courts have clearly stated that relative equality of voting power is fundamental to the principle of representation by population....

147 In *A History of the Vote in Canada*, 2nd ed. (Ottawa: Office of the Chief Electoral Officer of Canada, 2007), the following observation is made at xiv-xv:

Barriers to voting are not only legal or constitutional – they can be procedural or administrative. If citizens have the right to vote but are unable to exercise it because of obstacles inherent in the electoral rules or the way they are implemented, these barriers constitute a restriction of the franchise – one not intended by legislators. The steps taken to overcome such barriers – some of them taken before the advent of the Charter and some of them since – include proxy voting, advance voting, special mail-in ballots, polling-day registration, use of multiple languages in election information, a ballot template for people with visual impairments and level access at polling stations, among many others. In short, the Charter not only guaranteed the right to vote but also highlighted the need to ensure that the right can be exercised.”

56. The Court went on to consider the evidence before concluding:

210 In my view, the plaintiffs have established that the impugned provisions, in their effect, interfere with the right of each citizen to play a meaningful role in the electoral process.

211 I conclude that the plaintiffs have proved an infringement of s. 3 of the Charter on that basis as well as on the basis of a facial inconsistency.

212 Having found that s. 148.1(1) of the Act on its face is inconsistent with s. 3, and that the Act’s voter identification scheme in its effects infringes s. 3, the next question is whether the legislation constitutes a reasonable and demonstrably justifiable limitation on the s. 3 right to vote.

57. The Court went on to consider the evidence and the submissions on this issue. In the course of its reasoning, the Court observed:

308 I agree that Canada’s asserted objectives are capable of justifying limits on the right to vote. As McLachlin C.J. and Major J. wrote in *Harper*, dissenting but not on this point, at para. 26:

Common sense dictates that promoting electoral fairness is a pressing and substantial objective in our liberal democracy, even in the absence of evidence that past elections have been unfair....

Ultimately it was the ease of identification, as a result of the variety of forms of acceptable identification, that defeated the challenge, being held to be proportionate

58. In the course of the judgment, there was some consideration of the evidence of personation:

380 Following the 2000 election, Mr. Molnar deposed, the CEO initiated a small pilot project to investigate potential cases of alleged personation. For the purposes of the project, alleged personation was defined as instances in which an elector was required to take an oath because someone else had already voted in his or her name (according to the list of electors), or because the elector’s name had been inadvertently crossed off the list of

electors. The CEO examined a sample of 786 poll books chosen randomly from a random sample of ridings. Alleged personation was observed in the case of 27 voters, representing 0.01% of all electors registered to vote in those polling divisions. These 27 cases did not lead to any enforcement measures, and remain “alleged” personations because it was impossible to identify on the basis of information available who, if anyone, voted under the elector’s name or whether administrative error by poll staff was the cause. The investigation would only have identified personation in cases where the legitimate voter went to the poll to vote.

381 A similar review of 1033 randomly selected poll books from various electoral districts following the 2006 general election identified 84 potential cases of voter personation, representing 0.02% of the roughly 350,000 electors who would have been eligible to vote in those polling divisions.

59. I have quoted at length from the judgment as the reconciliation of the competing considerations (ie preventing voting fraud and ensuring that all registered electors, regardless of means etc, are not deprived of or dissuaded from exercising their right to vote) is a useful template for any democracy sharing a similar tradition as that of Canada.

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