



**ELECTORAL REGULATION RESEARCH NETWORK/DEMOCRATIC  
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**POSTALS AND PERSONATION IN THE UNITED KINGDOM<sup>1</sup>**

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## **Abstract**

This paper outlines some of the findings and recommendations of the *UK Electoral Commission's 2014 Final Report*. It questions the methodology used in the report arguing that the data and discussion presented in the report on electoral fraud do not support the recommendation that the introduction of voter ID is necessary to combat fraud.

## **Voter identification laws in the UK**

At the local government elections in the British city of Birmingham in 2004 serious allegations were made about extensive corrupt practices in the wards of Aston and Bordesley Green. A subsequent inquiry and electoral court identified 3 000 'bogus' votes cast in the two wards.<sup>2</sup> The malpractices that produced these votes were weaknesses in the postal voting provisions, not personation. The results in the two wards were voided but there were no prosecutions. An unusual case of personation occurred at the 2010 British general election when a 14 year old boy, wrongly issued with a voting card, voted in a Lancashire constituency.<sup>3</sup>

In 2012 the UK Electoral Commission commenced an inquiry into electoral fraud and issued a discussion paper.<sup>4</sup> The paper stated:

There is a consistent underlying concern among voters about electoral fraud in the UK.

The evidence currently available to us does not support the conclusion that electoral fraud is widespread in the UK.

Electoral fraud is more likely to be reported as having taken place on a significant scale in certain specific places in England.<sup>5</sup>

In Appendix 3 the Report identified 17 cases of 'significant' fraud resulting in custodial sentences from 1998-2011. Sixteen involved local government elections, one European Parliament election, but no general election or by-election. The Report also drew attention to the fact that there were nearly 100 million votes cast in the UK between 2010 and 2012, only 946 cases of voter fraud were reported to police.<sup>6</sup> The Commission then invited public input into two suggestions: a) a proof of identity requirement for all electors; b) possible restrictions on campaigning outside polling stations.

## **Final Report by the UK Electoral Commission**

In January 2014, at the end-point of its electoral fraud vulnerabilities review, the Electoral Commission released its final report and recommendations. The Report found that while there was no evidence that widespread electoral fraud was a problem in the UK, there had

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<sup>2</sup> John Stewart, 2006. 'A Banana Republic? The Investigation into Electoral Fraud by the Birmingham Election Court', *Parliamentary Affairs*, 39; 4, June, 660-1. Richard Mawrey, 2010. 'Easy Voting Means Fraudulent Voting', *Quadrant*, April, 50-4.

<sup>3</sup> Polly Curtis, 2010. '19<sup>th</sup> century voting system 'needs a fundamental update'', *Guardian Weekly*, 14 May.

<sup>4</sup> The Electoral Commission, 2013. *Electoral fraud in the UK: Evidence and issues paper*, May, 1-81.

<sup>5</sup> *Ibid*, 1.

<sup>6</sup> *Ibid*, 37.

been isolated instances of significant fraud ‘concentrated in a small number of local authority areas’. The report lists sixteen local authority areas across the UK (out of more than four hundred) where electoral fraud has been a significant issue in past elections. It characterised these areas as having transient populations, high density housing, a history of electoral fraud and [controversially] that fraud is more likely to occur ‘in areas which are largely or predominately populated by some South Asian communities, specifically those with roots in parts of Pakistan or Bangladesh.’<sup>7</sup>

One of the Report’s major recommendations is that the UK should move to a system requiring voters to produce identification at polling stations, a measure which would bring England, Scotland and Wales into line with Northern Ireland, where identification has been required to vote since 2002. The initiative, slated to be in place by 2019, is a response to concerns about personation at polling stations. This is seen by the Commission as a necessary innovation especially given that other potential avenues for fraudulent behaviour-- such as during the voter registration process and the postal and proxy voting systems-- are the subject of recommendations in the Report and are expected to diminish as a result.

The planned initiative is to require electors to provide proof of their identity before receiving a ballot paper at the polling station. While in Northern Ireland electors are required to produce photographic identification, the recommendation in the report for Great Britain (which does not include Northern Ireland) is for electors to produce ‘some form of identification’ at polling stations.<sup>8</sup> Some of the initiatives that were considered for tightening procedures at polling stations included photographic identification, as well as giving election officials the power to withhold ballot papers from those who refuse to sign their name or confirm their date of birth. With regard to photographic identification, according to the Report, concerns were raised that such a measure would be discriminatory towards certain groups including ‘the elderly and some Black and Minority Ethnic communities’.<sup>9</sup> There were also concerns raised during the consultation process that preceded the Report that photographic identification measures were redolent of a national identity card. It was recommended therefore that further deliberations were required as to what types of non-photographic identification would be satisfactory to both the public and electoral administrators.

### **Voter ID in Northern Ireland**

In Northern Ireland, however, it is the photographic requirement for identification that is credited with virtually eliminating the incidences of personation at polling stations with no reported cases since its inception. Acceptable forms of photographic identification used are a driving licence, passport, a specified public transport pass, or an Electoral Identity Card as issued by the Electoral Office for Northern Ireland. The Report, which appears to be softening the ground for a recommendation for introducing photographic identification requirement in the future, notes that while public education initiatives are necessary in order to ensure people bring their (correct) identification with them to the polling stations in Northern Ireland, there is little or no evidence to suggest that voters are excluded from voting due to the requirement.

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<sup>7</sup> Electoral Commission, 2014. *Electoral fraud in the UK: Final report and recommendations*, January, 1-50.

<sup>8</sup> *Ibid*, 21

<sup>9</sup> *Ibid*, 23

Since the Final Report was issued only on 7 January 2014, there has been no opportunity for political science or legal analysis of it.<sup>10</sup> A Cabinet Office spokesman supported the proof of identity suggestion but the Deputy Prime Minister, Liberal Democrat Nick Clegg, and the Chair of the Political and Constitutional Reform Select Committee, Labour MP Graham Allen, opposed it and pointed to low turnout as a bigger problem and the chair of the Electoral Reform Society saw it as a ‘barrier’ to political participation.<sup>11</sup> While it is likely the suggested reforms to postal and proxy voting and curbing over-zealous campaigning will gain bipartisan support, the ID recommendation may not and academic comment is likely to be critical for reasons discussed later.

### **The Methodology of the Electoral Commission Report**

First, despite the importance the Commission pays to the need for proof of identity, there are almost no examples of personation contained in its Reports. Instead Commission Chair, Jenny Watson, defended the recommendation by observing that the lack of a requirement for ID is both an actual and **perceived** [emphasis added] weakness in the system.<sup>12</sup> What some political scientists will find disturbing is the methodology employed by the Commission and the types of evidence relied upon and the utilisation of that evidence. In Its first *Report* the Commission identified the three types of evidence it employed: a) ‘public opinion survey data’; b) ‘anecdotal information’ from electoral participants; and c) ‘cases of electoral fraud reported to police forces.’<sup>13</sup>

Public opinion surveys are a helpful and much used research tool in political science, but they do not produce reliable data in all circumstances. In order to discover whether people regard voter fraud to be a major or minor problem the question asked must include the term ‘voter fraud’ [or an equivalent] thereby suggesting that voter fraud **is** an issue of concern. As Clarijs et al explain in a slightly different context:

...we investigate another possible cause of forecast biases, that is, that interviewed people may change their voting behaviour in response to the interview. This is called a self-generated validity effect...The very act of surveying causes automatically that the survey group is not representative, as the people in the survey are subjected to psychological effects that are not present in the rest of the population.<sup>14</sup>

The Electoral Commission’s final *Report* acknowledges what it calls ‘research effects’ whereby raising the topic of voter fraud with respondents ‘increased concerns’ about such fraud but asserted (without discussion) that the influence on its sample was ‘small’.<sup>15</sup> Whereas it could just as convincingly be argued that the exercise is an unintentional and benign form of ‘push polling’.<sup>16</sup>

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<sup>10</sup> There has been media commentary: ‘Voters ‘should be required to show photo ID at elections’, says watchdog,’ *BBC News*, 8 January 2014; ‘Voter ID cards will not solve electoral fraud’ *Telegraph View*, 8 January 2014.

<sup>11</sup> Gavin Gordon, 2014. Voters ‘should show ID at Poll’. *Press Association National Newswire*, 8 January.

<sup>12</sup> *2014 Report*, 2.

<sup>13</sup> *2013 Report*, 20.

<sup>14</sup> Peter Clarijs et al, 2007. ‘Evaluation of Survey Effects in Pre-election Polls’, *Econometric Institute Report EI 2007-50*, 9 November, 3.

<sup>15</sup> *2014 Report*, 14.

<sup>16</sup> For a detailed critique of the use of surveys and anecdotes in the investigation of vote fraud see: Stephen Ansolabehere & Nathaniel Persily, 2008. ‘Vote Fraud in the Eye of the Beholder: The Role of Public Opinion in the Challenge to Voter Identification’, *Harvard Law Review*, 121, 1737-1773.

Anecdotal ‘evidence’ is widely discredited because it can proceed from rumours or self-interested partisans making groundless accusations for political gain.<sup>17</sup> Such evidence may be useful in suggesting possible research paths, but is itself an unreliable source on which to base public policy decisions. The final type of evidence adduced by the Electoral Commission is cases of ‘alleged’ fraud reported to police, which is not the same as convictions for fraud. For example, between 2010-12 Britons cast nearly 100 million votes and there were 946 cases of suspected fraud reported to police, but over roughly the same time set only two people were convicted of custodial offences.<sup>18</sup>

Finally the UK Electoral Commission uses the Northern Ireland experience of voter ID as a comparator and this choice can be questioned. While the introduction of proof of identity requirements has cured the previously high incidence of personation, Northern Ireland has a voter population of only 1.2 million contrasted to the 30 million who voted at the 2010 British general election. An electoral practice that works well in a small jurisdiction may not be so successful in a much larger one. A common objection to rigorous requirements for photo identification in non-mandatory voting systems is that it can negatively impact on turnout. The Electoral Commission states that the Northern Ireland regime has worked well and that there has been minimal impact on voter ‘accessibility’.<sup>19</sup> Yet, turnout at the 2011 Northern Ireland Assembly election was a very low 56%.

A report by the Association of Chief Police Officers and the Electoral Commission into the UK 2010 general election identified 20 cases of alleged personation, but no further action was deemed necessary.<sup>20</sup> It is difficult to avoid the conclusion that the data and discussion presented in the *UK Electoral Commission’s 2014 Final Report* on electoral fraud do not support its recommendation that the introduction of voter ID is necessary to combat fraud because most of that fraud involves postal and proxy voting, with both unrelated to personation

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<sup>17</sup> Spencer Overton, 2007. ‘Voter Identification’, *Michigan Law Review*, 105, February, 644.

<sup>18</sup> *2013 Report*, 37 & 77.

<sup>19</sup> *2014 Report*, 26.

<sup>20</sup> Association of Chief Police Officers & The Electoral Commission, 2011. *Analysis of cases of alleged electoral malpractice in 2010*, London, 28.